

Our ref: MG/jm

Ask for: James Merrifield

Your ref:



01656 644 200

Date: 15 July 2014



James.Merrifield@ombudsman-wales.org.uk

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

Dear Ms Morgan

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 Cyngor Sir Ceredigion.

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, there has been a noticeable increase in the number of complaints received, compared with 2012/13. There has also been a significant increase in the number of complaints investigated compared with 2012/13. The largest single area of complaint is 'Planning and Building Control', whilst complaints about 'Education' are now the next largest despite the fact that my office did not receive any complaints relating to 'Education' in 2012/13. My office has issued three 'upheld' reports against your Council during 2013/14, which is above the local authority average. Finally, in reference to your Council's response times, it is disappointing that two thirds of your Council's responses were received more than four weeks after they were requested.

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
Acting 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.

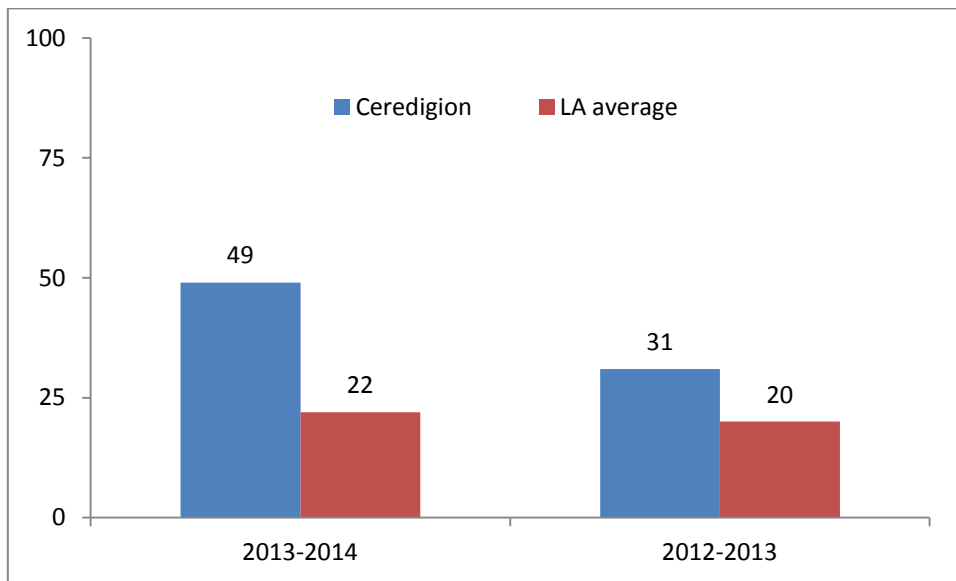
Housing Stock

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

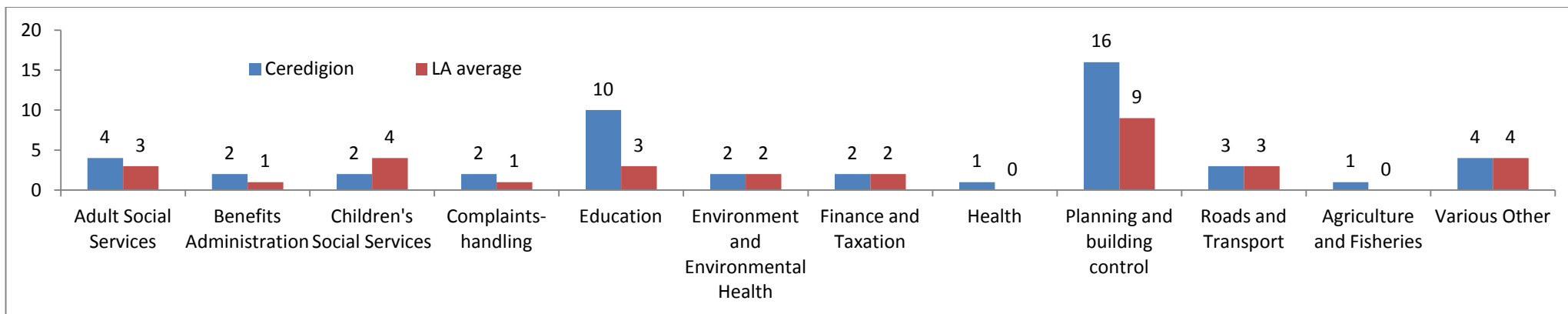


B: Complaints received by my office

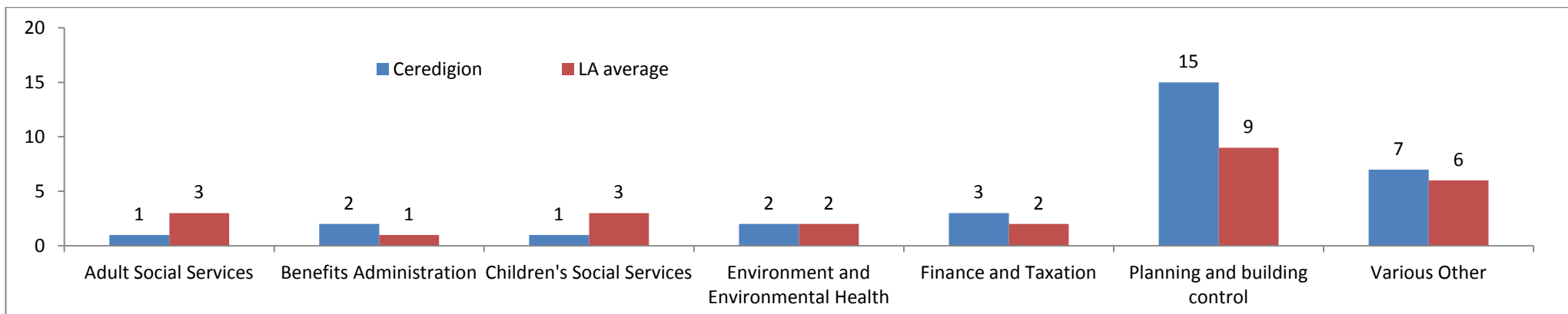
Subject	2013/14	2012/13
Adult Social Services	4	1
Benefits Administration	2	2
Children's Social Services	2	1
Complaints-handling	2	0
Education	10	0
Environment and Environmental Health	2	2
Finance and Taxation	2	3
Health	1	0
Planning and building control	16	15
Roads and Transport	3	0
Agriculture and Fisheries	1	0
Various Other	4	7
Total	49	31

C: Comparison of complaints by subject category with LA average

2013/14



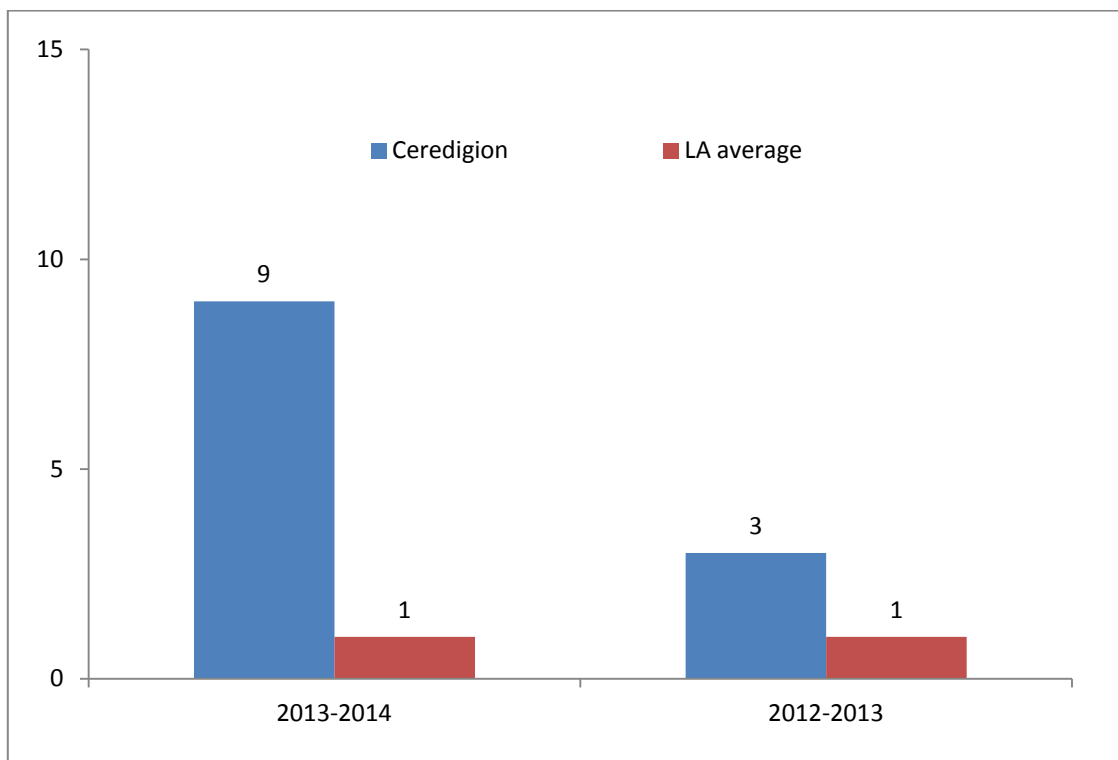
2012/13



D: Complaints taken into investigation by my office

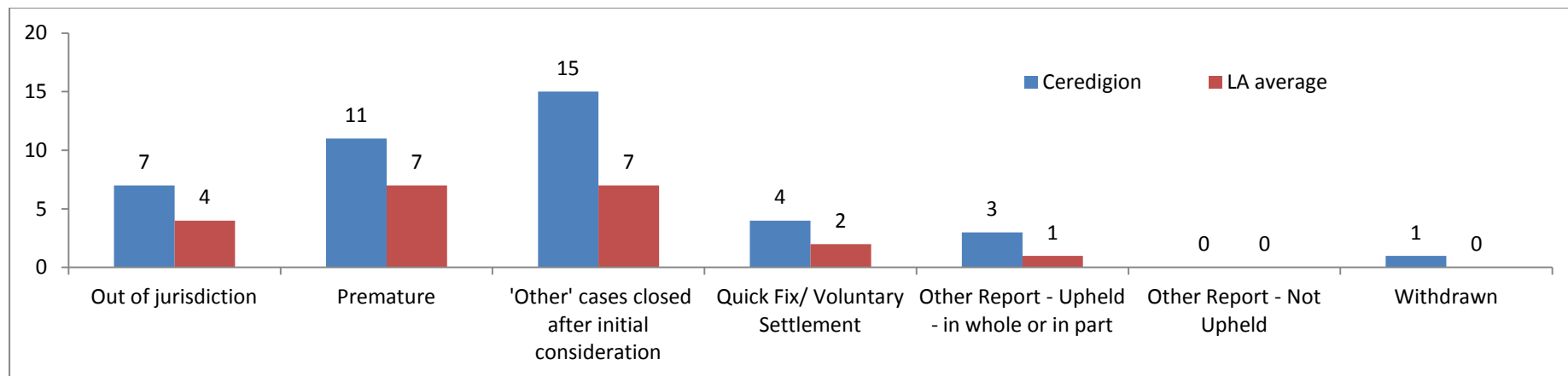
	2013/14	2012/13
Number of complaints taken into investigation	9	3

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

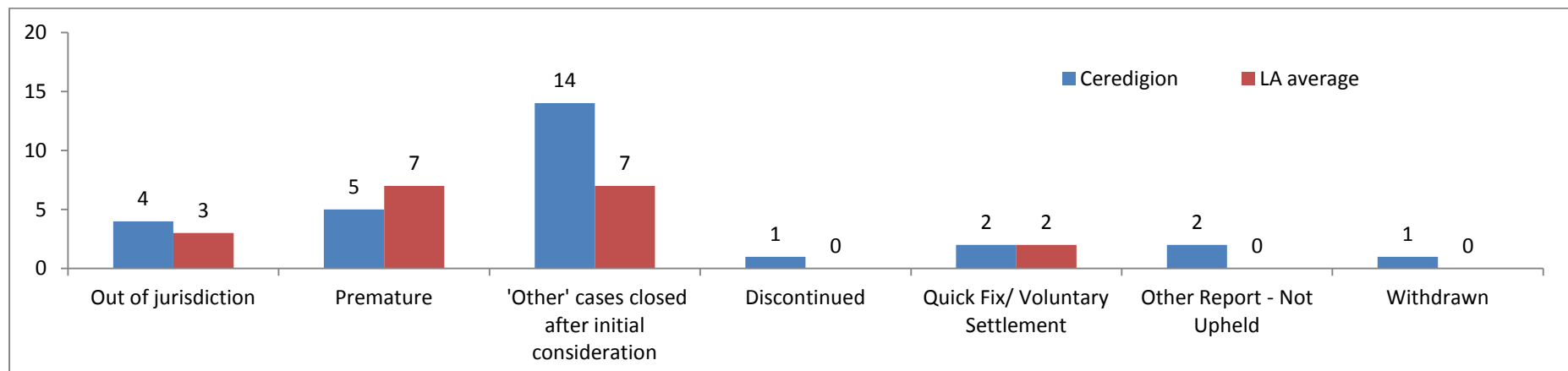


F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution

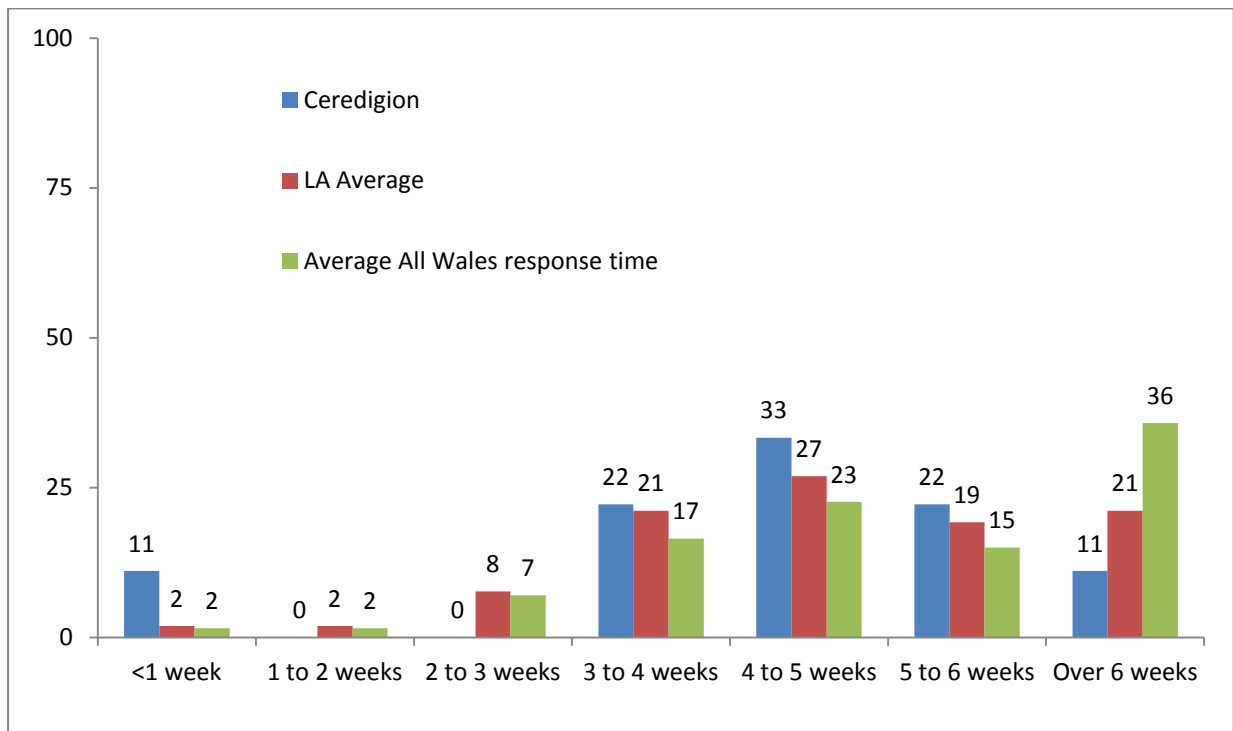
2013/14



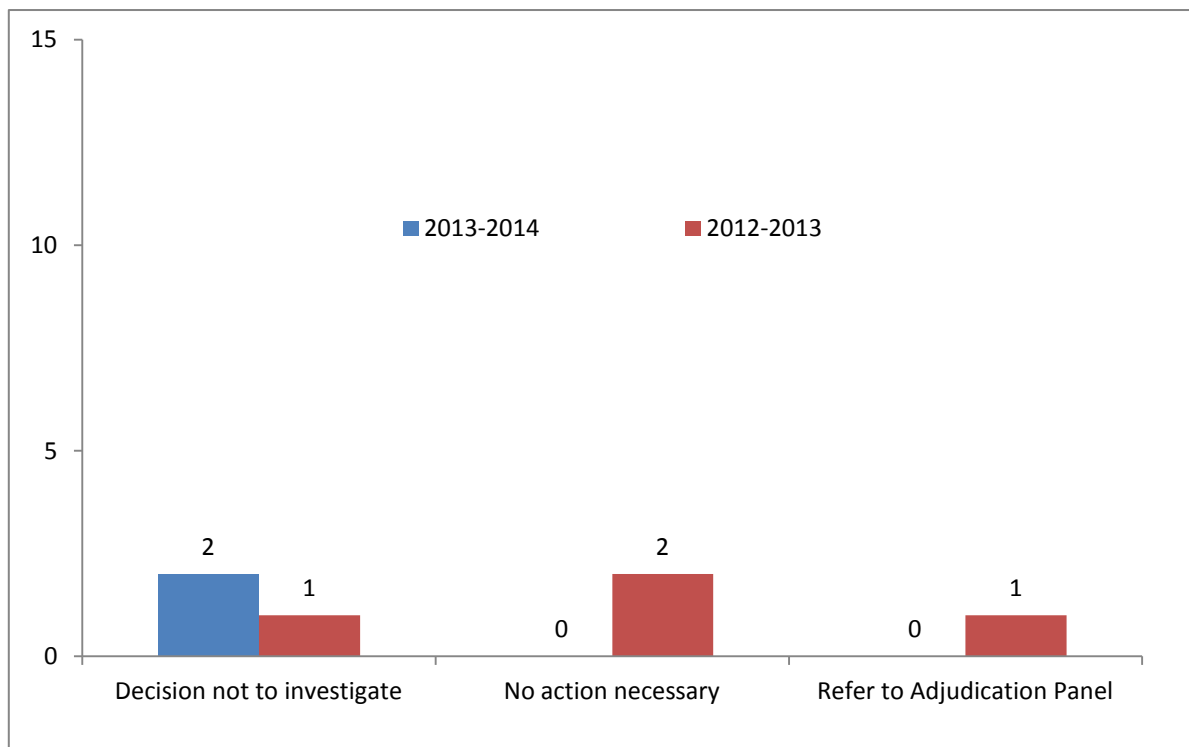
2012/13



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

Benefits Administration

Upheld

Ceredigion County Council – Council Tax Benefit

Case reference 201204992 – Report issued February 2014

Mrs A complained that an overpayment (whereby the Council has paid a higher amount of benefit than the claimant is entitled to) was raised on her Housing Benefit (HB) and Council Tax Benefit (CTB) account and she was interviewed under caution for suspected fraud because the Council said she failed to inform it of an increase in her Child Tax Credits which would affect her benefit. Mrs A also complained about way her case had been handled and the complaint was not dealt with adequately.

The Ombudsman found that there had not been an increase in Mrs A's Child Tax Credits, and that the Council had been calculating her benefit using the wrong figure. The Council did not fully investigate the fraud allegation and did not advise her of the outcome of the investigation for ten months. The Council also did not respond to correspondence from Mrs A; did not recognise an appeal; and, did not follow the Regulations and guidance for raising an overpayment or establishing whether Mrs A had an underlying entitlement to benefit.

The Ombudsman made a number of recommendations, including that the Council apologise and make a number of redress payments to the complainant in respect of the failure to conduct a full review as well as in recognition of the time and trouble in making the complaint. The Council agreed to implement these recommendations.

Education

Quick fixes and Voluntary settlements

Ceredigion County Council – School Transport

Case reference 201300587 - February 2014

Miss P complained that the Council refused to provide free school transport to her son, other than to the school it considered to be the nearest suitable school in her catchment area. She did not consider that the Council's choice of nearest suitable school would meet her son's additional learning needs as identified in a privately commissioned educational psychologist report. She considered that the school he attended was the nearest suitable school that could meet his needs and that transport should be provided free of charge.

During the investigation it was identified that the Council had failed to inform Miss P of her right to appeal the decision on school transport funding to the Council's Transport Appeal Panel ("the Panel") and that its published procedures about school transport did not contain information about this right of appeal. In light of the foregoing, the Ombudsman felt that there was scope to settle the complaint.

In response to the Ombudsman's approach, the Council agreed to take the following action to settle the complaint:

- a) the Chief Executive would apologise in writing to Miss P for the Council's administrative failings identified during the investigation. In addition, the Council would pay her the sum of £100 for the time and trouble taken to pursue her complaint;
- b) the Council would write to Miss P to provide her with a more detailed analysis and explanation on how it reached the decision on the nearest suitable school;
- c) the Council would write to Miss P to arrange a suitable date to convene the appeal panel;
- d) the Council would ensure that the appeal procedure is formalised and published in line with the requirement set out in The Learner Travel Information (Wales) Regulations 2009 and would ensure that this information is contained on the relevant pages of its website relating to school transport and forms part of the standard information provided to parents;
- e) the Council would remind staff of the importance of full and accurate records of all decisions taken.

Environment and Environmental Health

Quick fixes and Voluntary settlements

Ceredigion County Council – Refuse collection, recycling and waste disposal Case reference 201304030 – December 2013

Mr T complained about the Council's misuse of a property intended for tenants to leave refuse for collection. The Ombudsman's office contacted the Council and asked it to clarify what action it was going to take, as the matters Mr T complained about were still ongoing. The Council stated that it has been in contact with the Housing Association and is arranging a meeting to discuss how best to resolve the matter, including the possibility of re-siting the bin store. The Council agreed to inform Mr T directly of the date and the outcome of this meeting.

Planning and Building Control

Upheld

Ceredigion County Council – Unauthorised development

Case reference 201203492 – October 2013

Mr and Mrs L complained to the Council's planning control department about the activities of their next-door, who they considered was operating a vehicle sales and repair business from his residential property. They also complained about the state of their neighbour's land in that it was littered with disused vehicles (numbering as much as 13 or more on occasions) and the other waste material associated with vehicle repair activities. The Council however, whilst urging the neighbour to reduce the number of vehicles, accepted his explanation that the accumulation of vehicles was as a result of a hobby as opposed to being a business. Mr and Mrs L complained to the Ombudsman that the Council had failed to use its statutory powers to take action against the neighbour to remove the vehicles.

The Ombudsman found that the Council had failed to take sufficient steps to investigate the activities of the neighbour. As a result it had not put itself in a position to make a sound decision about the nature of the activities on the site. The Ombudsman upheld this aspect of the complaint. In terms of the state of the neighbour's land the Ombudsman accepted that the Council did not consider it constituted a statutory nuisance and given that Mr Q, had to a degree, and rather slowly, improved the situation. The Ombudsman concluded that as this was a decision over which the Council has discretion and as there was no compelling evidence of maladministration, this aspect of the complaint should not be upheld.

The overall complaint was upheld and the following recommendations were made:

- a) that the Council apologises to Mr and Mrs L for the failings identified in this report and pays them redress of £750;
- b) that the Council takes appropriate investigative action to satisfy itself that there is no unauthorised business activity ongoing by the neighbour;
- c) that the Council takes steps within three months to review the planning enforcement service's capacity to investigate potential breaches of planning legislation.

May 2013 – Unauthorised development – Ceredigion County Council

Mr and Mrs A complained about:

- Ceredigion County Council's ("the Planning Authority") enforcement action in respect of the construction of a log cabin by Mr X on the land adjacent to their touring and tenting park ("the Development Site").
- the adequacy of the Planning Committee's reasons when approving Mr X's retrospective planning application.

The first part of this complaint was partly upheld. It was found that whilst the decision to undertake enforcement action was discretionary, there were occasions when the Planning Authority had sufficient grounds for concern to warrant an investigation

With respect to Mr X's first planning application, despite being aware that Mr X had started construction on his holiday chalet in September 2008, and had failed to commit to the section 106 agreement, which meant that his planning permission had not been issued, there was a failure to monitor the site until after the planning application had been finally disposed of in February 2011. As a result of this failure there is no evidence confirming precisely when the holiday chalet was substantially complete. This may have had a significant effect on the Planning Authority's opportunity to undertake enforcement action at a later date.

With respect to the second complaint, the Planning Authority acknowledged that there had been an administrative error in failing to formally record the reasons for the Committee's decision in the minutes of the meeting. The complaint was upheld. The following recommendations were made to the Planning Authority:

- (a) apologise to Mr and Mrs X for the failings identified in the report.
- (b) review its enforcement investigation procedures to ensure that adequate monitoring is undertaken on unauthorised development, even when a planning application has been submitted, to ensure that a precise substantially complete date is recorded, and statutory deadlines for enforcement are flagged up.

Case reference 201201247