

Our ref: NB/jm

Ask for: James Merrifield

Your ref:



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Date: 3 August 2015



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Ms E M Bronwen Morgan  
Chief Executive  
Cyngor Sir Ceredigion  
Neuadd Cyngor Ceredigion  
Penmorfa  
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Ceredigion  
SA46 0PA

Dear Ms Morgan

### **Annual Letter 2014/15**

Following the recent publication of my Annual Report, I am pleased to provide you with the Annual Letter (2014/15) for Cyngor Sir Ceredigion.

I have referred to the stark reality of the volume of increases in enquires and complaints in the Annual Report. Comparing the position against 2013/14, there has been a 7% increase in the number of public body complaints received by my office. The Health and Local Authority sectors account for 83% of the complaints received by my office; over the past five years, there has been a 126% and 10% increase in complaints respectively.

Traditionally, county councils have generated the largest number of complaints to this office and the last year has seen a 5% increase. Whilst Housing and Planning are consistently the largest areas of complaint for Local Authorities, the data for 2014/15 shows notable increases in complaints about Complaint-handling, Environment and Environmental Health, and Finance and Taxation, compared with 2013/14.

In reference to the outcomes of complaints, I am pleased that my office has issued fewer upheld reports against Local Authorities, compared with 2013/14. I have issued one Public Interest report against a body in the Local Authority sector. The report identified numerous failings concerning the way in which the Local Authority investigated concerns about the welfare of the complainant's daughter. The report also identified poor complaint-handling, a common feature amongst complaints across all sectors.

The complaint data shows a small decrease in the number of Quick Fixes and Voluntary Settlements achieved with Local Authorities, compared with 2013/14. I am keen to ensure that, wherever possible and appropriate, my office works with bodies from all sectors to resolve complaints as quickly and effectively as possible. In this regard, I am concerned that the time taken in responding to requests for information from this office has significantly worsened; 45% of responses across Local Authorities took more than six weeks in 2014/15.

This figure is noticeable worse than the equivalent figure for the Health sector, despite my office making appreciably more requests for information to Health Boards. Against this background, I take this opportunity to reinforce the content of the letter I sent to you in April 2015 setting out a number of changes in the way that my office will work with your organisation in handling complaints. The changes included amending the time given to bodies to provide complaint files to two weeks, as well as new arrangements in granting additional time to bodies to provide information meaning that requests for extensions which are made with very limited justification will no longer be agreed.

In reference to your Local Authority, there has been a notable decrease in the number of complaints received in 2014/15 compared to 2013/14, although this figure remains above the average. Whilst there has also been a decrease in the number of complaints investigated compared to 2013/14, this figure is still significantly above the average, as is the number of 'upheld' reports issued by my office. In reference to the time taken in responding to requests for information from my office, I am concerned that all responses took in excess of four weeks from the date they were requested.

My office is working in a number of ways to address the upward trend in complaints. We will be looking to engage more directly with county councils to promote improvement. We will also be placing greater emphasis on the data which we gather, initially in relation to complaints about the Health sector, to further identify trends and patterns. My office will also be taking a more proactive role in measuring compliance with recommendations and settlements, which may result in requests to visit your offices to discuss and examine changes that you have implemented. In addition to this work, you will be aware that following its inquiry, the Assembly's Finance Committee issued a report in May 2015, making a number of recommendations for revised or additional powers for the Public Services Ombudsman for Wales. I very much hope that those recommendations will come to fruition in the form of a new Act within the next year or so.

This correspondence has been copied to the Leader of the Council. I will also be sending a copy of this correspondence to your contact officer within your organisation and would again reiterate the importance of this role. Finally, a copy of all annual letters will be published on the PSOW's website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nick Bennett', with a stylized flourish at the end.

Nick Bennett  
Ombudsman

Copy: Leader, Cyngor Sir Ceredigion

## **Appendix**

### **Explanatory Notes**

Section A compares the number of complaints against the Council which were received by my office during 2014/15, 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 2014/15. Section C compares the number of complaints against the Council which were received by my office during 2014/15, 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 2014/15. 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 2014/15, 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 2014/15 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 2014/15. Finally, Section 'I' contains the summaries of all reports issued in relation to the Council during 2014/15.

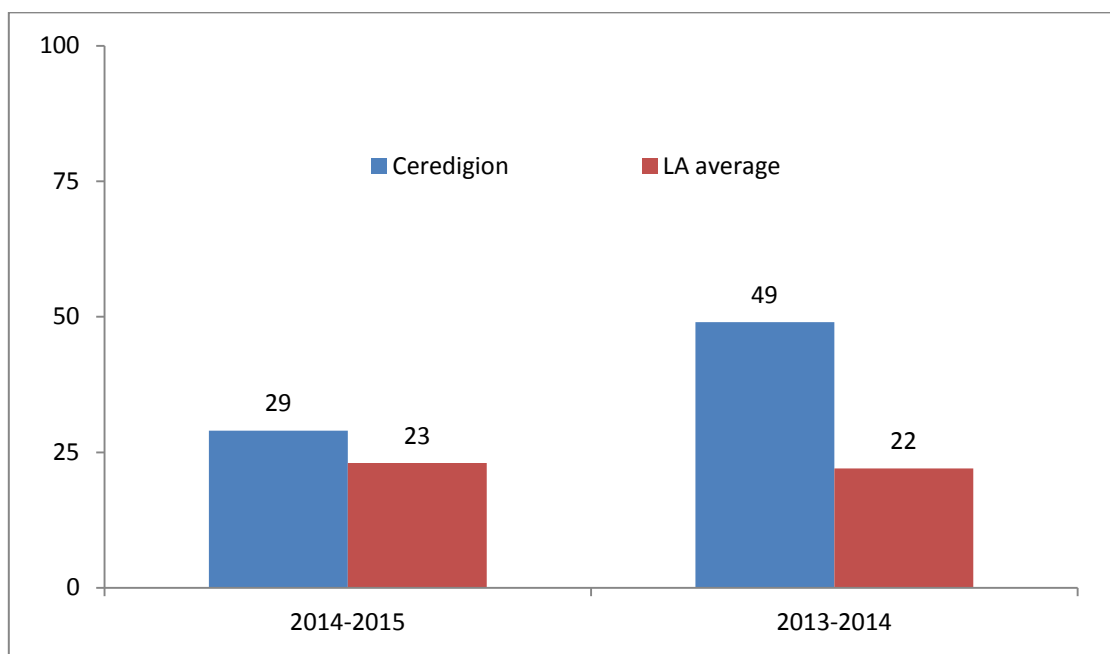
### **Housing Stock**

As with previous exercises, the figures for 2014/15 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](mailto:james.merrifield@ombudsman-wales.org.uk).

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

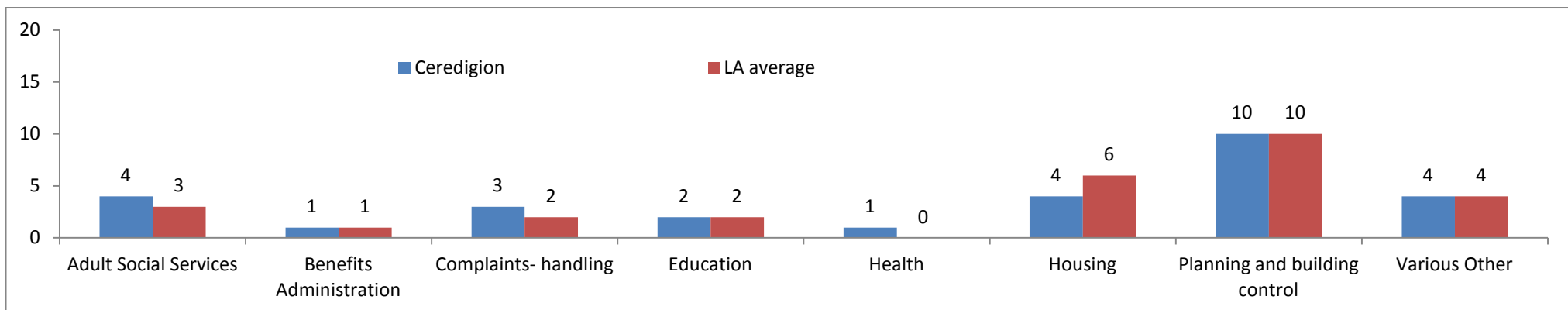


**B: Complaints received by my office**

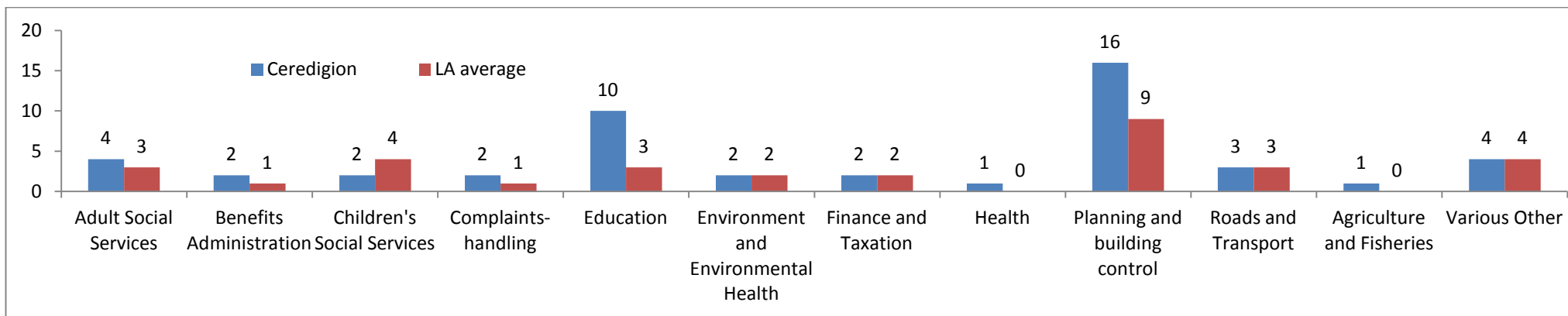
Subject	2014/15	2013/14
Adult Social Services	4	4
Benefits Administration	1	2
Children's Social Services	0	2
Complaints-handling	3	2
Education	2	10
Environment and Environmental Health	0	2
Finance and Taxation	0	2
Health	1	1
Housing	4	0
Planning and building control	10	16
Roads and Transport	0	3
Agriculture and Fisheries	0	1
Various Other	4	4
<b>Total</b>	<b>29</b>	<b>49</b>

**C: Comparison of complaints by subject category with LA average**

**2014/15**



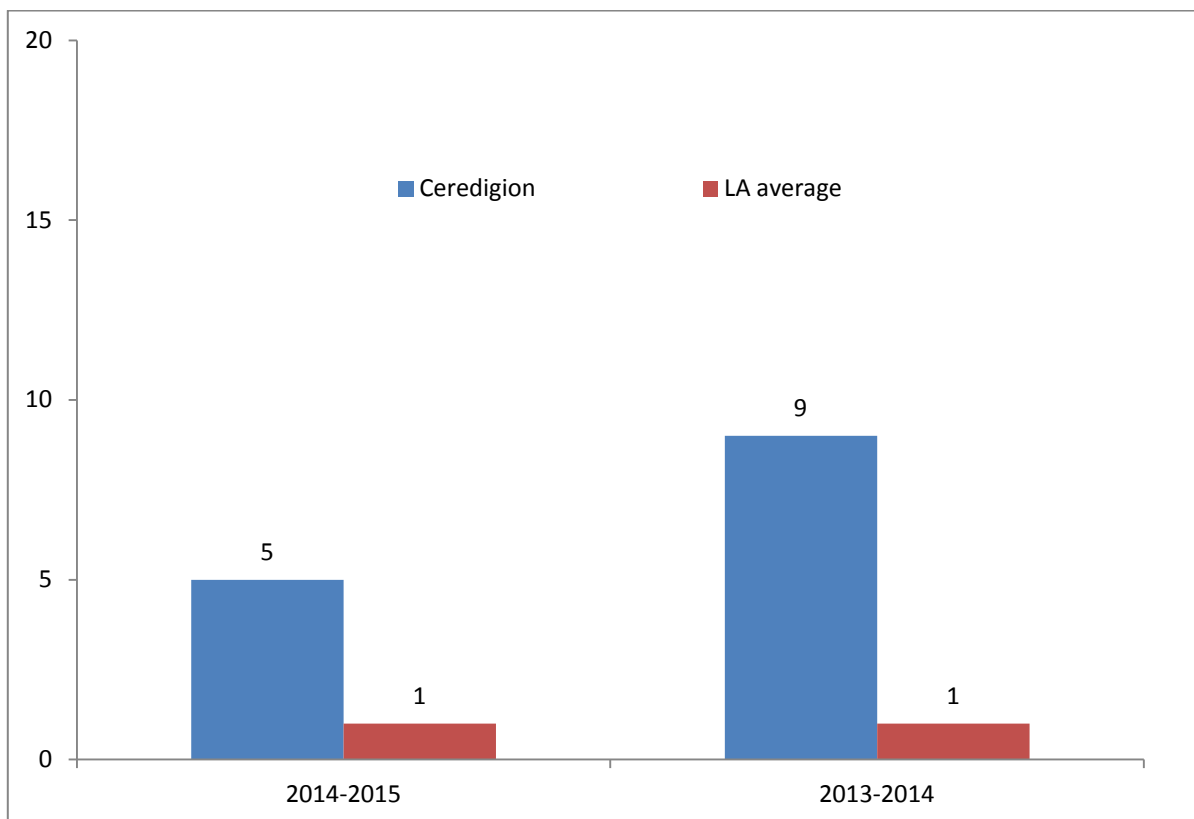
**2013/14**



**D: Complaints taken into investigation by my office**

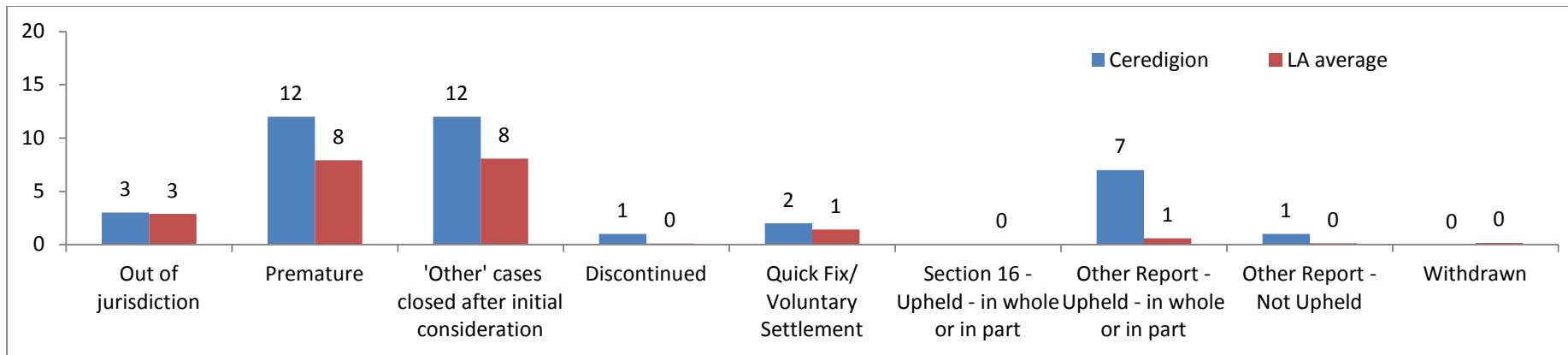
	2014/15	2013/14
Number of complaints taken into investigation	5	9

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

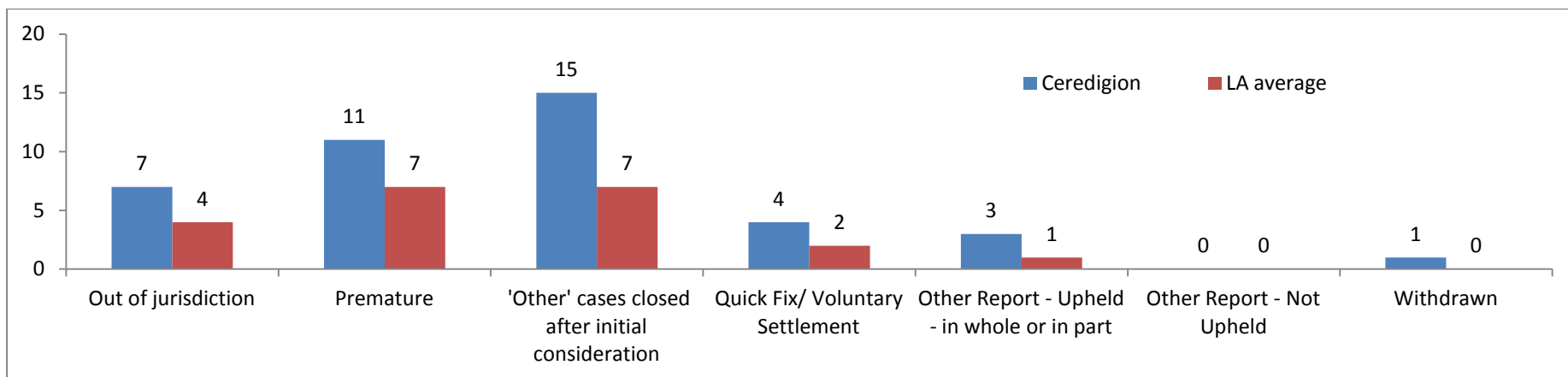


**F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution**

**2014/15**

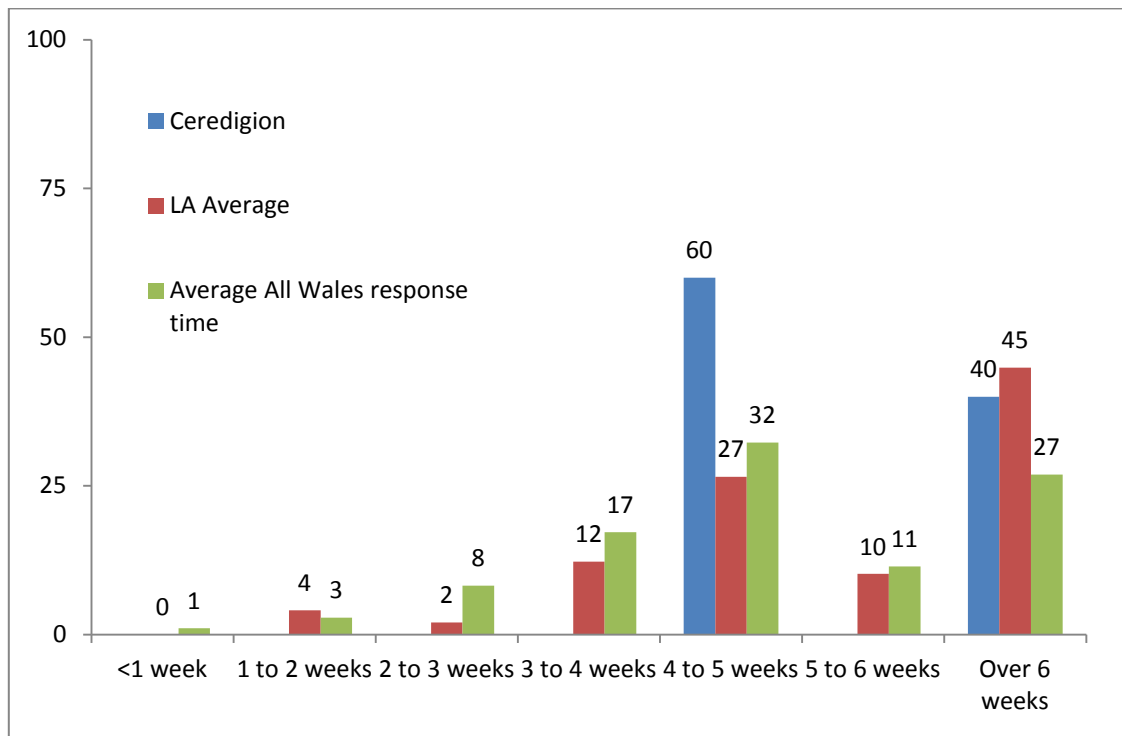


**2013/14**

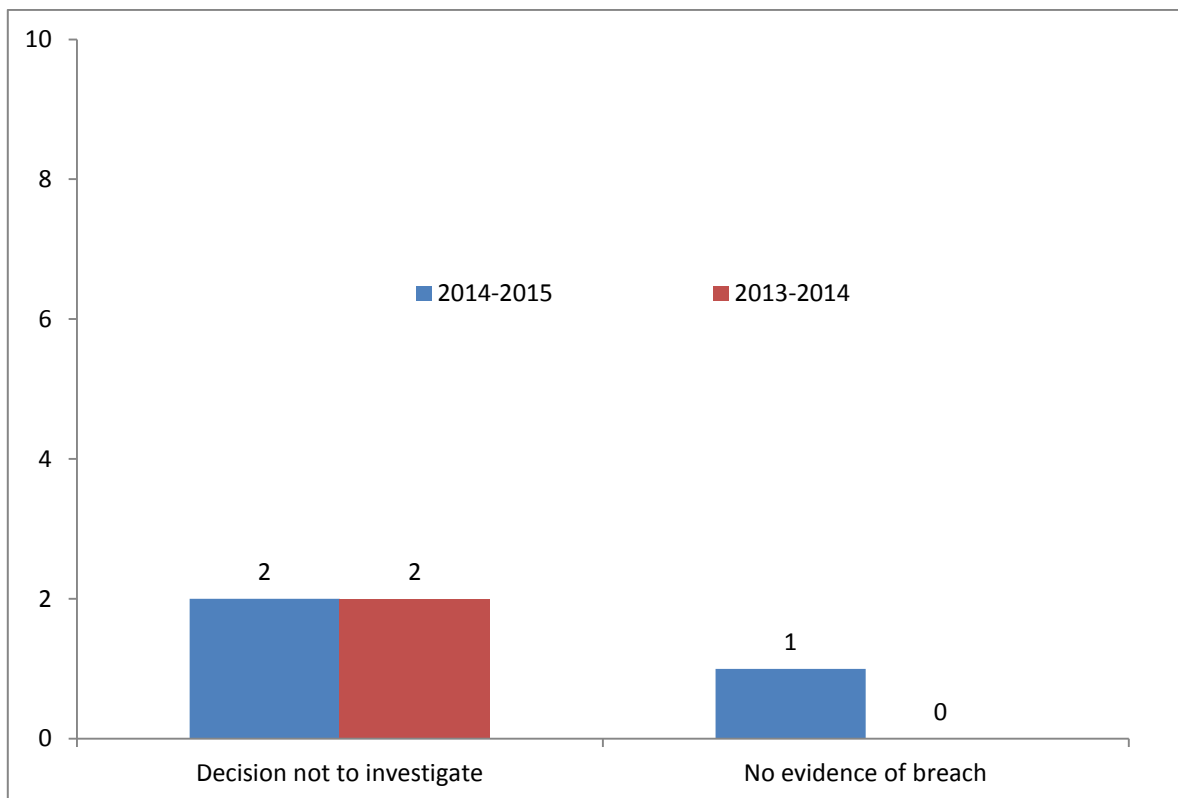




**G: Comparison of Council times for responding to requests for information with average LA and average All Wales response times, 2014/15 (%)**



**H: Code of Conduct complaints**



## **I: Summaries**

### **Complaints-handling**

#### **Other reports – Upheld**

##### **Ceredigion County Council – Complaints-handling (Education)**

###### **Case reference 201402885 – Report issued December 2014**

Ms K complained that a School (through its Governing Body) within the area of Ceredigion County Council (acting as Local Education Authority – LEA) had failed to deal with her complaint properly. She said that it had told her it would investigate, invited her to a complaints meeting and set up an investigation panel but then later informed her by e-mail it would not after all be investigating her complaint. She further complained that it did not have a proper complaints policy and procedure in place and that the LEA had also thus failed in its duty to ensure that the School had a policy compliant with statutory guidance.

The investigation found a number of failings including that the School's Governing Body did not have in place its own complaints policy and procedure. Instead it had been simply referring parents to the Welsh Government Guidance (that plainly stated it was not a complaints policy and that schools should adopt their own). The way in which Ms K had been dealt with was also unfair. The Governing Body's actions had given her a legitimate expectation that her complaint would be dealt with. The LEA had also wrongly interfered in the process and it had failed to ensure that the School's Governing Body had a proper complaints policy and procedure in place. Ms K's complaints were upheld.

The Ombudsman made the following recommendations, all of which the LEA agreed to implement:

- a) apologise to Ms K and offered her a time and trouble payment of £200;
- b) ensure that the School's Governing Body had a compliant complaints policy;
- c) review of all its county schools complaints policies to ensure compliance with guidance (reporting the outcome of that review to the Ombudsman);
- d) arrange that its relevant officers underwent training on the Welsh Government Guidance.

## Education

### Other reports – Upheld

#### **Ceredigion County Council – Special Educational Needs (SEN)**

##### **Case reference 201307209 – Report issued December 2014**

Ms C complained that Ceredigion County Council as Local Education Authority (“the LEA”) had failed to properly assess and identify her son X’s educational needs from when he first started school in its area (2008). He was a number of years behind his peers on entering secondary school in 2012. She also complained about how the LEA had handled her subsequent complaint.

Whilst it was not for the Ombudsman to decide on what, if any, specific educational provision X should have received, the investigation found that there were shortcomings in the way in which the LEA had implemented its then SEN Strategy (2005 version). There were also recording shortcomings and a lack of robust processes to keep pace with the changes made to the Strategy. Evidence suggested that as a consequence X had not received the additional support he needed during his primary years. By 2013, the Strategy had undergone significant change and a number of the problems identified had been remedied. There were also failings in how Ms C’s complaint had been dealt with, which the LEA acknowledged early in the investigation.

The Ombudsman upheld both of Ms C’s complaints and made a number of recommendations to which the LEA agreed, including the following:

- a) apologise to the complainant;
- b) undertake an assessment of X’s needs and a discussion about the result with Ms C with a plan for implementing any additional provision identified; and,
- c) make a financial redress payment of £400 for the complaint handling failures.

#### **Ceredigion County Council – Special Educational Needs**

##### **Case reference 201303714 – Report issued June 2014**

Mr and Ms B made a complaint to the Ombudsman about Ceredigion County Council, as the Local Education Authority (“the Authority”). The Authority had considered a complaint made by Mr and Ms B about their son’s (“L”) education provision. L transferred to secondary education in September 2011. He has Global Developmental Delay, a brain tumour and Epilepsy; he suffers both Petit-mal and Grand-mal seizures. He has low muscle tone, poor visual spatial awareness, poor balance and chronic constipation. He has a range of prescribed medication which must be administered regularly. He was assessed as having Special Educational Needs (“SEN”) and he has had a Statement of Special Educational Needs (“a Statement”) since February 2003.

In her first complaint to the Ombudsman, in April 2013, Ms B said that the Authority had failed to listen to them or L’s key worker during the annual reviews of the Statement. Following discussion between this office and the Authority, the Authority was given time to complete its own formal investigation of the complaint. The Authority subsequently apologised for the time taken to reply to the first complaint and made some recommendations, but it did not uphold the complaint.

In October 2013, Ms B made a further complaint to the Ombudsman. She said they were dissatisfied with the outcome of the Authority's formal investigation because:

- L's Statement was out of date;
- the Authority did not listen to, or work with, Mr and Ms B to ensure that appropriate educational provision was made for A; and,
- Mr B had lost income as a result of the situation, and Mr and Ms B felt they had to engage a solicitor to help them deal with the Authority. They wanted the Authority to cover their "material losses".

Following the investigation, the Ombudsman upheld the complaint and recommended that the Authority should:

- give Mr and Ms B an unequivocal written apology for the failures identified by this report;
- make a payment of £1,000 to reflect the amount of time L had reduced education; the delays in the Authority's handling of the case; and the time and trouble taken by the family in pursuing this complaint with the Authority and this office;
- share this report with the staff involved in the case, the Resource Panel and the First School (so that the lessons that should be learned from the report can be understood);
- revise the format of the SENC1 form to ensure it complies with Schedule 1 of the Regulations;
- complete an independent audit of the SENC1 forms and other notices it has issued with a proposed statement, a proposed amended statement or an amendment notice between 1 April 2013 and 31 March 2014. The audit should seek to confirm that each SENC1, or other notice issued, complied with Schedule 1 of the Regulations. If the audit identifies that any notice issued did not comply with the Regulations, within one month of the audit each affected family must be given a written apology and full information must be provided;
- complete an independent audit of the Resource Panel records to ensure that those records are capable of explaining the rationale for any departure from the SEN Code of Practice. If the audit identifies a systemic lack of Panel records then, within two months of the audit, the Authority must develop and implement an appropriate record keeping process;
- formally instruct all staff involved in the administration of its SEN provision to follow the relevant guidance; and,
- carry out refresher training on its Complaints and Concerns Policy for the Education department. The training should include clear guidance on the escalation of a complaint from stage 1 to stage 2 of its Policy.

## **Planning and Building Control**

### **Other reports – Upheld**

#### **Ceredigion County Council – Handling of planning application**

##### **Case reference 201304766 – Report issued February 2015**

Mr X complained about the Council's Planning Committee granting of a planning permission for a single dwelling, on land near his property, against officer recommendation. In particular, he argued that the Council had failed to provide reasons for its decision (as required by national policy). He also complained that the Council did not inform him of its intention to approve the application, denying him his right to make representations to the Welsh Government for the application to be "called in".

The investigation found that there was considerable uncertainty about whether the decision taken by the Committee had been robust and properly made. This aspect of the complaint was upheld. However, the Council was not obliged to notify Mr X of its intention to approve the application. Before the relevant Committee meeting, the Council had informed Mr X that it did not intend to refer the application to the Welsh Government and that it was a matter for him to pursue directly with Welsh Government. Therefore, this aspect of the complaint was not upheld.

The Council agreed to implement the following recommendations:

- a) apologise to Mr X for the significant uncertainty caused as to whether the decision had been properly taken;
- b) make a payment of £700 to reflect that uncertainty;
- c) demonstrate that appropriate action had been taken to ensure that reasons were properly recorded for decisions taken by the Planning Committee when the recording of reasons was required.

#### **Ceredigion County Council – Handling of planning application**

##### **Case reference 201302932 – Report issued July 2014**

Mr and Mrs A said that they had asked Ceredigion County Council ("the Council") to provide them with pre-planning advice. Mr and Mrs A said that the pre-planning advice led them to believe that a planning application would be considered favourably and they proceeded on that basis. They said that the Council's changed position on this resulted in considerable and unnecessary expense, delay and stress.

The Acting Ombudsman concluded that having consulted the Council's planning department; it was not unreasonable, in the circumstances, for Mr and Mrs A to have placed some reliance on the pre-planning advice given in deciding their next course of action. As a result of the deficiencies in the pre-planning advice, Mr and Mrs A expended time and money to overcome the potential objections to a planning application when, in all probability, had they been aware that such an application stood a limited prospect of success, they would have not proceeded. The Acting Ombudsman therefore considered that the Council's failure in this case to provide to provide adequate advice caused them injustice and upheld Mr and Mrs A's complaint.

The Acting Ombudsman recommended that:

- a) to remedy the injustice, the Council should within reimburse the costs Mr and Mrs A incurred of £530 (comprising the planning application fee and the energy consultant's fee). In addition, the Council should pay Mr and Mrs A a further sum of £500 for the inconvenience caused to them including the time and trouble in pursuing their complaint;
- b) the Council pay the Architect costs of £675 that Mr and Mrs A incurred post the pre-planning advice and up to the date of the submission of the planning application.

**Ceredigion County Council – Other planning matters**  
**Case reference 201204395 – Report issued April 2014**

Mr Y complained about the Council's decisions to grant consent for the extension of a caravan site close to his home. He said that there were various mistakes in the process and a conflict of interest because of the involvement of a senior planning officer, who was a former consultant to the applicant. He said that the Council had also failed to enforce planning conditions relating to the site. He was also aggrieved about the time taken by the Council to respond to his complaint.

The Ombudsman made the following findings:

- Although there were some shortcomings she was satisfied that overall the planning applications had been appropriately considered and there were no grounds for saying that the decisions were unreasonable or perverse. Residents' objections, including those from Mr Y, had been taken into account and were reflected in the conditions attached to the planning consents.
- In terms of the alleged conflict of interest of a senior planning officer, exchanges of e-mails on the file were inappropriate and gave a perception of bias which could be damaging in the eyes of the public. Also the appropriate written declarations within the planning department, or to the Monitoring Officer, as required by the Council's code of conduct for officers, had not been made. However, there was no indication that the senior planning officer concerned had directly influenced the outcome of the applications, which had been dealt with by the case officer and managed by another more senior planning officer.
- The case officer, in providing the screening opinion that an Environmental Impact Assessment was not required, was not authorised to issue such a decision and had not followed the Council's scheme of delegations. However the Ombudsman was satisfied after consulting with her Planning Adviser that despite this, overall the rationale for the decision was reasonable and soundly based.
- There was unacceptable delay in responding to Mr Y's initial complaint of a breach of planning conditions which meant that the Council could not achieve its targets in its Enforcement Charter. The Ombudsman criticised the Council for further delay, its piecemeal approach, its lack of systematic monitoring of site conditions and poor recording. Also Mr Y was not regularly updated about the progress of the investigation as promised in the Charter.
- The Council delayed unreasonably in responding to Mr Y's complaint and gave no reason for the delay.

The Ombudsman recommended that the Council should:

- a) apologise to Mr Y;
- b) make a payment of £1,000 for the delay in responding to his persistent concerns about the planning matters on the site, including a 'time and trouble' payment of £250;
- c) remind officers in the planning service of the need to make declarations of interest in accordance with the code of conduct for officers, including the more informal business of the Council e.g. when e-mailing, to avoid the perception of undue influence and partiality;
- d) review its delegated decision making process on screening opinions for Environmental Impact Assessments to make sure it was in accordance with the Council's published scheme;
- e) reach a view as a matter of urgency whether or not to take formal enforcement action;
- f) to report the matter back to the Development Control Committee for its view.

#### **Other reports – Not upheld**

##### **Ceredigion County Council – Rights of way and public footpaths Case reference 201306690 – Report issued January 2015**

Mr A complained that the Council failed to follow due process when dealing with public concerns raised in response to its plans to reinstate a public foot path running through the church yard of a Grade II listed Church. Mr A complained that it was unnecessary for the Council to reinstate a path which had not been in use for a considerable amount of time. He felt also that the Council excluded the Parish Council from the decision-making process, failed to respond to enquiries in a timely manner, failed to follow relevant legal processes, and disregarded concerns raised by the Parish Council. Finally, Mr A complained that the Council failed to make provision for the hibernation of protected species affected by the works until prompted to do so by him.

The Ombudsman was satisfied that the decision to reinstate the foot path was a decision that the Council was entitled to take and that, in doing so, it had taken appropriate measures to complete the works at the site in accordance with statutory requirements. The Ombudsman also concluded that it was not unreasonable for the Council to follow its legal advice in this respect. The Ombudsman was also satisfied that due consideration was given to the public objections received (when required to do so) and to the issues specifically raised by Mr A during the process. The Ombudsman recognised that some of the actions taken by the Council during the process had been "reactive" to the concerns raised by Mr A and asked the Council to reflect on these experiences as a matter of service improvement in the future. The complaint was not upheld.

## **Social Services - Adult**

### **Quick fixes and Voluntary settlements**

#### **Ceredigion County Council – Services for people with a disability**

##### **Case reference 201403844 – November 2014**

Mr D received care in his home as a result of his disabilities. He complained that the Council, which provided the care, had prepared a risk assessment for staff, but without any input from him. He considered that the risk assessment included unsubstantiated and inaccurate claims and identified him as a difficult person to provide care to. Mr D also complained that certain elements of his care had been withdrawn by the Council without notice, as the Council considered these elements of care to go beyond what was identified in the formal assessment of care needs. Mr D cancelled his care as a result of these disagreements.

Mr D was seeking an apology from the Council and wanted the risk assessment to be withdrawn. Following contact from the Ombudsman's office, the Council agreed to the following actions:

- a) review Mr D's care needs so that it was clear what elements of care were included;
- b) apologise for the Council's part in the events that led to Mr D cancelling his care;
- c) prepare, with Mr D's involvement, a new risk assessment and a code of behaviour.



## **Social Services - Children**

### **Other reports – Upheld**

#### **Ceredigion County Council – Other**

##### **Case reference 201302017 – Report issued July 2014**

Mrs X complained about the actions of the Social Services Department when she asked for her daughter, Z, then aged 14, to be accommodated by the department. Although Z was initially placed with a foster carer, after a short time the department arranged for her to stay with Mrs X's sister, Ms Y, despite the relationship between Mrs X and Ms Y having broken down some time previously. Mrs X believed that the Social Worker's professional relationship with Ms Y had caused a conflict of interest leading to a number of failings.

The Acting Ombudsman found that Mrs X only gave her consent for Z to stay with Ms Y reluctantly, and that it could not be considered an agreed family placement. It was a placement arranged by the Council, and Ms Y should have been assessed in accordance with the Regulations. No assessment of Z's needs, or Ms Y's suitability to care for her, was carried out and no other prospective carers were considered for Z. In the absence of any assessment of Ms Y, the placement was an irregular foster placement. There was minimal contact with Mrs X after Z went to stay with Ms Y, and the Council failed to provide assistance and services to enable Z to return home successfully and to help the family to rebuild their relationship. The Acting Ombudsman concluded that the lack of case recordings was reflective of a lack of action on the part of officers. However, she could not conclude that professionals were influenced by their relationship with Mrs Y.

The Acting Ombudsman recommended that, within one month, the Council should:

- apologise to Mr & Mrs X for the failings identified;
- make a payment of £250 to them in recognition of their time and trouble in pursuing the complaint;
- make a further payment of £2000 for the benefit of the family, to reflect the uncertainty of not knowing whether the support which should have been provided would have improved relationships within the family.

The Acting Ombudsman also recommended that, within three months, the Council should:

- arrange for all social workers in the Child and Family Assessment and Support Team to receive refresher training on the law, regulations and guidance relating to looked after children;
- undertake an audit of all children in need and children on the Child Protection Register who are living with someone other than a parent or a person with parental responsibility, to ensure all placements comply with the relevant regulations;
- if Z wishes, arrange for her to receive a comprehensive, multi-agency assessment of her needs. Thereafter, the Council should offer services and support to meet these needs.

The Council agreed to implement these recommendations.