

Our ref: PT/jm

Ask for: James Merrifield

Your ref:



01656 644 200

Date: 9 July 2013



James.Merrifield@ombudsman-wales.org.uk

Mr Andrew Cottom
Chief Executive
Powys Teaching LHB
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Dear Andrew

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 Teaching Health Board.

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. Whilst some of the increase can be attributed to changes brought about under the Putting Things Right redress arrangements, the increase almost certainly reflects a greater dissatisfaction with the health service.

In reference to the overall performance of Health Boards in Wales, there has been a 35% increase in the number of investigation reports issued by my office during 2012/13 compared with 2011/12. I have also again had cause to issue a number of Public Interest Reports identifying serious concerns and failings, all of which have concerned health bodies. Whilst the average number of 'not upheld' reports issued against health bodies has remained the same as last year, I am disappointed to note such a large increase in the average number of 'upheld' reports from 11 to 21 reports.

It is worth noting a further year-on-year increase in the levels of 'Quick Fixes' and 'Voluntary Settlements' achieved by this office, from 13 to 16 cases. 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 Health Board, there has been a decrease in the number of complaints received by my office, compared to 2011/12. There has also been a large decrease in the number of complaints taken into investigation. As with 2011/12, the largest single area of complaint remains 'Continuing care'. It is pleasing to note that there has been an increase in the number of quick fixes and voluntary settlements compared with 2011/12, and this figure is now in excess of the health body average. It is pleasing to note that your Health Board did not take longer than five weeks in responding to requests for information from my office.

As with previous exercises, I have copied this correspondence to the Chair of your Health Board with the intention that it be considered by the Board. I would also welcome the opportunity to meet and my office will be in contact shortly to make the necessary arrangements. Finally, a copy of this letter will be published on my website.

Yours sincerely

Peter Tyndall
Ombudsman

Copy: Chair, Powys Teaching Health Board

Appendix

Explanatory Notes

Section A compares the number of complaints against the Health Board which were received by my office in 2012-2013 with the average for health bodies (adjusted for population distribution¹) during the same period.

Section B provides a breakdown of the number of complaints received by my office, broken down into subject categories.

Section C compares the number of complaints against the Health Board received by my office during 2012-2013, with the average for health bodies during this period. The figures are broken down into subject categories.

Section D provides the number of complaints against the Health Board which were taken into investigation by my office in 2012-2013.

Section E compares the number of complaints against the Health Board which were taken into investigation by my office in 2012-2013, with the average for health bodies (adjusted for population distribution) during the same period.

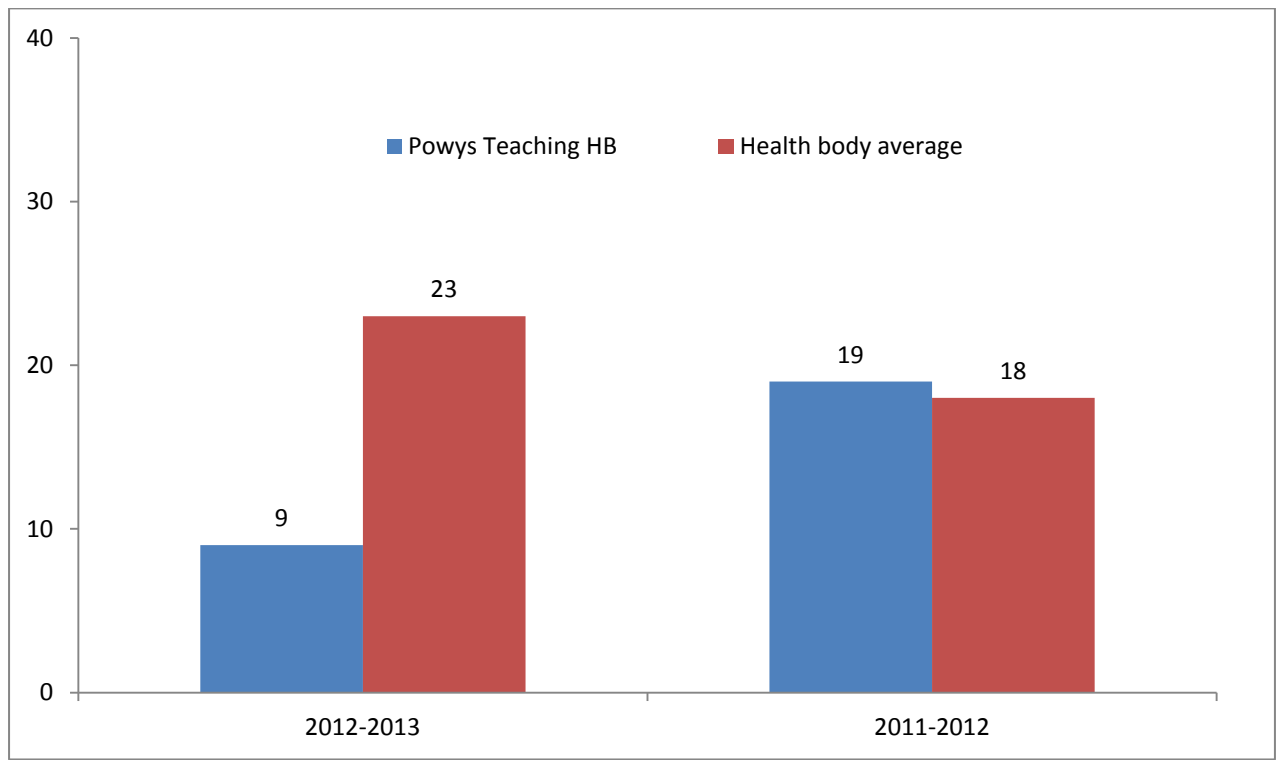
Section F compares the complaint outcomes for the Health Board during 2012-2013, with the average outcome for health bodies during the same period. Public Interest reports issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 are recorded as 'Section 16'.

Section G compares the Health Board's response times during 2012-2013, with the average response times for health bodies, and the average for 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.

Finally, Section H contains the summaries of all reports issued in relation to the Health Board during 2012-2013.

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 for health bodies

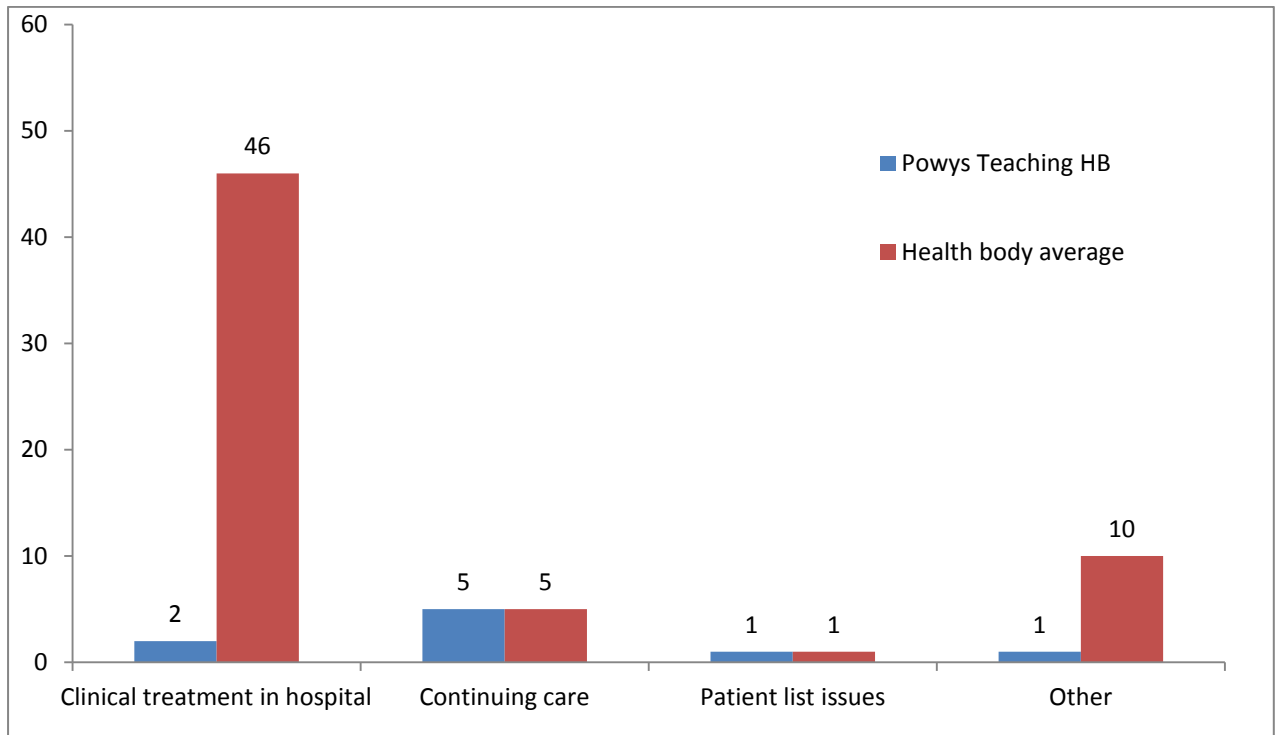


B: Complaints received by my office

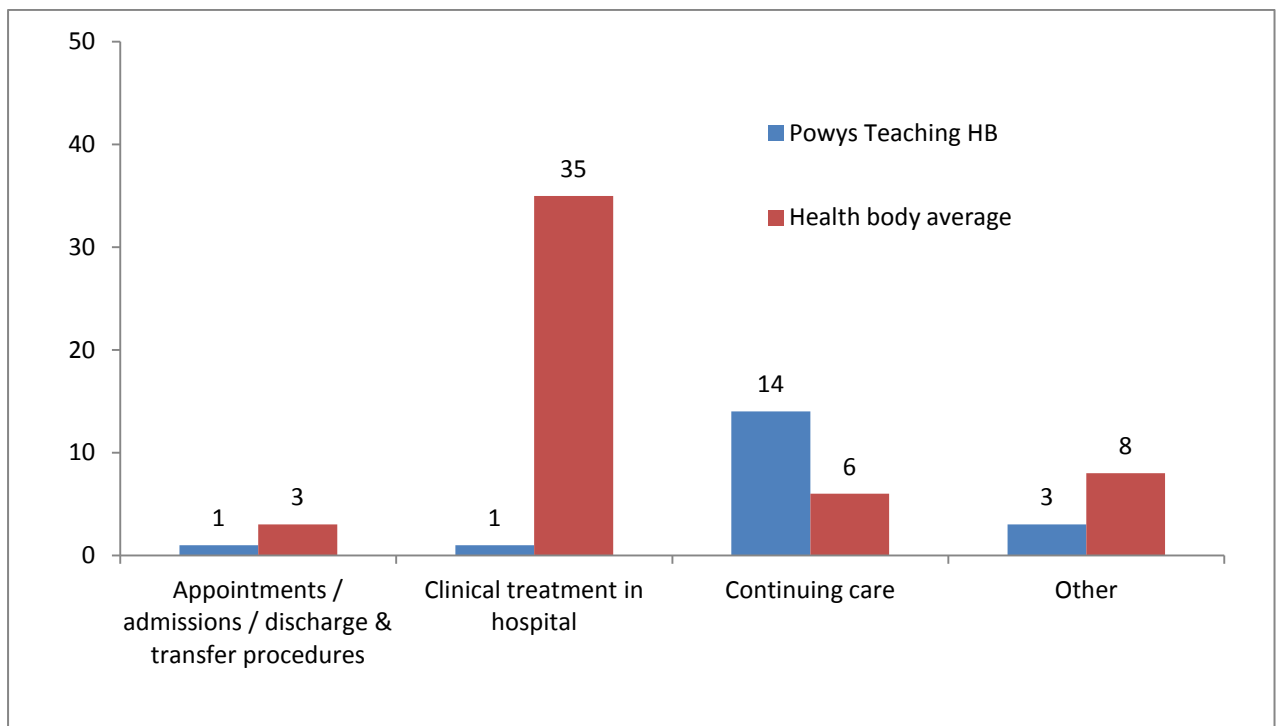
Subject	2012-2013	2011-2012
Appointments/admissions/discharge and transfer procedures	0	1
Clinical treatment in hospital	2	1
Continuing care	5	14
Patient list issues	1	0
Other	1	3
TOTAL	9	19

C: Comparison of complaints by subject category with average for health bodies

2012-2013



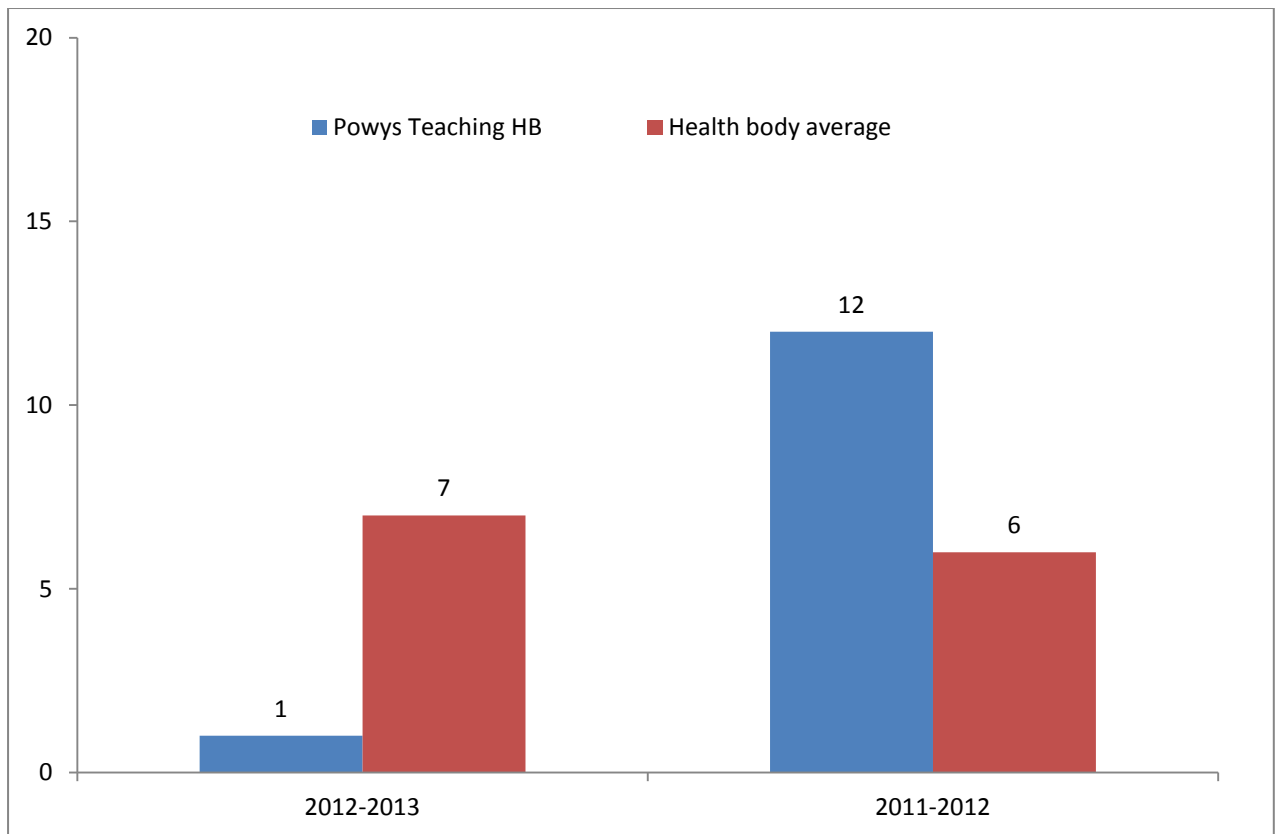
2011-2012



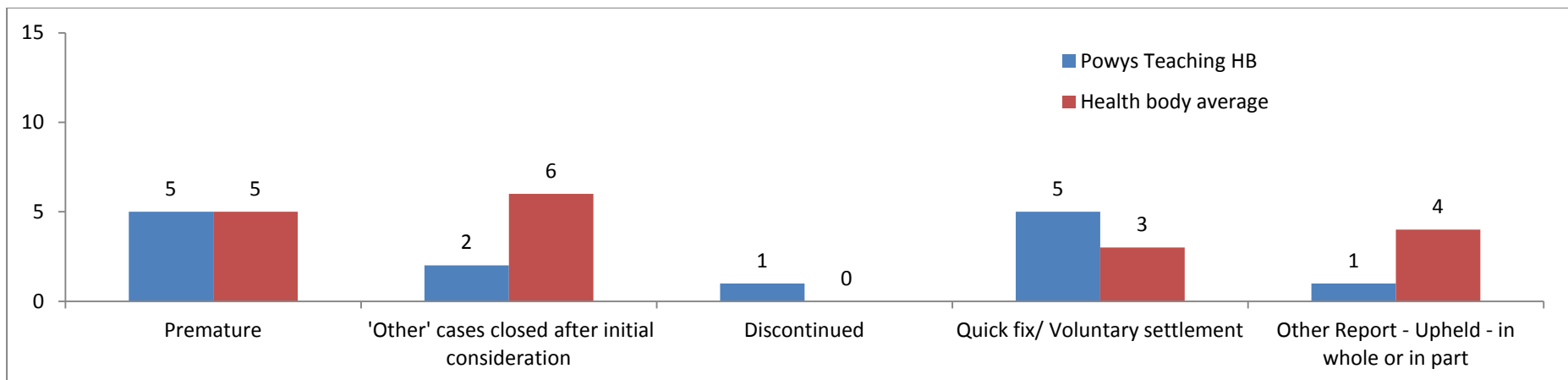
D: Complaints taken into investigation by my office

	2012-2013	2011-2012
Number of complaints taken into investigation	1	12

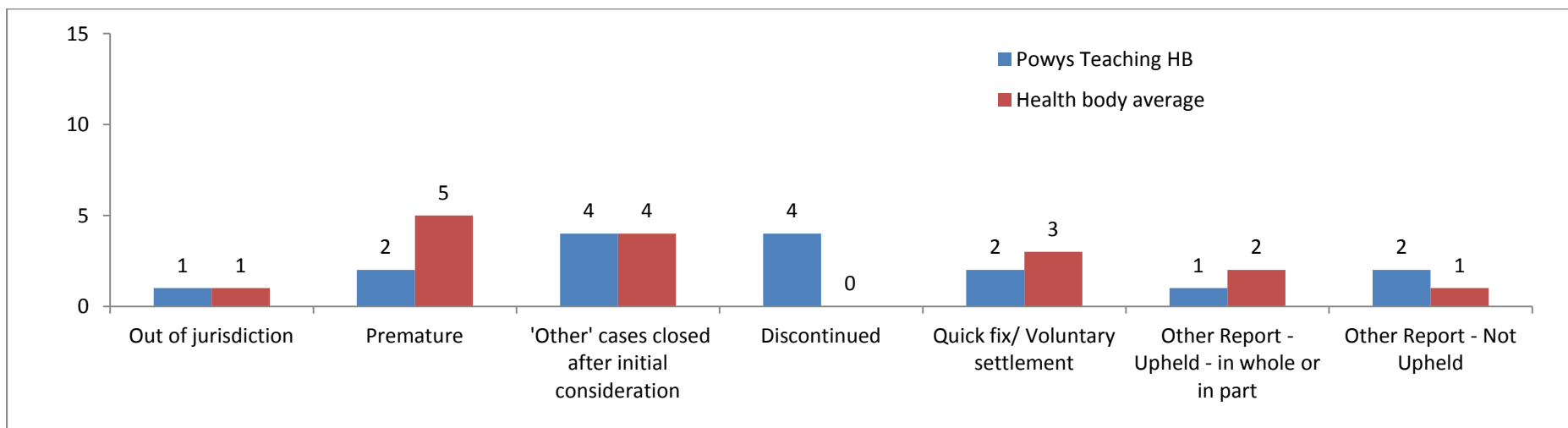
E: Comparison of complaints taken into investigation by my office with average for health bodies



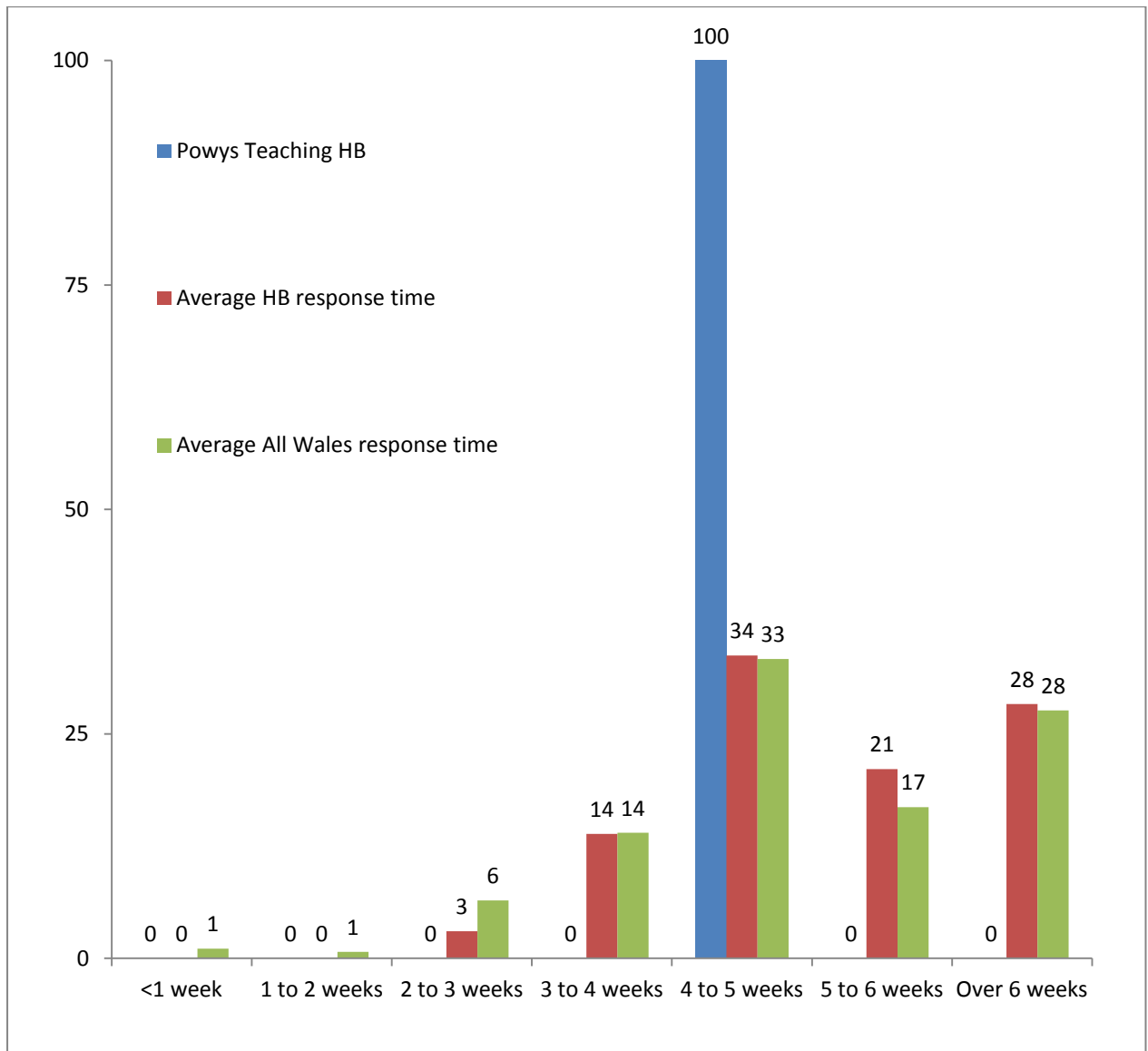
**F: Comparison of complaint outcomes with average outcomes for health bodies, adjusted for population distribution
2012-2013**



2011-2012



G: Comparison of Health Board times for responding to requests for information with average for health bodies and All Wales response times, 2012-2013 (%)



H: Report summaries

Other reports – Upheld

May 2012 – Continuing Care – Powys Teaching Health Board

Mr B complained, with the help of his Solicitor, about Powys Teaching Health Board (“the THB”). The complaint concerned a decision of the All Wales Special Review Panel (“the SRP”), which is managed by the THB, relating to an application for retrospective continuing care payments for his late mother. The Solicitor said that the SRP did not do its job appropriately and therefore, issued a negative decision which was not robust.

The Ombudsman upheld the complaint. He found that the SRP had not issued a robust decision on the application. He considered this an injustice to Mr B. The Ombudsman recommended that the THB apologise to Mr B and pay him £250 for his time and trouble in submitting the complaint. He also recommended that the SRP expedite a fresh review of the case. The THB accepted the Ombudsman’s recommendations.

Case reference 201102118

Quick fixes and Voluntary settlements

July 2012 – Continuing care – Powys Teaching Health Board

Mr D submitted a retrospective application for continuing health care funding in respect of his late mother Mrs X. The Panel considered the application period 5 August 1996 to 30 July 2001, and concluded that Mrs X's care needs did not meet the criteria for funding. Mr D complained that:

- the Panel did not appear to comprehensively assess Mrs X's case or thoroughly apply the eligibility criteria to her health needs;
- there was a lack of robustness in the Panel's deliberation and rationale;
- the Panel did not apply the four key indicators and stated that only the primary health need was considered; however the Panel did not rigorously apply the same to the facts in the matter; and,
- the Panel took a generalised approach in communicating their decision and failed to consider the totality of Mrs X's changing needs.

During the course of the investigation all the necessary documents and records were considered and advice was obtained from the Ombudsman's independent professional adviser. The Ombudsman concluded that the Panel's approach had been too restrictive and there was too little consideration and application of later guidance. The Ombudsman discussed the case with the Health Board, which accepted the proposal to convene a fresh Panel. The investigation was therefore discontinued.

Case reference 201102028

June 2012 – Continuing care – Powys Teaching Health Board

Mr S complained, with the help of a solicitor, about Powys Teaching Health Board ("the THB"). The complaint related to the THB's management of the All Wales Special Review Panel, which dealt with an application for retrospective continuing care eligibility. Mr S's solicitor said that the Panel did not apply the continuing care criteria properly or provide a robust rationale for its decisions.

The Ombudsman came to an initial view that the complaint was well founded. He proposed to the THB that it settle the complaint without the need for a full investigation. The THB agreed to apologise to Mr S, pay him £250 for his trouble and carry out a prompt fresh review of the application.

Case reference 201103221

April 2012 – Continuing care – Powys Teaching Health Board & Abertawe Bro Morgannwg University Health Board

A complaint was made by Mrs X via her Solicitor about the application of NHS Continuing Health Care Eligibility Criteria (retrospective review) in her mother Mrs Y's case. The complaint concerned both Abertawe Bro Morgannwg University Health Board (ABMUHB) and Powys Teaching LHB which at the time operated an Independent Review Panel (IRP) on behalf of ABMUHB. ABMUHB made a recommendation to Powys Teaching LHB about the period of time which Mrs Y

should be eligible for care and Powys Teaching LHB subsequently made a different recommendation which reduced the period of eligibility for Mrs Y.

In investigating the complaint the Ombudsman found that the process followed by ABMUHB was not in accordance with the relevant Welsh Government guidance on NHS Continuing Health Care. ABMUHB had failed to inform the family of its decision at the time prior to referral to Powys Teaching LHB. The family was not therefore given the opportunity of accepting reimbursement for the partial period identified by ABMUHB.

Following the Ombudsman's involvement ABMUHB reviewed its actions and agreed that it had acted outside of the relevant guidance and accepted that Mrs X should have been consulted over the initial recommendation for partial reimbursement. This Health Board put its original decision to Mrs X and the family were satisfied with its judgement and suggested level of reimbursement.

The Ombudsman therefore considered it appropriate to discontinue his investigation as there was a satisfactory voluntary settlement.

Case reference 201101475 & 201101971

April 2012 – Continuing care – Powys Teaching Health Board

Mr A complained that a Special Review Panel ('SRP'), managed by Powys Teaching Health Board ('the Health Board'), did not take its decision, about his retrospective claim for continuing NHS healthcare, properly. He contended that it did not take the precedents set by the Coughlan and Grogan judgements into account. He indicated that it did not share all the evidence, upon which it based its decision, with him. He suggested that it did not consider all of the available evidence properly.

The Ombudsman investigated Mr A's complaint. He considered the Health Board's response to it and took advice from one of his Professional Advisers. He was not satisfied, based on the evidence available to him, that the SRP had taken its decision regarding Mr A's claim properly. He was particularly concerned that a Local Authority Officer had not attended the SRP hearing given the nature of Mr A's claim. He also considered that the SRP's explanation for its disagreement with the Local Health Board's eligibility recommendation was inadequate. He therefore asked the Health Board if it would be willing to settle Mr A's complaint by arranging for a new SRP to consider Mr A's claim. The Health Board agreed to settle Mr A's complaint in this way. The Ombudsman concluded his investigation of Mr A's complaint because of this settlement.

Case reference 201100819

April 2012 – Continuing care – Powys Teaching Health Board

Mr B complained about the Special Review Panel (March 2010) which considered the application for retrospective Continuing Health Care funding ("CHC funding") for his late mother's care (Mrs B). The Panel considered the period 11 March 1998 to 8 January 2001 and concluded that Mrs B's care needs did not meet the criteria for CHC funding. Mr B said that the Panel failed to provide evidence that a detailed debate of Mrs B's unique health needs took place and that the criteria were not applied vigorously, correctly and in relation to Mrs B's specific needs. This was the third complaint about this matter. The first complaint was settled by this office in

February 2011 as the Health Board agreed to provide a full rationale for the Panel's decision. Mr B remained dissatisfied with the information provided by the Health Board. His second complaint was settled by this office in July 2011 as the Health Board then agreed to clarify the Panel's decision with "proper reference to the eligibility criteria and the care domains".

The Ombudsman compared the detailed review (9 August 2011), the revised decision (25 January 2011) and the Panel's original decision (17 March 2010). He also obtained advice from his independent professional adviser. He concluded that Panel did not give clear reasons nor did it demonstrate that detailed consideration was given.

The Ombudsman discussed the case with the Health Board and it accepted the proposal to convene a fresh Panel. The investigation was therefore discontinued.

Case reference 201103639