

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 Jeremy Patterson
Chief Executive
Powys County Council
County Hall
Llandrindod Wells
Powys
LD1 5LG

Dear Mr Patterson

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 Powys 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, there has been a large number of complaints received by my office compared with 2011/12, which is now above the average. There has also been a noticeable increase in the number of complaints taken into investigation compared with 2011/12. Whilst complaints relating to 'Planning and Building Control' remain the largest single area of complaint, the number of complaints relating to 'Education' has also doubled. It is pleasing to note an above average number of quick fixes and voluntary settlements, although it should be noted that the number of 'upheld' reports issued by my office are also above average. 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

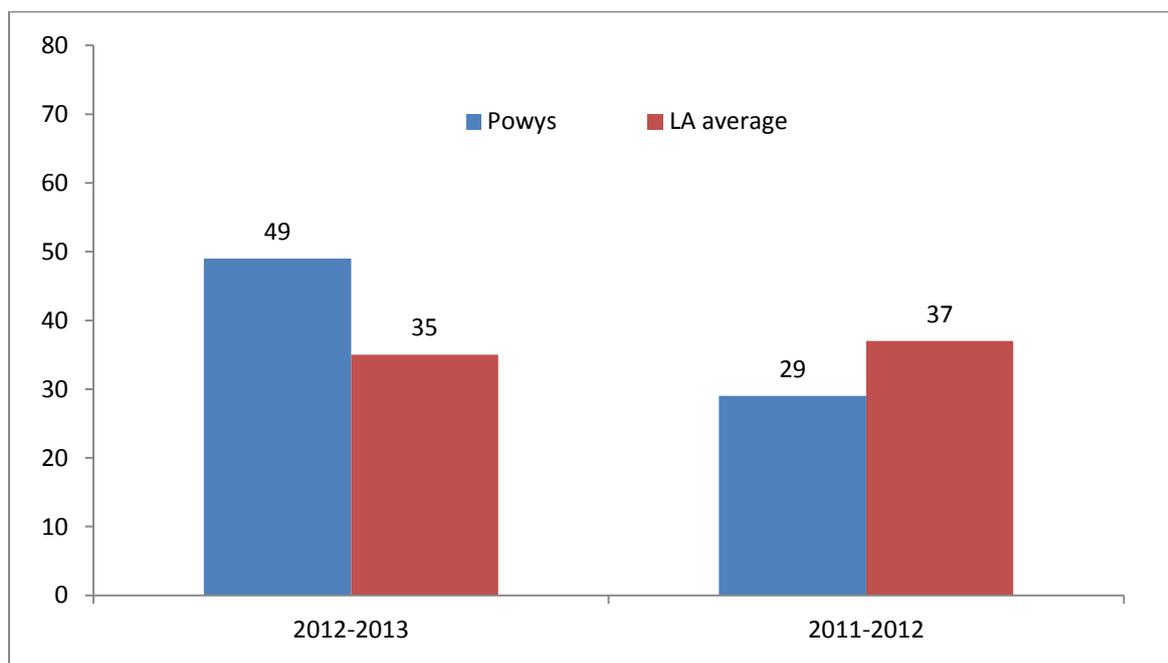
As with previous exercises, the figures for 2012-2013 have not been adjusted to take account of the transfer of housing stock. However, it is noted that there is likely to be a higher proportion of Housing complaints where local authorities have retained their housing stock.

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

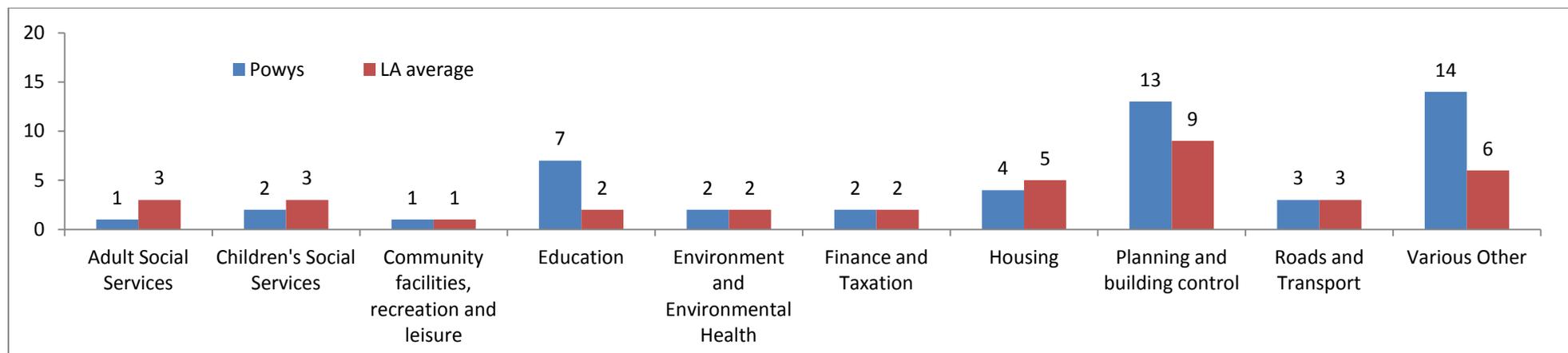


B: Complaints received by my office

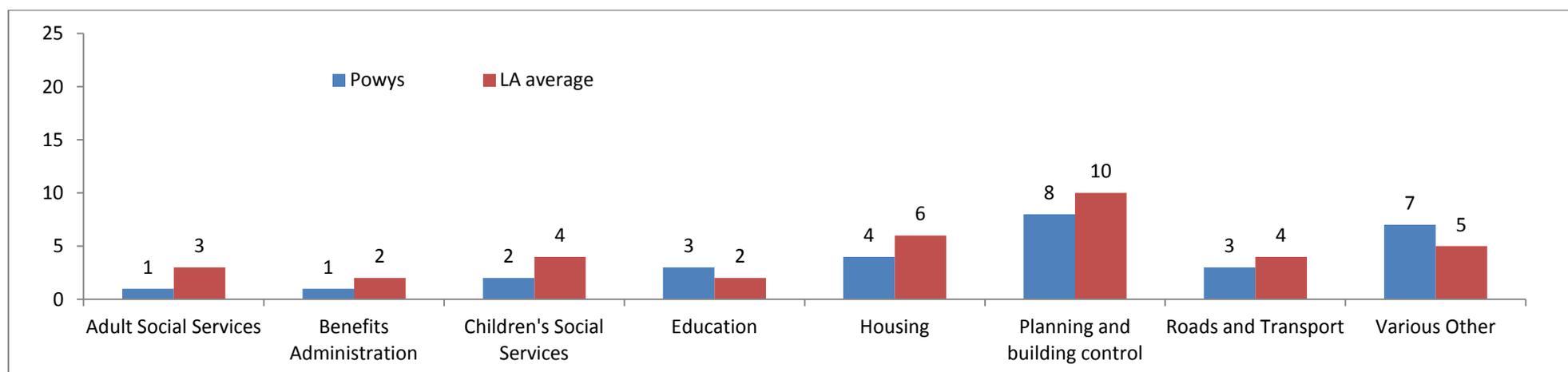
Subject	2012-2013	2011-2012
Adult Social Services	1	1
Benefits Administration	0	1
Children's Social Services	2	2
Community facilities, recreation and leisure	1	0
Education	7	3
Environment and Environmental Health	2	0
Finance and Taxation	2	0
Housing	4	4
Planning and building control	13	8
Roads and Transport	3	3
Various Other	14	7
Total	49	29

C: Comparison of complaints by subject category with LA average

2012-2013



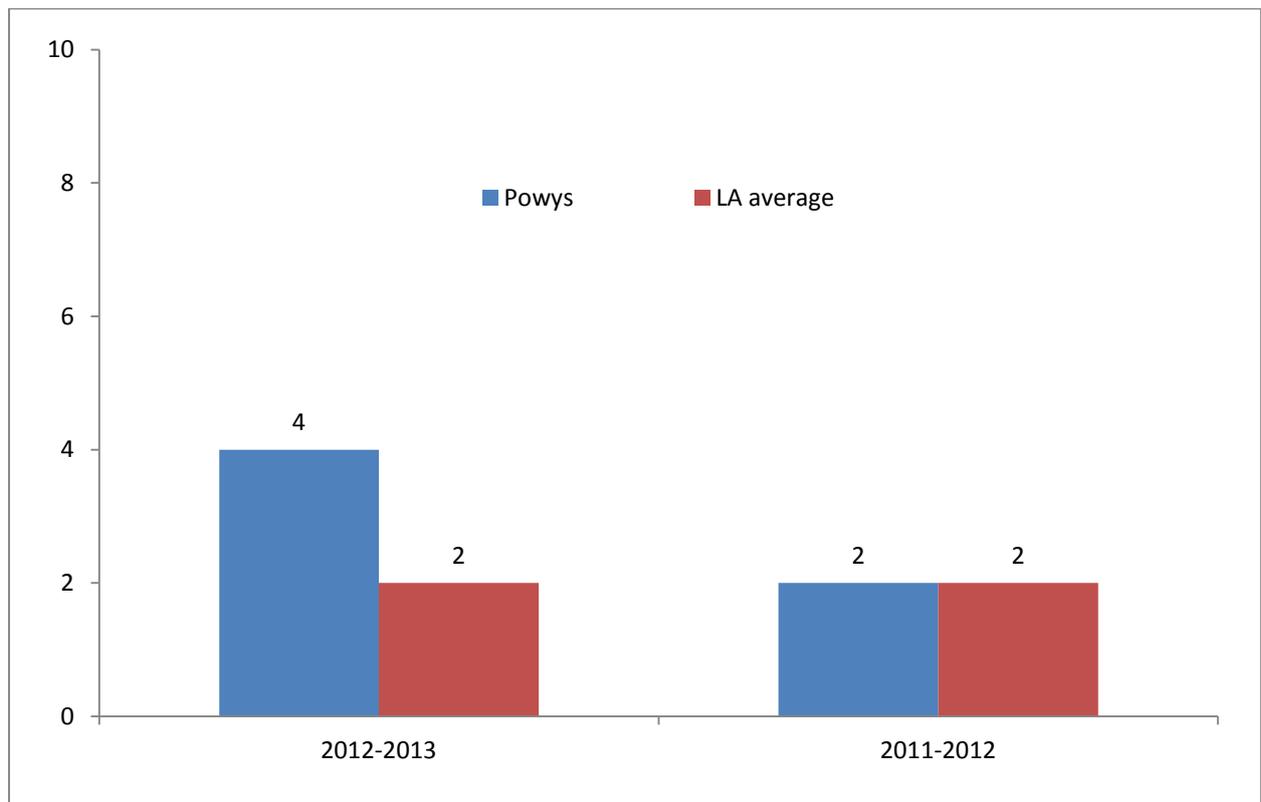
2011-2012



D: Complaints taken into investigation by my office

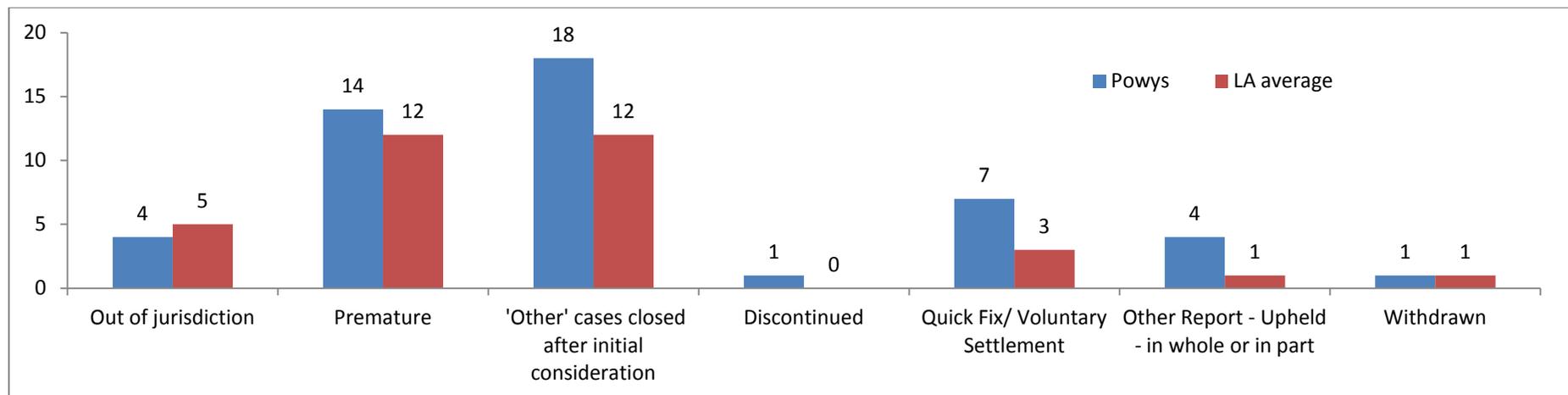
	2012-2013	2011-2012
Number of complaints taken into investigation	4	2

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

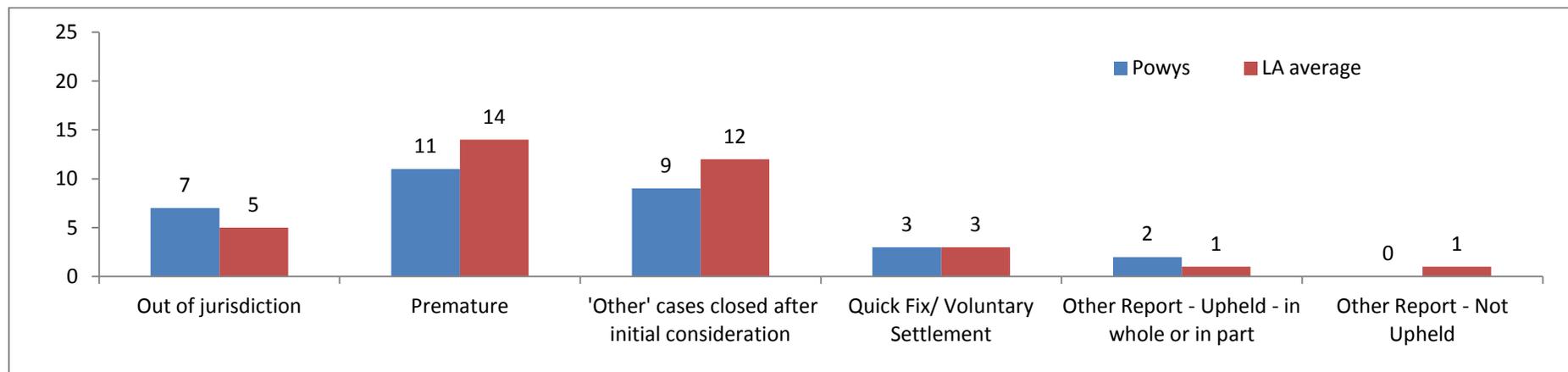


F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution

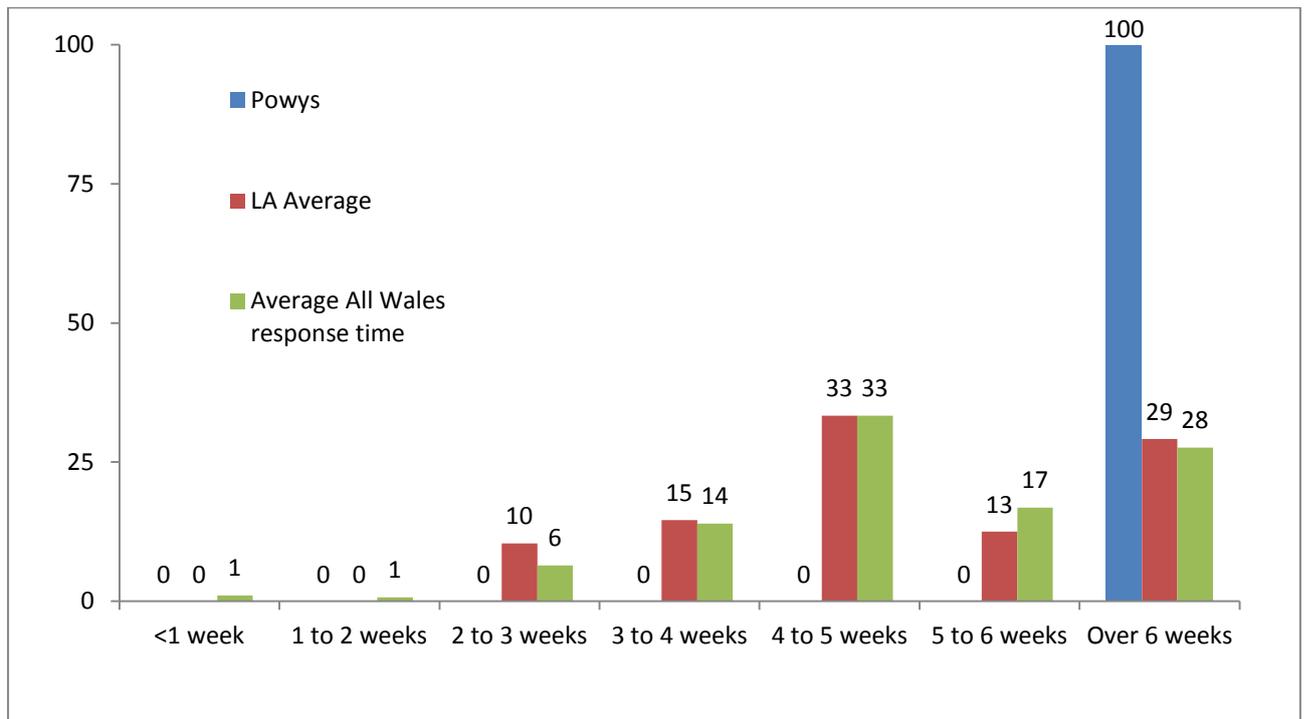
2012-2013



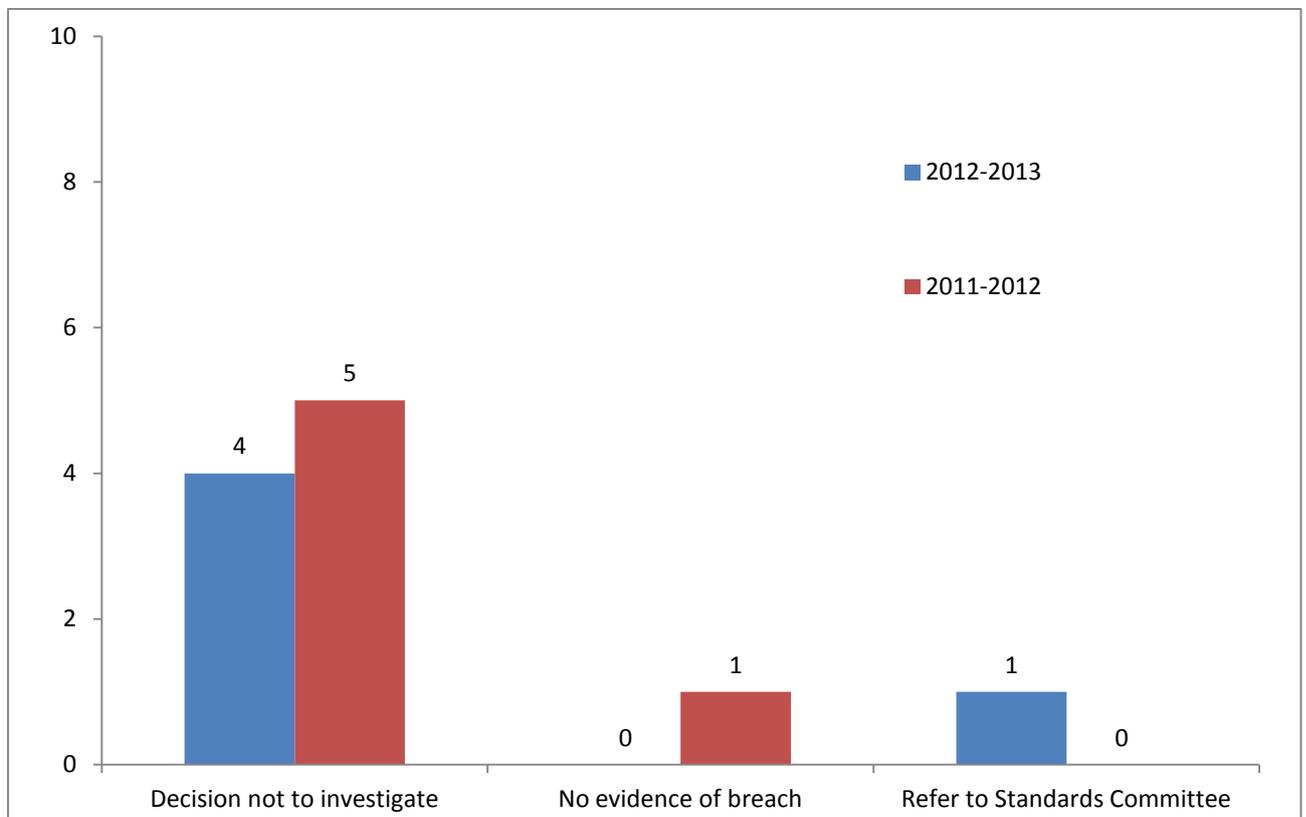
2011-2012



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

Education

Upheld

March 2013 – School transport – Powys County Council

Mr and Mrs W complained that Powys County Council had failed to correctly administer matters in relation to their request for free school transport for their children. They said that there had been delay and a lack of clarity concerning the procedures that were in place.

Using the services of an advocate, Mr and Mrs W said that they had exercised their choice in relation to their two children's education and had asked that they attend a school where teaching was conducted in the Welsh language. The Council provided the school places but declined their request for free school transport as it said that comparable provision was available at a dual language school which was closer to the family's home. The complainants were not satisfied with this outcome or of the way in which their representations had been handled.

The Ombudsman experienced difficulty in obtaining timely and accurate responses from the Council while investigating the complaint. Incorrect information was supplied by the Council with regard to its appeal system and the status of a transport policy that was displayed on its website.

The Ombudsman upheld the complaint, finding maladministration due the absence of a published appeal process and a lack of transparency as to how the Council had reached its decisions on the case and the delays, all of which had led to injustice to the complainants.

A number of recommendations were made, including that the Council should publish an appeal process in relation to school transport decisions and that it should update its policy information and publicity. The Council was also asked to apologise to Mr and Mrs W and make a payment to them in the sum of £500 in recognition of the difficulties they had experienced. The Council agreed to all of the recommendations.

Case reference 201200345 & 201201110

Quick fixes & voluntary settlements

April 2012 – Special Educational Needs – Powys County Council

Mr B contacted Powys County Council in relation to making a SEN enquiry. He wanted to obtain information contained in their policy with regards to the assessment criteria and what may be needed should his son need to undertake an assessment. On contacting the Council he was told that there was no policy in place due to the original policy not being fit for purpose. Mr B was concerned that should he wish to submit an application there was no policy he could refer to.

On receiving Mr B's complaint, the Ombudsman's office contacted the Council to determine whether a SEN officer could meet with Mr B to discuss his concerns and to clarify the support that might be put in place for his son. It agreed to do this and would

write to Mr B to confirm. It also advised that the new policy should be in place by the end of May 2012.

Case reference 201104293

Housing

Quick fixes & Voluntary settlements

September 2012 – Repairs and maintenance – Powys County Council

Mrs L complained that, despite raising issues she was experiencing with both the toilet and plumbing at her Council property since December 2011 with the Council, the problems remained outstanding. Mrs L also complained about the standard of the Council's complaint handling.

My office contacted the Council, which subsequently contacted Mrs L to arrange for a plumber to visit. The Council will also be writing to Mrs L apologising for its oversight in following up the concerns. The Council will also be reviewing its processes to ensure that, in future, all potential contact numbers for members of the public are utilised. This is because the Council had failed to use Mrs L's work or mobile numbers when trying to contact her.

Case reference 201202210

Planning and Building Control

Upheld

October 2012 – Other planning matters – Powys County Council

Mrs Y complained that the County Council had delayed in determining her application for the addition of a footpath near her home to the definitive map. (Mrs Y's application was made in 2006 and should have been determined within 12 months.) The Council had ignored a direction from the Welsh Assembly Government that a decision should be given on the application by no later than 11 February 2012.

The Ombudsman upheld the complaint. He said that the Council's failure to respond was maladministration and there had been unreasonable delay. A decision in favour of Mrs Y's application would have achieved what she wished. Alternatively if the County Council had refused her application she would have had a right of appeal to the Planning Inspectorate. Instead there had been continuing uncertainty. The Ombudsman required the Council to determine the application, as a matter of priority and without further delay. He said that the Council should also make Mrs Y a payment of £250 as some acknowledgement of the delay and for her time and trouble in making the complaint.

Case reference 201200319

Roads and Transport

Upheld

January 2013 – Transport Services – Powys County Council

A complaint was made to the Council about Mr B, who was a bus driver employed by a coach and bus operator that was providing school and college transport under contract to the Council. Following this complaint, the Council instructed the operator, under a clause in the contract between operator and Council, that it should not use Mr B on any contracts it held with the Council. As the operator had no employment available for Mr B other than work relating to contracts it held with the Council, it had no option but to dismiss Mr B. At a subsequent Employment Tribunal, Mr B's claim for unfair dismissal was turned down because the Employment Tribunal considered that the operator's actions were a result of third party pressure. Mr B subsequently complained to the Ombudsman.

The Ombudsman found that the Council had not conducted an appropriate investigation into the concerns raised about Mr B, despite this being a requirement of the clause in the contract with the operator. The Council did not provide an explanation to Mr B or the operator for its decision to instruct that Mr B should not be used on its contracts. Whilst the clause in the contract stated that the Council did not have to give a reason for its decision, it required the Council to have a good reason for making such a decision. The Ombudsman found the failure to provide a reason for its decision, and the failure to base its decision on a proper investigation, was maladministration. The complaint was upheld and the Ombudsman recommended that the Council apologise to Mr B and provide him with redress of £15,000 as well as reviewing its procedures and the clause in its transport contract

Case reference 201200237

Various Other

Quick fixes and Voluntary settlements

November 2012 – Complaint-handling – Powys County Council

The complainant was unhappy that the Council had not contacted him six weeks after agreeing to re-investigate his complaint. My office contacted the Council, which confirmed that a re-investigation was underway and that they were awaiting one piece of information. The Council agreed to write to Mr D explaining the delay.

Case reference 201203354

May 2012 - Other – Powys County Council

Mr H complained that Powys County Council failed to respond to his complaint regarding Powys Trading Standards. He also stated that on several occasions he had tried to contact the Council regarding his complaint but had not received any acknowledgment.

The Ombudsman contacted Powys County Council to clarify whether it was acting upon Mr H's complaint and points he had raised. The Ombudsman was informed that the Council now had all the necessary information and was in a position to respond to Mr H's complaint. The Ombudsman asked the Council to update Mr H regarding his complaint, which the Council agreed to do.

Case reference 201200625