

Our ref: MG/jm

Ask for: James Merrifield

Your ref:



01656 644 200

Date: 15 July 2014



James.Merrifield@ombudsman-wales.org.uk

Mr Keith Griffiths
Chief Executive
Rhondda Cynon Taf County Borough Council
The Pavilions
Cambrian Park
Clydach Vale
Tonypandy
CF40 2XX

Dear Mr Griffiths

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 Rhondda Cynon Taf County Borough Council.

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, the numbers of complaints received and investigated during 2013/14 were both below the local authority average. There have been noticeable increases in the numbers of complaints relating to 'Benefit Administration' and 'Education'. Although I am pleased to note an above-average number of quick fixes and voluntary settlements, my office has also issued an above-average number of 'upheld' reports. Finally, whilst the response time displayed in relation to your Council represents one case, it is disappointing to note that this response took more than four weeks.

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.

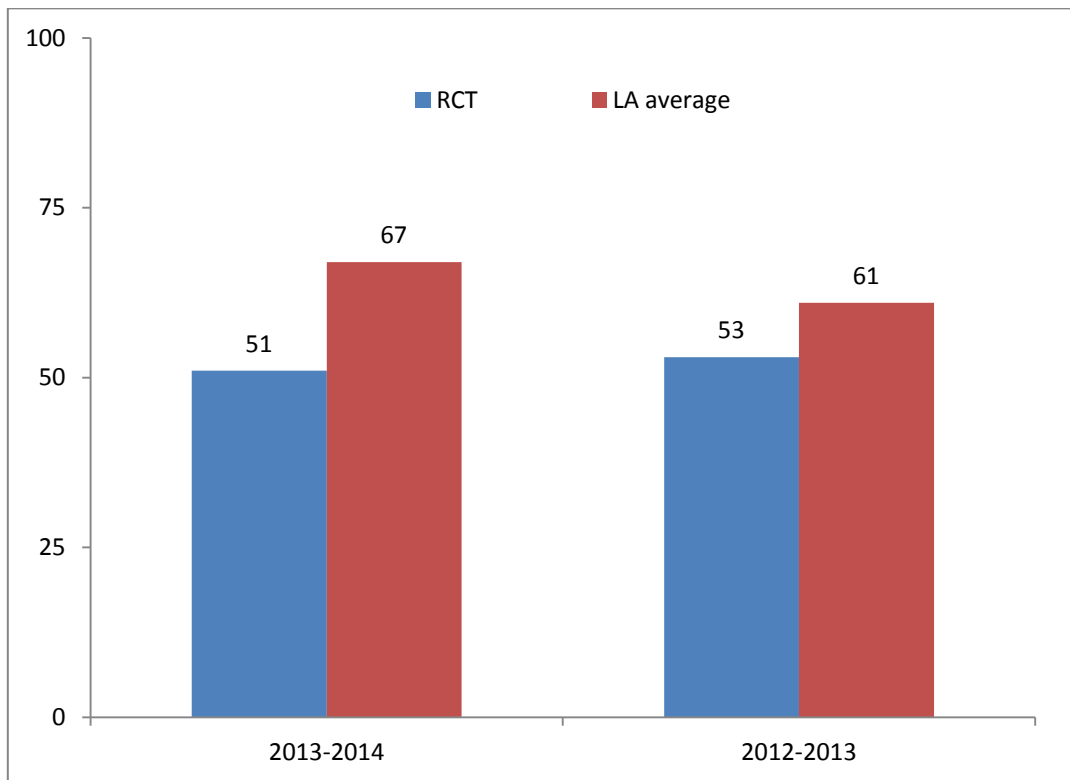
Housing Stock

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

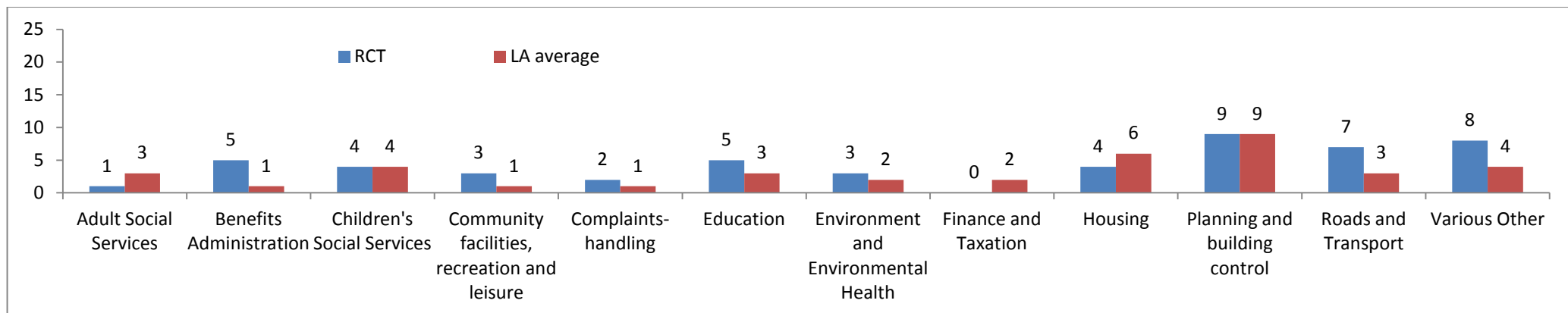


B: Complaints received by my office

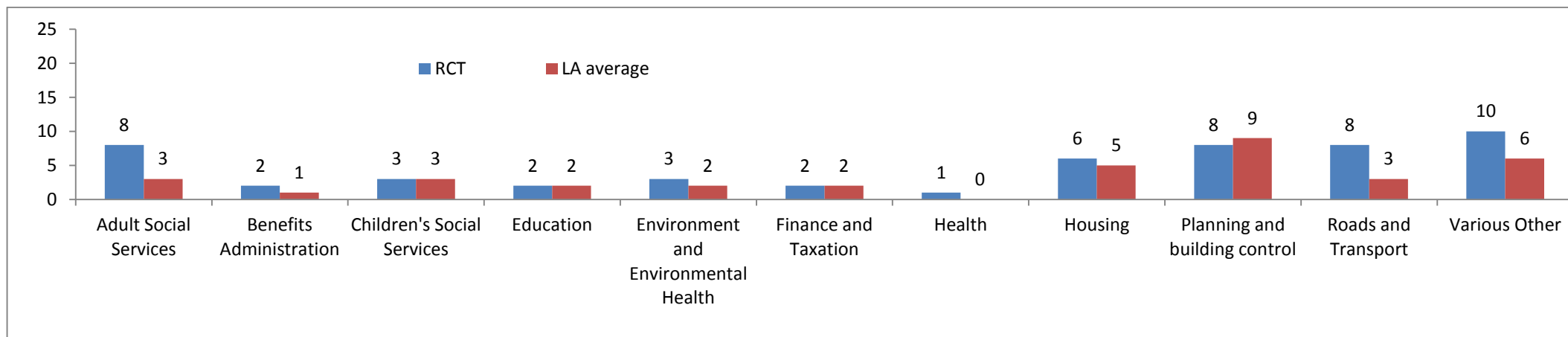
Subject	2013/14	2012/13
Adult Social Services	1	8
Benefits Administration	5	2
Children's Social Services	4	3
Community facilities, recreation and leisure	3	0
Complaint-handling	2	0
Education	5	2
Environment and Environmental Health	3	3
Finance and Taxation	0	2
Health	0	1
Housing	4	6
Planning and building control	9	8
Roads and Transport	7	8
Various Other	8	10
Total	51	53

C: Comparison of complaints by subject category with LA average

2013/14



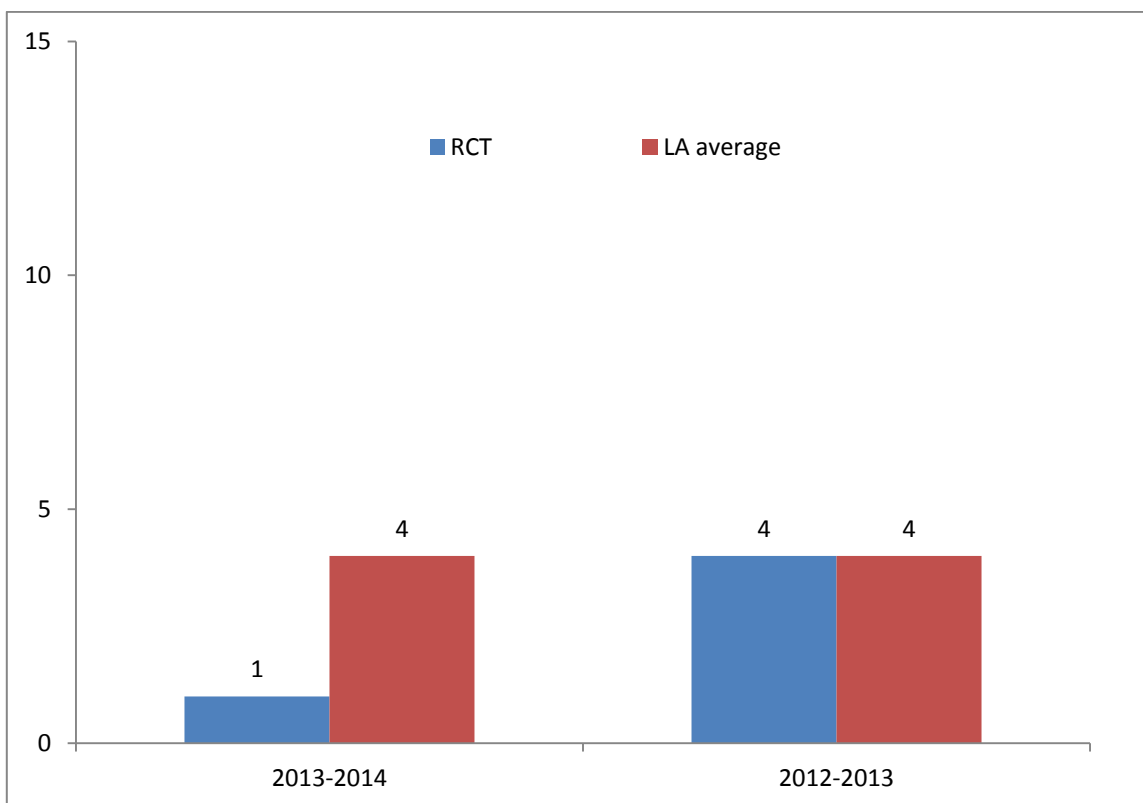
2012/13



D: Complaints taken into investigation by my office

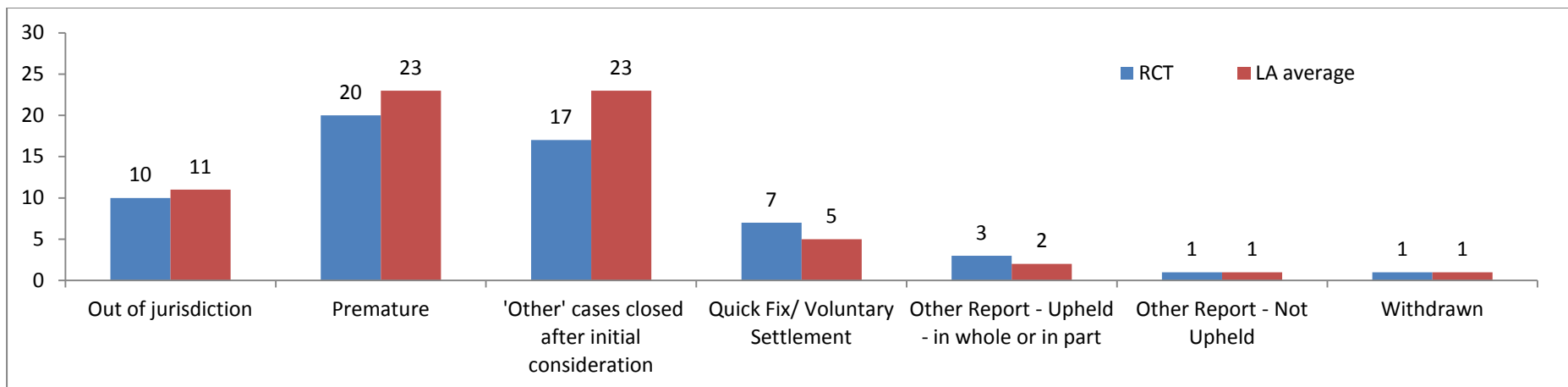
	2013/14	2012/13
Number of complaints taken into investigation	1	4

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

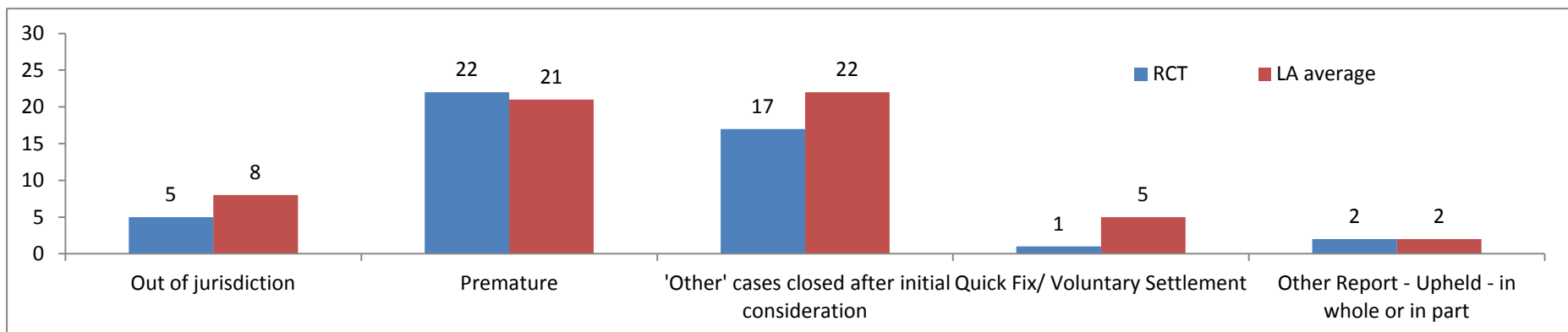


F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution

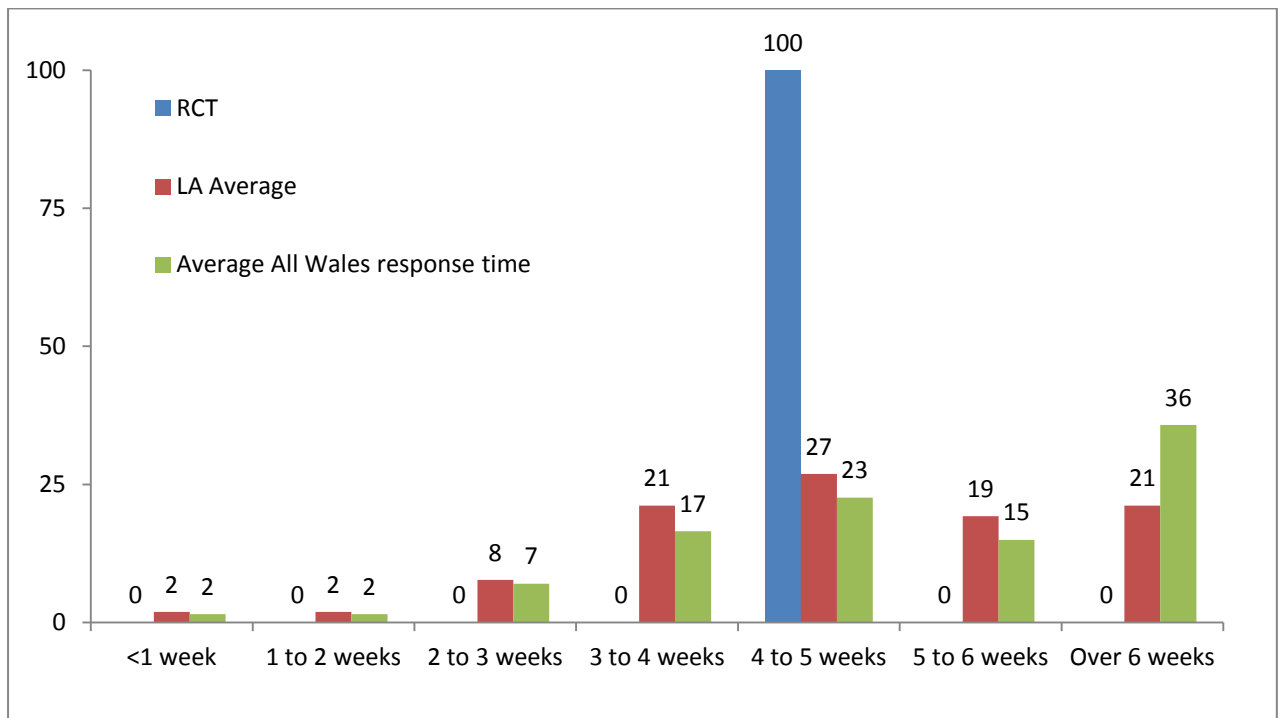
2013/14



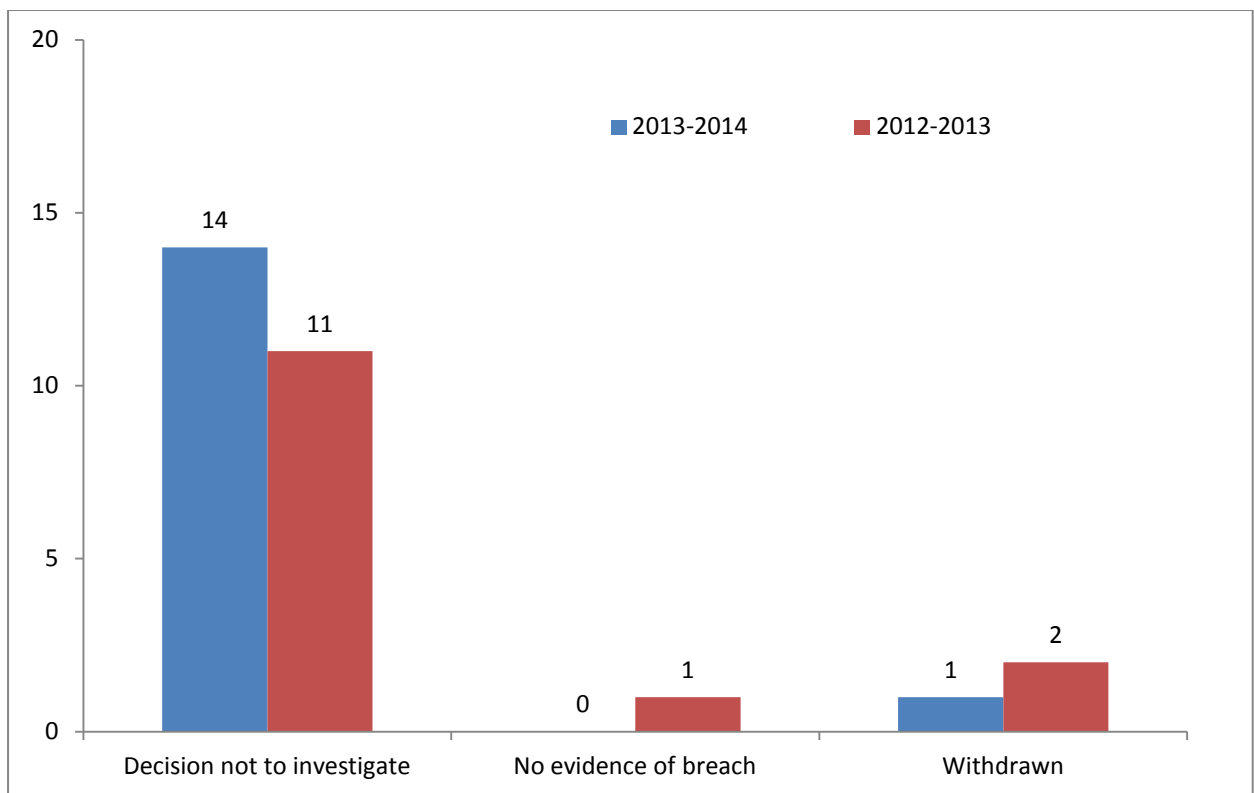
2012/13



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

Education

Not Upheld

April 2013 – School transport – Rhondda Cynon Taf County Borough Council

Ms W complained about the Council's decision not to fund school transport for her daughter, B, to attend a mainstream secondary school which was not her nearest school. She argued that B's school move (from her previous school) had been a managed move and therefore transport should have been funded by the Council. The complaint spanned several years of B's schooling during which time education was provided to her at pupil referral units and latterly via home tuition.

The Ombudsman found that there was no evidence that there was a managed move for B. The legislation in Wales (the Learner Travel (Wales) Measure 2008) sets out that the duty to fund transport only extends to the nearest suitable school; any provision of funded transport over and above that is at the Council's discretion. There was nothing to suggest that the nearest school was not suitable for B. The Ombudsman therefore did not criticise the Council's actions, as they were in accordance with local and national policy, and he did not uphold the complaint.

However, he did make some criticism that the Council's system for dealing with disputed school transport decisions appeared informal. Whilst this had not disadvantaged Ms W, as she had her appeal heard by the Council's 'gatekeeping' panel, the Council agreed to implement a more formal process for school transport appeals, and to publicise this to all parents. The ombudsman also suggested that the Council's 'gatekeeping' panel should record its decisions more fully and also be reminded of the provision of the Learner Travel (Wales) Measure in relation to the Council's power, as opposed to its duty, to provide school transport.

Case reference 201200622

Quick fixes and Voluntary settlements

Rhondda Cynon Taf County Borough Council – Special Educational Needs

Case reference 201304316 – March 2014

Mr & Mrs A complained about the Council's failure to ensure compliance with their son's Statement of Special Educational Needs in respect of requirement to provide 45 minutes per week of speech and language therapy.

The Ombudsman found that Mr & Mrs A had been involved in a dispute with the Council's chosen service provider, Cwm Taf Local Health Board. As a consequence they had withdrawn their consent for an assessment of their son's therapy needs to be undertaken by the Health Board. The Council's Service Level Agreement with the Health Board failed to clarify when a joint response to such matters was required resulting in missed opportunities for an earlier resolution of the dispute. The Ombudsman contacted the Council with a view to reaching an early resolution of the complaint.

The Council agreed to:

- a) apologise to Mr & Mrs A for the weaknesses in its Service Level Agreement with the Health Board;
- b) repeat the offer of independent dispute resolution to be attended by all parties;
- c) in the event that Mr & Mrs A disagree with the professional opinion of the Health Board's therapist, offer a second independent NHS opinion;
- d) make arrangements for any missing hours of therapy to be provided;
- e) undertake a review of the terms of the Service Level Agreement with the Health Board.

Housing

Quick fixes and Voluntary settlements

Rhondda Cynon Taf County Borough Council – Homeless person issues

Case reference 201303665 – November 2013

Mr X's complained about issues regarding homelessness. The Ombudsman's office contacted the Council, which advised that the complainant had now been offered social housing, and was due to move in shortly.

Roads and Transport

Quick fixes and Voluntary settlements

Rhondda Cynon Taf County Borough Council – Parking

Case reference 201303646 – November 2013

Mr & Mrs D complained about the Council's grant of a disabled parking bay to her neighbour, Mrs X. They said that Mrs X did not drive and that the Council had not followed its published procedure in making the grant. Further they had returned from holiday to find that workmen had painted road markings for the bay around their parked vehicle causing them distress as no notification had been received before the Traffic Regulation Order (TRO - the legal document which brings the bay into effect and makes the parking bay enforceable as against unauthorised vehicles parking in it) was issued.

The Ombudsman found that the Council had properly assessed Mrs X's disabled parking bay application; he could not interfere with the decision to grant it. Nevertheless, it had deviated from its published procedure in relation to when the bay was marked out. In practice, the Council said that to facilitate workloads, and to allow for inclement weather, sometimes the marking took place a few days either side of the suggested time noted in the procedure. In that case the bay was not enforceable until the completion of the TRO process. In acknowledgement of the distress to Mr & Mrs D in returning to find the markings surrounding their vehicle it agreed to issue a written apology. It also agreed to the Ombudsman's suggestion to amend the published information to reflect when road marking might take place in practice.

Social Services - Adult

Upheld

Rhondda Cynon Taf County Borough Council – Services for people with a disability

Case reference 201204692 – January 2014

Mr K had a health condition which affected his mobility and ability to undertake many tasks. He made a number of complaints about Rhondda Cynon Taf County Borough Council (the Council).

The Ombudsman upheld a complaint that the Council mis-advised Mr & Mrs K that they could not apply for a Disabled Facilities Grant in privately rented accommodation. The Council acknowledged that an officer had incorrectly advised Mr & Mrs K about this.

The Ombudsman upheld a complaint that the Council failed to undertake a community care assessment and an adequate carer's assessment. The Ombudsman noted that while the social worker undertook a community care assessment in January 2011, no decision was forthcoming throughout 2011 and into 2012 about Mr K's eligibility for services. There was no care plan, and it was not clear whether the case was open or closed.

The Ombudsman found that there had been some delay in acquiring "proof" of Mr K's disability. Further, the social worker and occupational therapist could have liaised more effectively about Mr K's medical condition.

The Ombudsman considered a complaint that the Council refused to provide emergency care for Mr K when Mrs K was admitted to hospital. The Council acknowledged that it should have formalised its risk assessment, and the Ombudsman concluded that staff could have worked more effectively with the family to identify risks and potential solutions.

The Council agreed to implement the following recommendations:

- to apologise to Mr & Mrs K for the failings identified;
- to pay Mr & Mrs K £500 for the distress and uncertainty caused by the Council in failing to conclude the assessment process and for delays in obtaining medical opinion, £250 for their time and trouble in pursuing this complaint, and £76 for the cost of the hotel on 2 March 2012;
- to arrange for Mrs K to complete a carer's assessment, if she wished to do so, with appropriate support;
- to ensure that it has a mechanism for managers to review open cases to check that cases are being actively managed and are not allowed to drift;
- to ensure that the disability team's skills and knowledge are up to date with regard to
 - (i) the meaning and impact of the Equality Act in relation to those with fluctuating medical conditions, and
 - (ii) the assessment of service users who have fluctuating medical conditions especially those with both physical and psychological dimensions;

- to consider how it can be clear with potential service users how decisions about assessment, eligibility and provision are taken, and that there is not always an automatic right to provision.

July 2013 – Services for vulnerable adults – Rhondda Cynon Taf County Borough Council

Ms W complained to the Ombudsman about the care and treatment provided to her late brother Mr W by Rhondda Cynon Taf County Borough Council and by Cwm Taf Health Board. Mr W had suffered mental health problems for many years and had been under the care of his local Community Mental Health Team (CMHT) which contains both social work staff employed by the Council and health care professionals employed by the Health Board. Following discharge from hospital in January, Mr W's mental health started to deteriorate and as a result contacted his care co-ordinator. She visited him and considered that Mr W needed to be assessed by a clinician. An appointment was made for Mr W with his consultant psychiatrist but, due to a misunderstanding, failed to attend. It was later agreed that a home visit would be arranged for a clinician to assess Mr W.

This re-scheduled visit would have taken place three weeks after Mr W's contact with the social worker. Sadly, Mr W took his own life before the scheduled visit took place. Ms W complained that the CMHT and Mr W's consultant failed to diagnose and treat Mr W's mental illness properly whilst he was under his care. She also complained about the actions of the CMHT in the weeks leading up to his death. She also expressed concern about whether appropriate assistance was provided to the care co-ordinator in her efforts to support Mr W in the weeks leading up to his death.

Having considered advice from a range of appropriate professionals, the Ombudsman concluded that Mr W's diagnosis and subsequent treatment by the CMHT and his Consultant, over the years Mr W was under their care, was reasonable and therefore did not uphold this aspect of the complaint. However, in view of his generally-acknowledged deteriorating mental health, Mr W should have received a referral to a crisis response team. In view of the fact this did not happen, the Ombudsman upheld this aspect of the complaint.

In relation to the complaint about the support given to the care-co-ordinator, the Ombudsman was unable to arrive at a conclusion as there was insufficient information available to make an informed judgement. The Ombudsman made the following recommendations:

- the Health Board and the Council apologise to Ms W for the failings that have been identified;
- the Health Board should amend its procedures to ensure that clinical decisions made at a multi-disciplinary meeting should be recorded in a patient's clinical records;
- the Council and Health Board should remind relevant staff that if there are concerns regarding a patient's mental health there should be a contemporaneous update to the risk assessment to assist in the prioritisation of responses;
- the Council and Health Board should remind relevant staff that patients felt to be in a mental health crisis should be referred to the Crisis Response Team irrespective of what other clinical assessments are arranged.

Case reference 201201790

July 2013 - Services for people with a disability – Rhondda Cynon Taf County Borough Council

Mr Y is a profoundly disabled man who lived with his parents, Mr & Mrs X, in their home until he moved to supported accommodation in 2011. He had accessed the family home using a lift from street level to the front of the house, which had been installed under a Disabled Facilities Grant. The lift was ageing, and, after Mr Y moved out, it broke down beyond repair. Mr Y's visits since have been very limited and he had to be carried into the home. The Ombudsman's investigation considered complaints that the Council did not properly advise and support Mr Y in maintaining the lift; and that it failed to take proper account of Mr Y's need to maintain contact with his family in declining to repair/replace the lift.

Having taken account of professional advice, the Ombudsman did not uphold the complaint about support to maintain the lift. However, he upheld the second complaint, concluding that the Council needed to do more to enable Mr Y to be part of his family in the privacy and familiarity of the home environment. The Council agreed to implement a number of recommendations, including:

- provide an apology to Mr & Mrs X for the failings identified;
- look for possible solutions with Mr & Mrs X to enable Mr Y to visit the family home; and,
- re-consider an application for a replacement lift under the Council's discretionary policy.

The Ombudsman also concluded that Article 8 of the Human Rights Act (the right to respect for private and family life) was engaged here, and that Mr Y's fundamental right to a family life did not appear to have been fully taken account of by the Council.

Case reference 201201442

Various Other

Quick fixes & Voluntary settlements

Rhondda Cynon Taf County Borough Council – Complaint-handling

Case reference 201303222 – December 2013

The complaint concerned an e-mail sent by Rhondda Cynon Taf County Borough Council (“the Council”) regarding the Llantrisant Town Centre Christmas Event. The concerns raised were about the content of the email. Following discussions with the Council, it agreed to send a letter of apology to the complainant for the way the matter was dealt with and for the sending of the e-mail. Additionally, the Council agreed to issue a letter retracting its e-mail.

Rhondda Cynon Taf County Borough Council – Complaint-handling

Case reference 201304082 – December 2013

Mr M complained he had not received a response to his formal complaint to the Council. Mr M considered that the Council was in breach of its complaints procedures by not responding on time. The Council advised that it had sent a response, which Mr M stated he had not received. The Council there agreed to send another copy to Mr M.

September 2013 – Poor/no communication or failure to provide information – Rhondda Cynon Taf County Borough Council

Mr L’s complaint concerned the way the Council issued and processed a fixed penalty notice against him, as the owner of a shop, for a trade waste offence.

Upon review of the information provided, the Council’s initial information related to the offence of illegally depositing trade waste in a bin belonging to another premises but that, in subsequent correspondence, the Council said the offence related to the failure to have a duty of care arrangement for the business.

The Council agreed to repay the amount of the fixed penalty notice and to apologise for the confusion created by its correspondence. No other shortcomings were identified in the way the Council dealt with this matter and the complainant was advised to contact the Council to ensure the business had the appropriate arrangements/ documentation in place.

Case reference 201301277