

Our ref: PT/jm

Ask for: James Merrifield

Your ref:



01656 644 200

Date: 9 July 2013



James.Merrifield@ombudsman-wales.org.uk

Dr Mohammed Mehmet
Chief Executive
Denbighshire County Council
Council Offices
Wynnstay Road
Ruthin
Denbighshire
LL15 1YN

Dear Dr Mehmet

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 Denbighshire 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, I note that the number of complaints received by my office during 2012/13 remains at the same level as 2011/12, whilst the number of complaints investigated has decreased. The largest single areas of complaint remain 'Housing' and 'Planning and Building Control'. As with 2011/12, there has also been a large number of 'premature' complaints to my office. It is disappointing to note that the responses received from the Council took more than six weeks from the date they were requested.

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

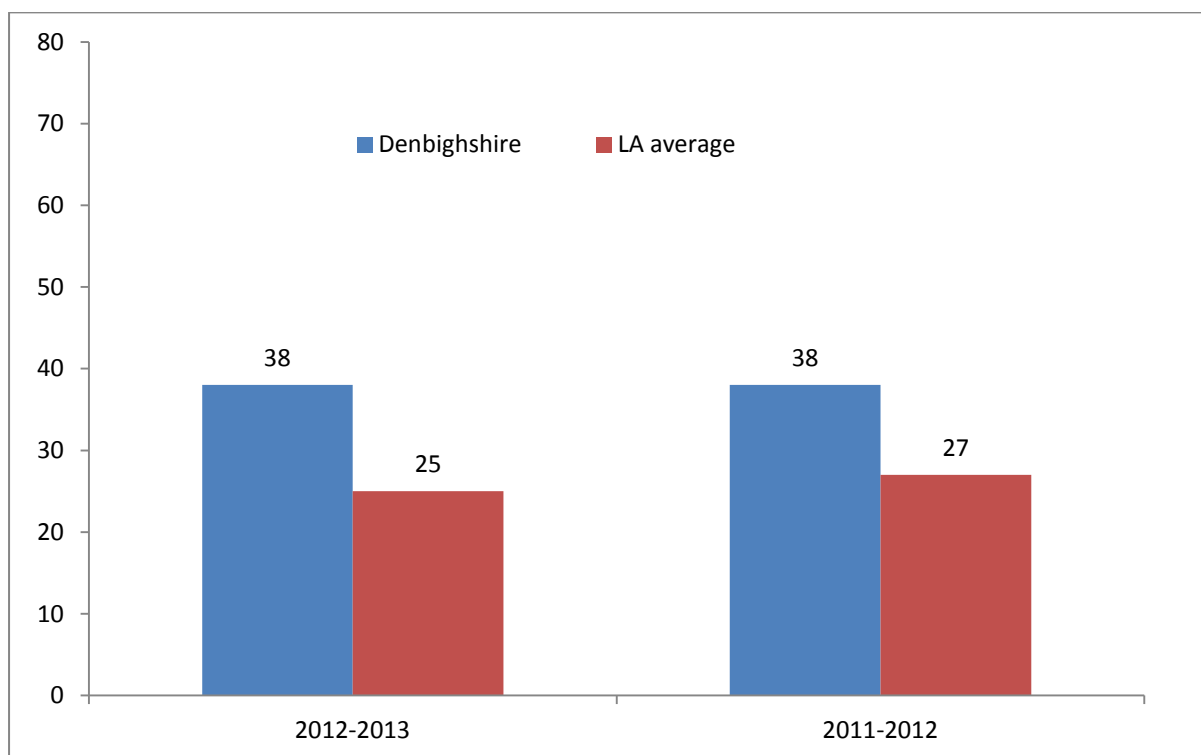
As with previous exercises, the figures for 2012-2013 have not been adjusted to take account of the transfer of housing stock. However, it is noted that there is likely to be a higher proportion of Housing complaints where local authorities have retained their housing stock.

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

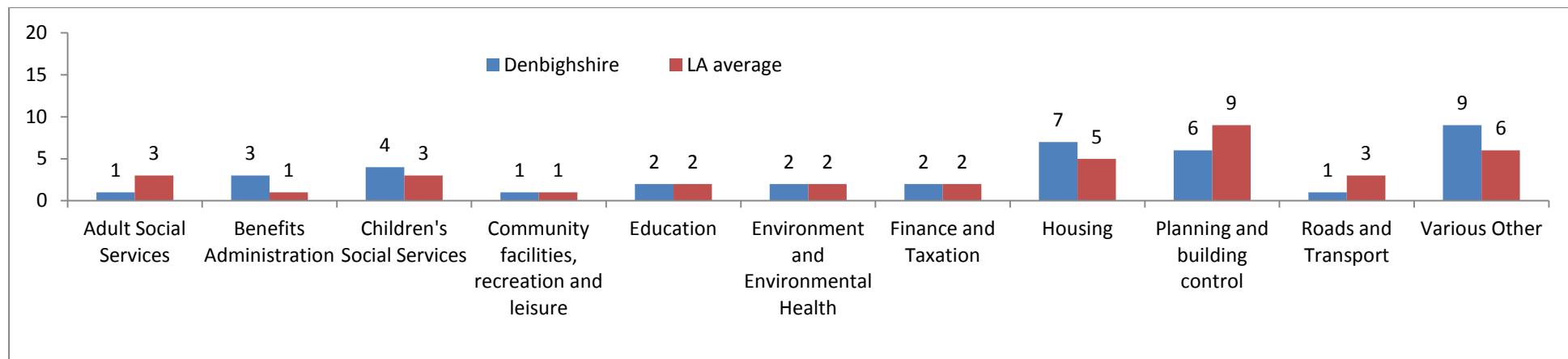


B: Complaints received by my office

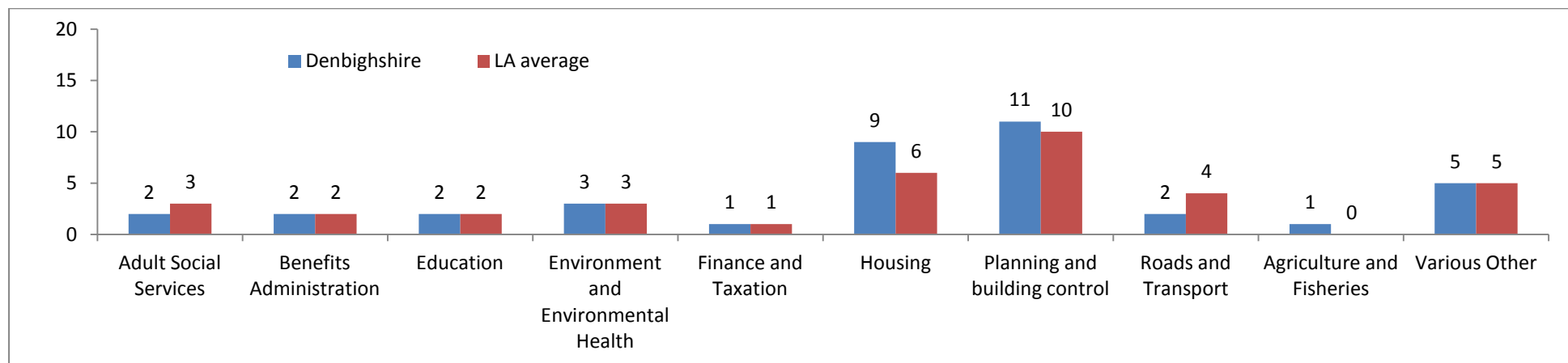
Subject	2012-2013	2011-2012
Adult Social Services	1	2
Benefits Administration	3	2
Children's Social Services	4	0
Community facilities, recreation and leisure	1	0
Education	2	2
Environment and Environmental Health	2	3
Finance and Taxation	2	1
Housing	7	9
Planning and building control	6	11
Roads and Transport	1	2
Agriculture and Fisheries	0	1
Various Other	9	5
Total	38	38

C: Comparison of complaints by subject category with LA average

2012-2013



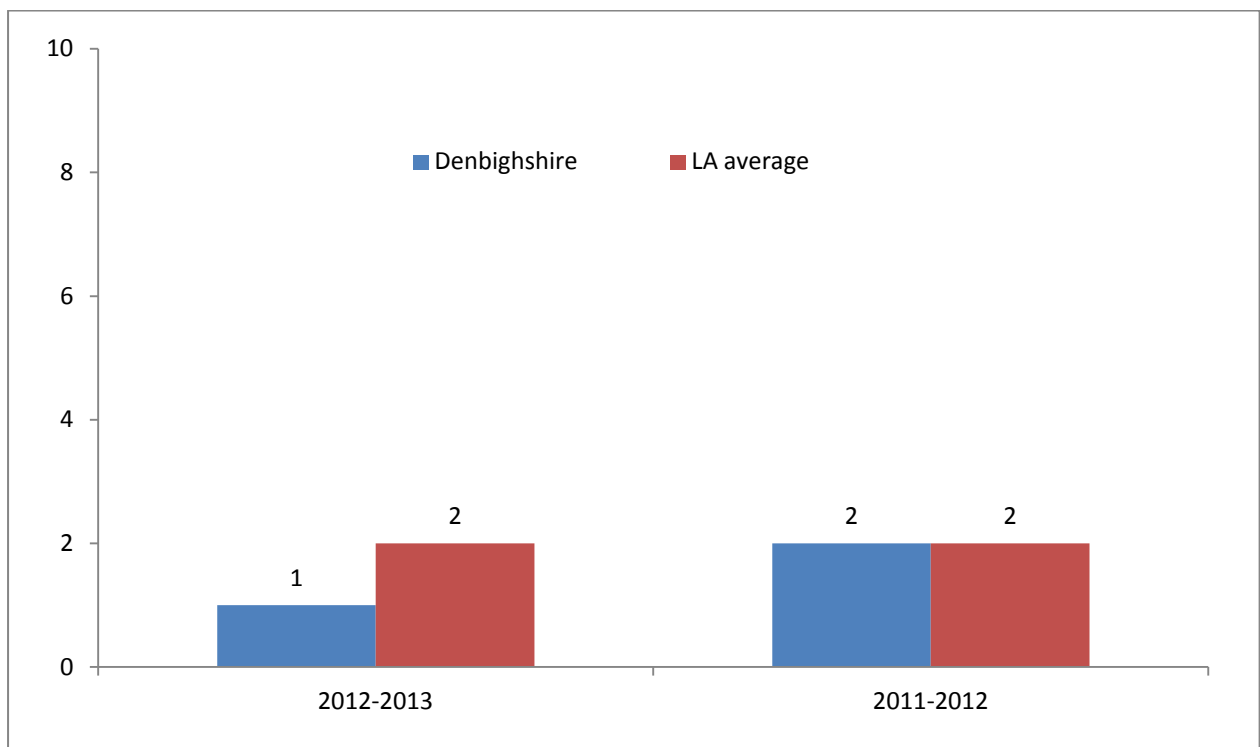
2011-2012



D: Complaints taken into investigation by my office

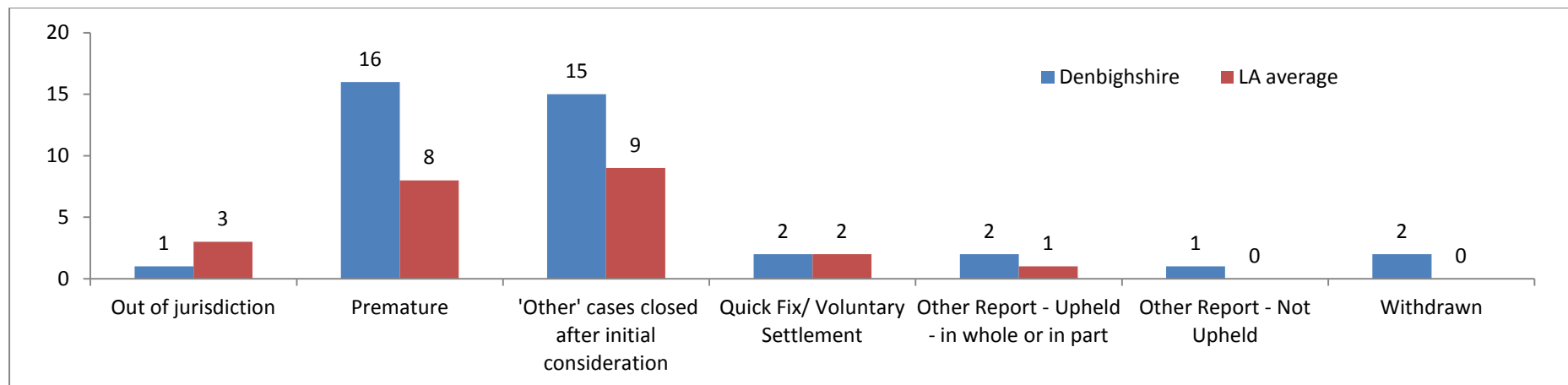
	2012-2013	2011-2012
Number of complaints taken into investigation	1	2

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

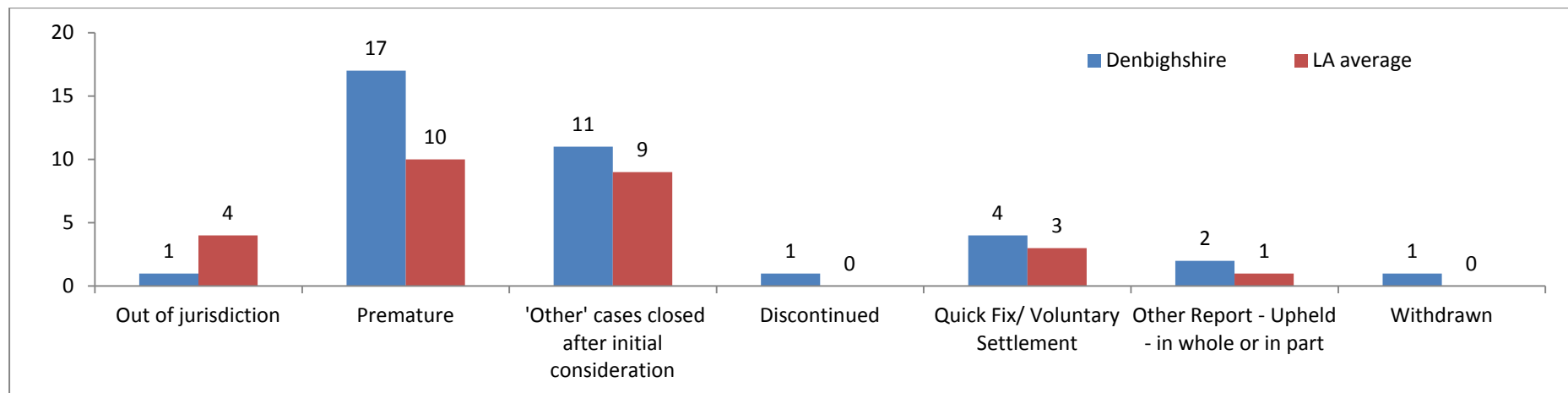


F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution

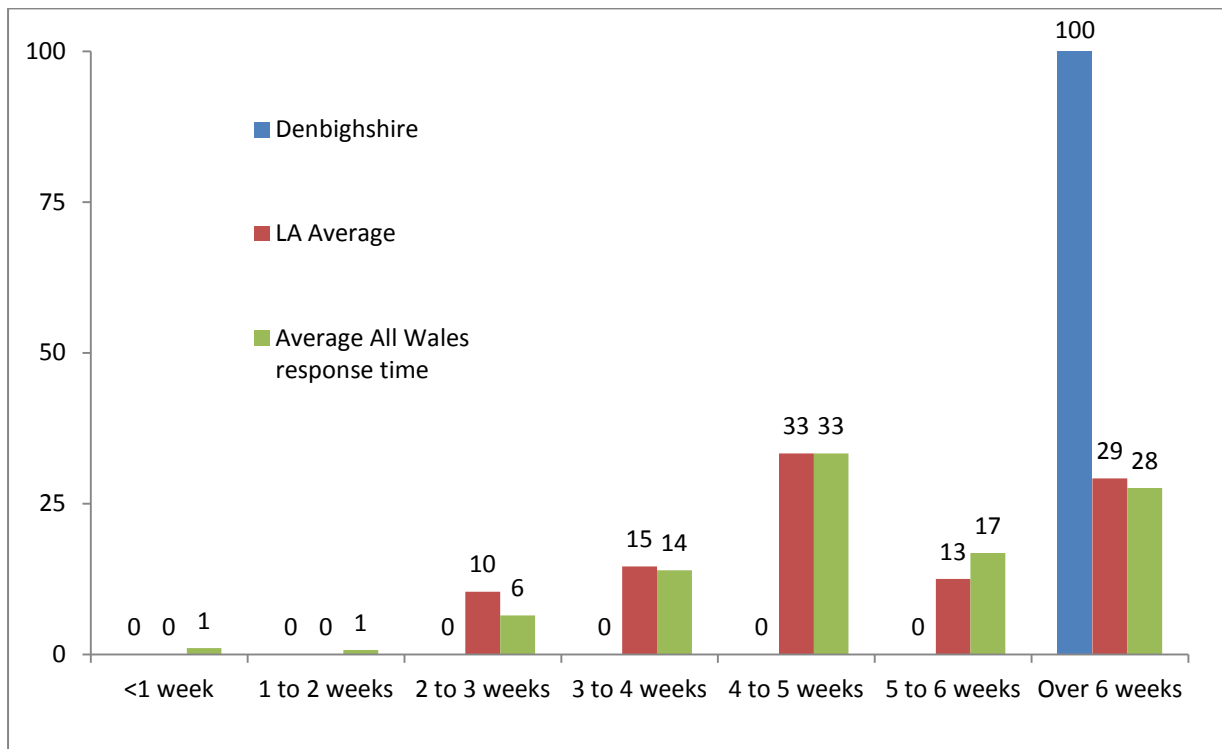
2012-2013



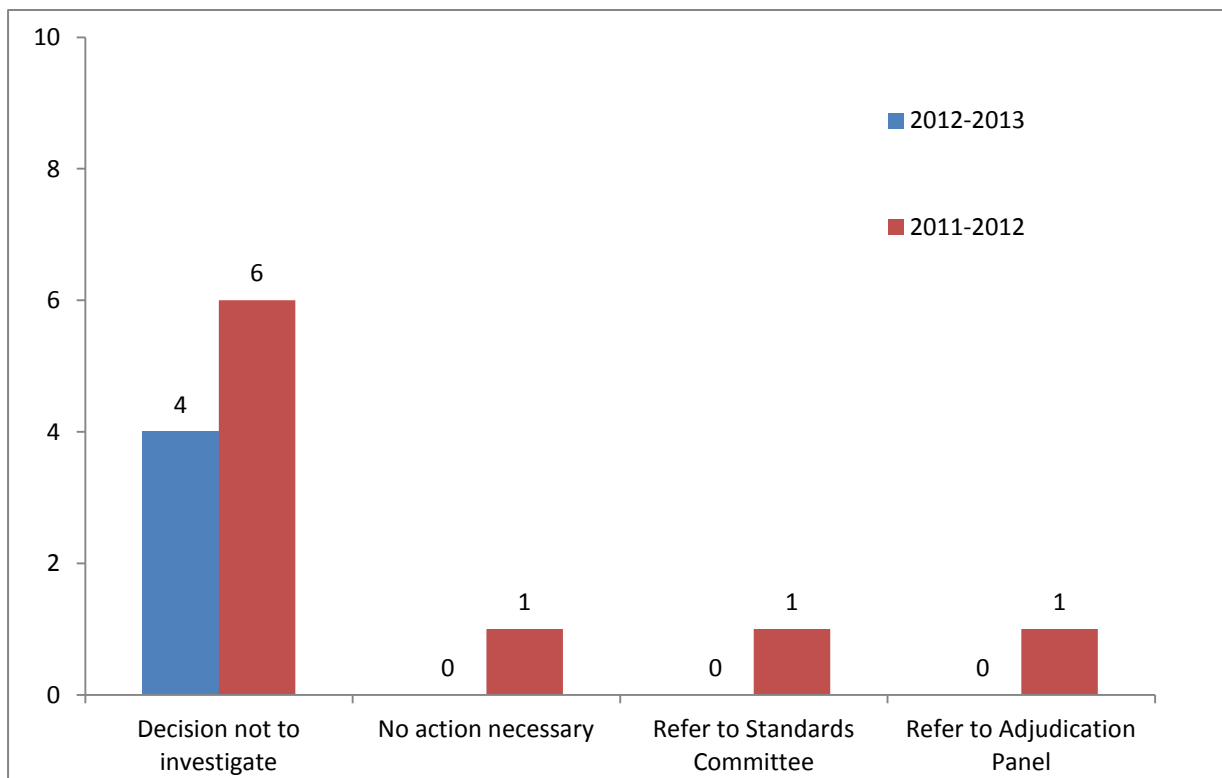
2011-2012



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

Agriculture and Fisheries

Upheld

January 2013 – Other – Denbighshire County Council & Welsh Government

Mr and Mrs J (and their son) owned agricultural land in the Council's area, and had complained about the actions of Denbighshire County Council and the Welsh Government in relation to the preparation of the statutory local development plan (LDP). They complained that they were not notified of an intended survey of their land or of the outcome, namely the "downgrading" of the agricultural quality of their land from Grade 2 ("very good") to Grade 3b ("moderate quality"). They complained further that they were not afforded an opportunity to appeal against the regrading of the agricultural classification of their land, and that the Council acted wrongly when it sent a copy of their own privately commissioned survey report to the Welsh Government. They also complained that the Council failed to send them an internal audit report relating to their concerns and to provide a satisfactory response to their complaint. They claimed that as a consequence they were prevented from making adequate representations in respect of the LDP and that the market value of their farm was adversely affected.

Their complaint against the Council was not upheld. The Council had acted reasonably, and in accordance with statutory guidance in including their land in its broad area of search for possible sites for future housing and employment development, and in seeking information from the Welsh Government about its agricultural quality. The Council was not under any statutory or other obligation to notify them of the survey or of its results, this being a matter for the Welsh Government. The Council also had not acted unreasonably in disclosing their survey report to the Welsh Government, given that this was to be placed in the public domain as part of the LDP process. The Council had also provided a reasonable response to their complaint, and had sent them a copy of the internal auditor's report by email.

Their complaint against the Welsh Government was partially upheld. The letter of notification was not sent by recorded delivery. However, there was evidence to indicate that Welsh Government officials had contacted the complainants by telephone prior to conducting the survey. Nevertheless, and contrary to its established (but unwritten) protocol, the notification letter failed to inform the complainants that the results of the survey would be discussed with them if they wished. As a consequence, the complainants did not become aware of the survey results for 2 years. However, the complainants were not prevented from submitting representations in respect of the LDP. The role of the agricultural land classification system is not concerned with valuation matters, but to inform the planning process, and the absence of a mechanism by which the findings of an agricultural land survey can be challenged outside the LDP process is not maladministration. Moreover, the Welsh Government's offer to have a technical discussion with the Complainant's surveyor regarding the respective survey results was not unreasonable.

The Welsh Government agreed to apologise to the complainants for the error identified in this report, and to incorporate its procedures for contacting landowners into its existing written procedures for conducting agricultural land surveys.

Case reference 201100420 & 201100421

Environment and Environmental Health Summaries

Quick fixes & voluntary settlements

April 2012 – Drainage/sewers/culverts – Denbighshire County Council

Mr A complained that Denbighshire County Council had failed to rectify the problem of flooding at his property. He stated that over a period of some time the Council had sent contractors to the site to assess the work but that the work had yet to be completed. Mr A complained that he was unable to use his back garden because of the flooding that occurred.

On receiving Mr A's complaint, the Ombudsman contacted the Council to ascertain what action it was taking to resolve the problem he complained of. The Ombudsman was informed that the Council was aware of the problem and was working towards a resolution. The Ombudsman understood that an officer from the Housing Department had spoken with Mr A to advise him that formal approval for the work had been received from the appropriate department, and that the work would be undertaken as soon as a date was confirmed with the appointed contractor. The Council advised the Ombudsman's office that once a start date is confirmed, it would write a letter of apology to Mr A for the delay in undertaking the appropriate work.

Case reference 201200083

Housing

Quick fixes and voluntary settlements

May 2012 – Other – Denbighshire County Council

Mr & Mrs W complained of failings in the provision of the warden service in their sheltered housing accommodation and about the manner in which their complaint(s) about this had been dealt with by Denbighshire CC.

After obtaining further information (an additional complaint-response from the Council), the Ombudsman's office arranged for the complainant to meet with officers from the Council to discuss outstanding concerns. This, effectively, resolved the complaint.

Case reference 201200267

Planning and Building Control

Upheld

December 2012 – Other planning matters – Denbighshire County Council

Mr A complained that Denbighshire County Council (“the Council”) had provided him with conflicting planning advice relating to the development of a Coach House at the rear of his property, the erection of a fence at the side of his property and a piece of land at the side of his property. Mr A also complained that the Council’s complaint procedure was ineffective.

Having conducted an investigation, it was found that on the three occasions that Mr A had requested planning advice from the Council about the development of the Coach House, clear advice was provided. Furthermore, the Council’s decision to issue “Requisition for Information” documents to Mr A in order to seek further information about the development was one that the Council was entitled to make.

With respect to the erection of the fence at the side of Mr A’s property it was found that the Council initially undertook enforcement action on the basis that the fence being erected next to a highway. This information was incorrect and the Council withdrew the action. Finally it was found that the Council failed to meet the timescales set out in its own complaints procedure

Mr A’s complaint was partly upheld and it was recommended that the Council apologise for the failings identified, pay Mr A £50 in recognition of the time and trouble taken in pursuing this complaint and review its enforcement procedures to ensure that appropriate checks are made before enforcement action is undertaken. The Ombudsman was pleased to note, however, that in its response to the draft report, the Council confirmed that it would be implementing the Welsh Government’s Model Concerns and Complaints Policy in which it planned to have in place by February 2013.

Case reference 201102872

Various Other

Upheld

March 2013 – Rudeness/inconsiderate behaviour/staff attitude – Denbighshire County Council

Mr J complained about the way in which Denbighshire County Council (“the Council”) managed the council tax account for his late mother’s property. The Council issued a summons for non payment of council tax, against the Executors of her estate. Mr J was a joint Executor with a local based firm of Solicitors. Mr J made a payment to the council to clear the liability from his personal account.

Mr J later became aware that the new registered occupier of the property had become liable for the charges. He wrote to the Council to request a refund in respect of the monies he had paid. Mr J did not receive an acknowledgement of his request and had to chase the Council for a response. Mr J raised additional concerns about the actions taken by the Council following his request for a refund in seeking the consent of his fellow Executor prior to issuing the refund and the manner in which he felt he was treated by the Council’s staff. Mr J received a refund from the Council some 4 months later.

Having considered all of the evidence available the Ombudsman concluded that the Council’s management of the council tax account for the property was reasonable in the main. However, the Ombudsman did identify that the Council’s service did not meet the required standard for dealing with Mr J’s written request for a refund. In addition the Ombudsman felt that the Council should also, at the very least, have advised Mr J of the steps that it had to take to seek the consent of his fellow Executor before it could issue the refund to him. The Council agreed to the Ombudsman’s recommendations to apologise to Mr J and to make a payment of £100 in respect of the failings identified and time and trouble taken to pursue the complaint.

Case reference 201201315