

POLICY AND RESOURCES

CABINET BOARD

3RD SEPTEMBER 2015

REPORT OF THE HEAD OF LEGAL SERVICES

SECTION B – MATTER FOR INFORMATION

WARDS AFFECTED: ALL

Public Services Ombudsman for Wales Annual Letter and Report 2014/2015

1. Purpose of Report

- 1.1. To advise Members of the receipt of the Ombudsman's Annual Letter and the publication of his Annual Report.

2. Background

- 2.1. In recent years the Ombudsman has adopted the practice of sending an annual letter to each local authority which comes within his jurisdiction. A full copy of the letter and Appendix is reproduced for Members at Annex 1 of the tables attached to the letter, the column showing the performance of this Council is the column on the left, the exception being Table G where there are no relevant figures for this Authority. In Table H no comparative figures are given for other local authorities.
- 2.2. At Annex 2 Members will find two pages reproduced from the Ombudsman's Annual Report 2014/2015 showing comparative statistics for complaints of "maladministration" i.e. service failure, delay etc. and alleged breaches of the Members' Code of Conduct.

- 2.3. Section B of Annex 1 shows that complaints of maladministration run right across the functions of the Local Authority. The highest number of complaints relates to loads and transport. Members should not be too concerned about this fact. The number of complaints will fluctuate year on year. I see the complaints as they come in and make appropriate comments to Heads of Service if any patterns are detectable. Useful comparison tables are found in Section C. The number of complaints overall is down on last year.
- 2.4. I have noted that the number of complaints treated as “premature” is in line with the Local Authority average. These figures can be found in Section F. The Ombudsman generally expects that members of the public will use internal complaints procedure before coming to the Ombudsman. Complaints referred back to the Local Authority because the complainant has not used the internal complaints procedure as treated as premature.
- 2.5. The specific complaints in Section I of the letter have now been dealt with and concluded under the Ombudsman’s procedures.
- 2.6. The extracted tables at Annex 2 are there for information only and do not require any further comment.

3. **List of Background Papers**

Public Services Ombudsman for Wales Annual Report 2014/2015.

4. **Wards Affected**

All

7. **Officer Contact**

Mr. David Michael – Head of Legal Services
E-mail d.michael@npt.gov.uk. Tel: 01639 763368

COMPLIANCE STATEMENT

Public Services Ombudsman for Wales Annual Letter and Report 2014/2015

(a) **Sustainability Appraisal**

Community Plan Impacts

Economic Prosperity	-	no impact
Education & Lifelong Learning	-	no impact
Better Health & Well Being	-	no impact
Environment & Transport	-	no impact
Crime & Disorder	-	no impact

(b) **Other Impacts**

Welsh Language	-	no impact
Sustainable Development	-	no impact
Equalities	-	positive
Social Inclusion	-	positive

(c) **Consultation**

There has been no requirement under the Constitution for external consultation on this item.

ANNEX 1

Our ref: NB/jm

Ask for: James Merrifield

Your ref:

 01656 644 200

Date: 3 August 2015

 James.Merrifield@ombudsman-wales.org.uk

Mr Steven Phillips
Chief Executive
Neath Port Talbot County Borough Council
Civic Centre
Port Talbot
SA13 1PJ

Dear Mr Phillips

Annual Letter 2014/15

Following the recent publication of my Annual Report, I am pleased to provide you with the Annual Letter (2014/15) for Neath Port Talbot County Borough Council.

I have referred to the stark reality of the volume of increases in enquires and complaints in the Annual Report. Comparing the position against 2013/14, there has been a 7% increase in the number of public body complaints received by my office. The Health and Local Authority sectors account for 83% of the complaints received by my office; over the past five years, there has been a 126% and 10% increase in complaints respectively.

Traditionally, county councils have generated the largest number of complaints to this office and the last year has seen a 5% increase. Whilst Housing and Planning are consistently the largest areas of complaint for Local Authorities, the data for 2014/15 shows notable increases in complaints about Complaint-handling, Environment and Environmental Health, and Finance and Taxation, compared with 2013/14.

In reference to the outcomes of complaints, I am pleased that my office has issued fewer upheld reports against Local Authorities, compared with 2013/14. I have issued one Public Interest report against a body in the Local Authority sector. The report identified numerous failings concerning the way in which the Local Authority investigated concerns about the welfare of the complainant's daughter. The report also identified poor complaint-handling, a common feature amongst complaints across all sectors.

The complaint data shows a small decrease in the number of Quick Fixes and Voluntary Settlements achieved with Local Authorities, compared with 2013/14. I am keen to ensure that, wherever possible and appropriate, my office works with bodies from all sectors to resolve complaints as quickly and effectively as possible. In this regard, I am concerned that the time taken in responding to requests for information from this office has significantly worsened; 45% of responses across Local Authorities took more than six weeks in 2014/15.

This figure is noticeable worse than the equivalent figure for the Health sector, despite my office making appreciably more requests for information to Health Boards. Against this background, I take this opportunity to reinforce the content of the letter I sent to you in April 2015 setting out a number of changes in the way that my office will work with your organisation in handling complaints. The changes included amending the time given to bodies to provide complaint files to two weeks, as well as new arrangements in granting additional time to bodies to provide information meaning that requests for extensions which are made with very limited justification will no longer be agreed.

In reference to your Local Authority, the number of complaints received has decreased from 47 in 2013/14 to 40 in 2014/15, and is now below the average. The largest number of complaints in 2014/15 related to Roads and Transport, which were three-times the average. However, as my office did not investigate any complaints against your Local Authority in 2014/15, there are no response times recorded.

My office is working in a number of ways to address the upward trend in complaints. We will be looking to engage more directly with county councils to promote improvement. We will also be placing greater emphasis on the data which we gather, initially in relation to complaints about the Health sector, to further identify trends and patterns. My office will also be taking a more proactive role in measuring compliance with recommendations and settlements, which may result in requests to visit your offices to discuss and examine changes that you have implemented. In addition to this work, you will be aware that following its inquiry, the Assembly's Finance Committee issued a report in May 2015, making a number of recommendations for revised or additional powers for the Public Services Ombudsman for Wales. I very much hope that those recommendations will come to fruition in the form of a new Act within the next year or so.

This correspondence has been copied to the Leader of the Council. I will also be sending a copy of this correspondence to your contact officer within your organisation and would again reiterate the importance of this role. Finally, a copy of all annual letters will be published on the PSOW's website.

Yours sincerely



Nick Bennett
Ombudsman
Copy: Leader, Neath Port Talbot County Borough Council

Appendix

Explanatory Notes

Section A compares the number of complaints against the Council which were received by my office during 2014/15, 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 2014/15. Section C compares the number of complaints against the Council which were received by my office during 2014/15, 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 2014/15. 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 2014/15, 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 2014/15 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 2014/15. Finally, Section 'I' contains the summaries of all reports issued in relation to the Council during 2014/15.

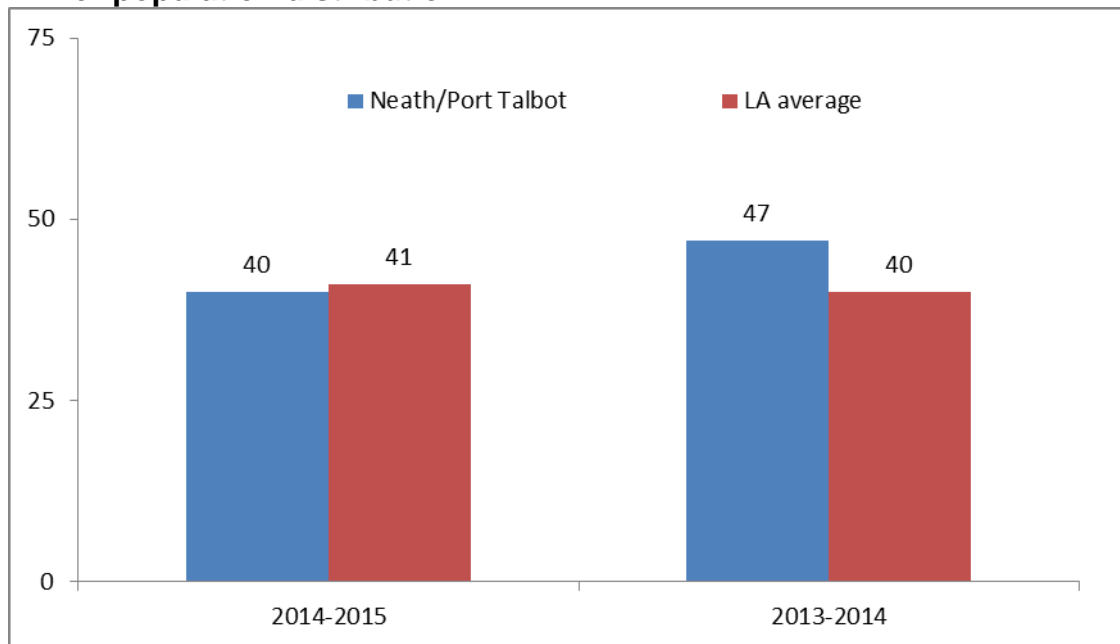
Housing Stock

As with previous exercises, the figures for 2014/15 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.

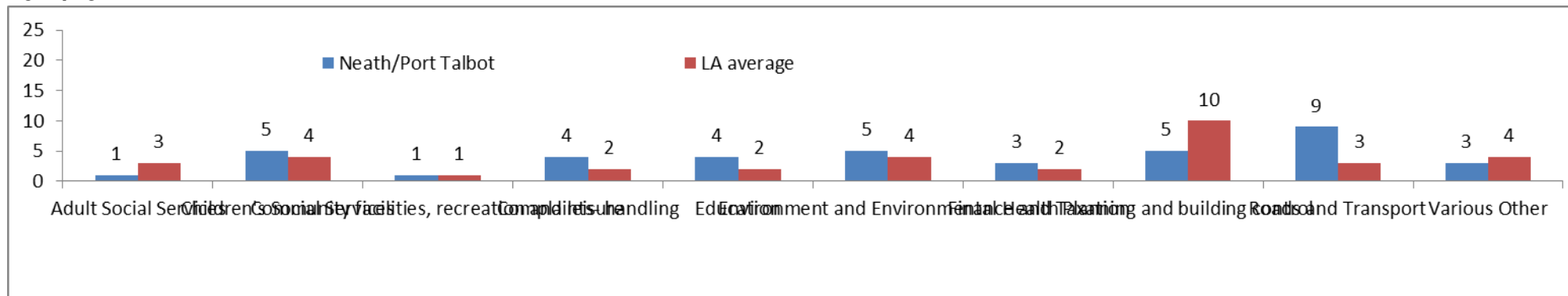
A: Comparison of complaints received by my office with average, adjusted for population distribution



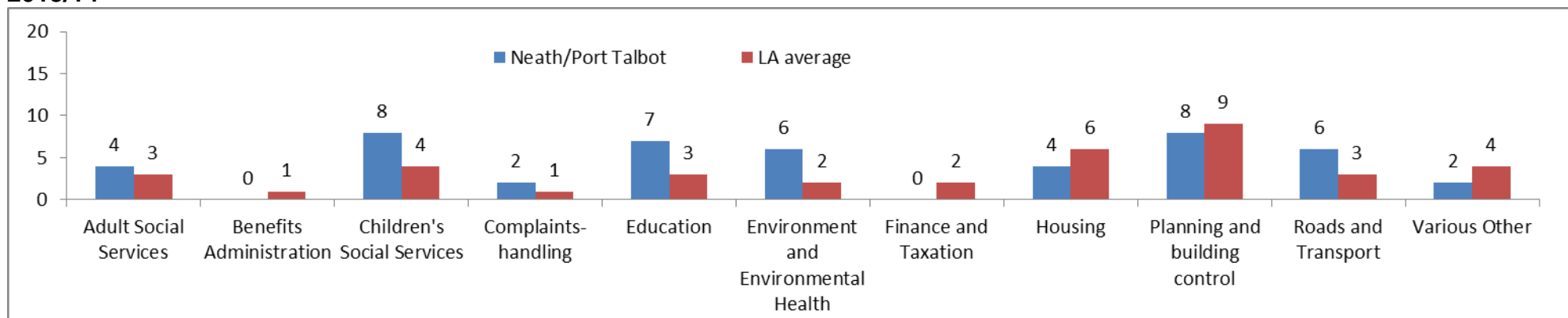
B: Complaints received by my office

Subject	2014/15	2013/14
Adult Social Services	1	4
Benefits Administration	0	0
Children's Social Services	5	8
Communities facilities, recreation and leisure	1	0
Complaint-handling	4	2
Education	4	7
Environment and Environmental Health	5	6
Finance and Taxation	3	0
Housing	0	4
Planning and building control	5	8
Roads and Transport	9	6
Various Other	3	2
Total	40	47

**C: Comparison of complaints by subject category with LA average
2014/15**



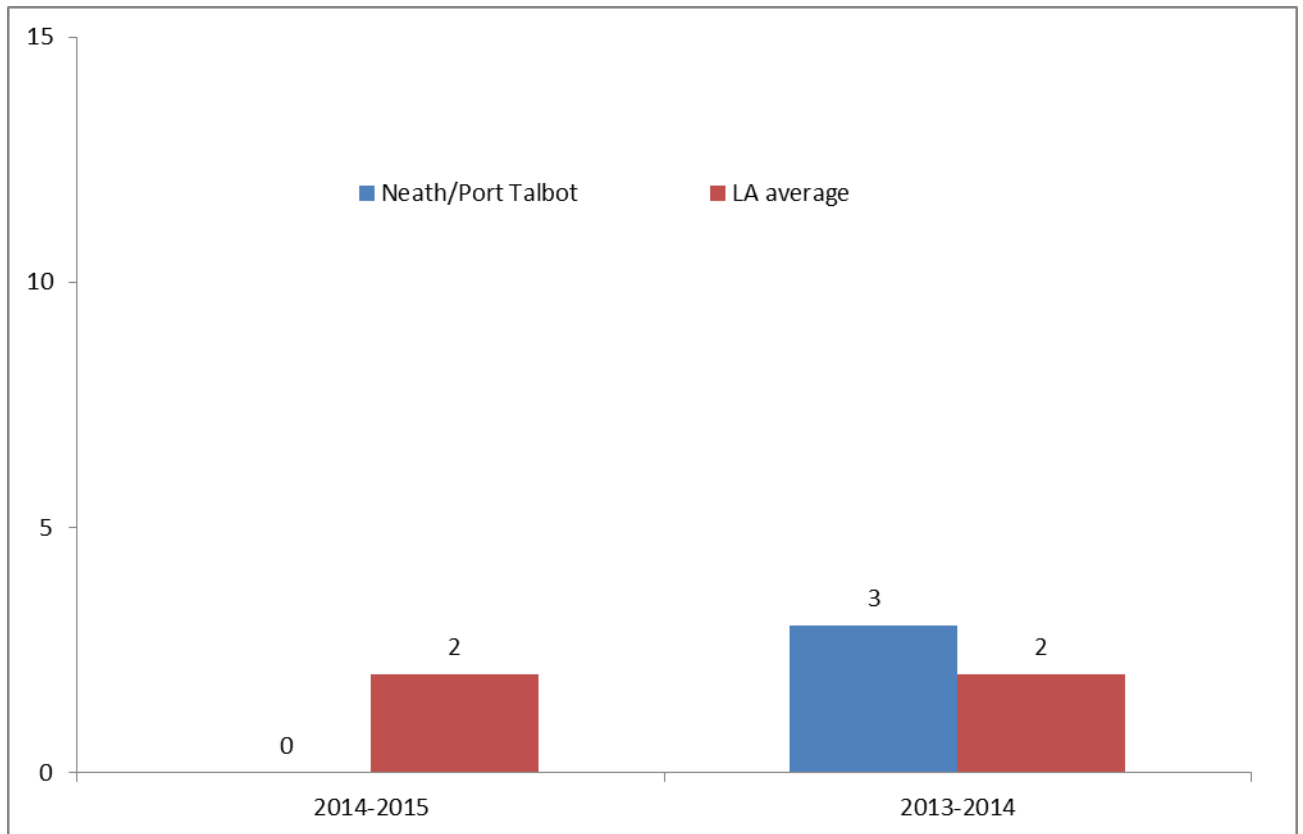
2013/14



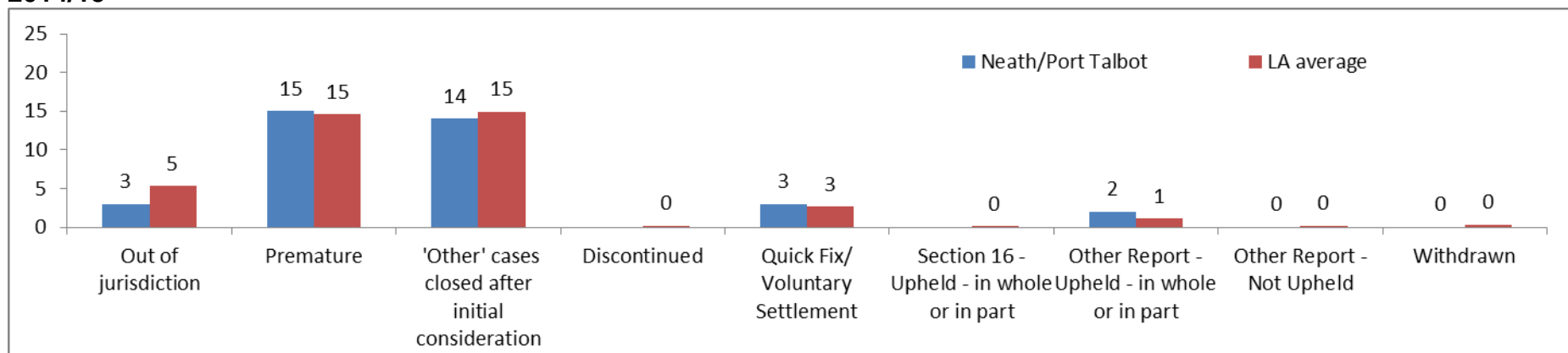
D: Complaints taken into investigation by my office

	2014/15	2013/14
Number of complaints taken into investigation	0	3

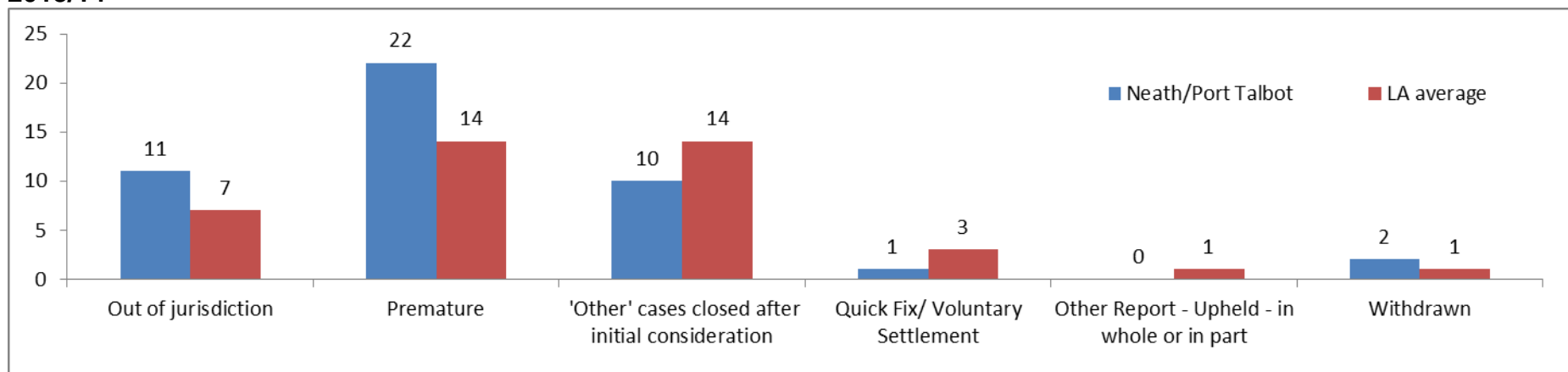
E: Comparison of complaints taken into investigation by my office with average, adjusted for population distribution



**F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution
2014/15**

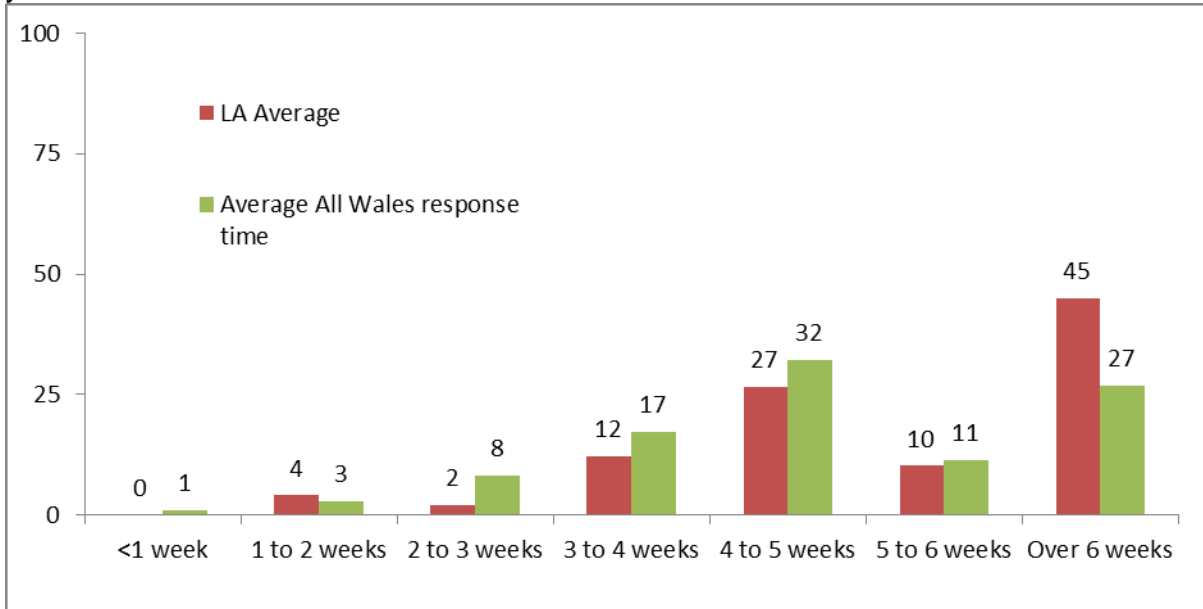


2013/14

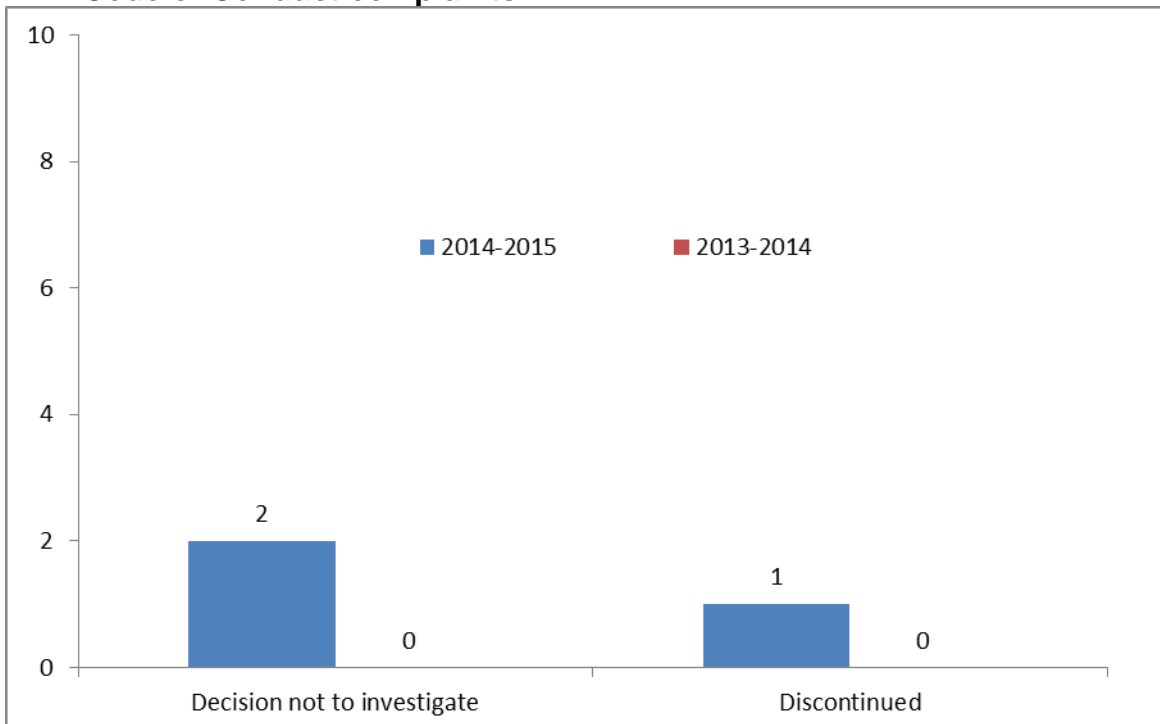


G: Comparison of Council times for responding to requests for information with average LA and average All Wales response times, 2014/15 (%)

Graph G relates to those investigations which were commenced during 2014/15. As there were no investigations commenced against Neath Port Talbot, there are no response times for Neath Port Talbot. However, we have included the average Local Authority response times and the average response times for all bodies in Wales for your information.



H: Code of Conduct complaints



I: Summaries

Social Services - Adult

Other reports – Upheld

Abertawe Bro Morgannwg University Health Board & Neath Port Talbot County Borough Council – Services for older people

Case reference 201304185 & 201304186 – Report issued February 2015

Mrs C complained that the Health Board and the Council had undertaken a Protection of Vulnerable Adult (POVA) investigation following concerns raised about the care her mother, Mrs D, received at a Care Home. She said that the investigation focus was too narrow; not robust; did not involve Mrs D's family; and, was significantly delayed. She also complained that the Health Board and the Council did not deal with the complaints made by the family during the POVA process.

The Ombudsman's investigation identified a number of failings by both the Health Board and the Council in the way the POVA concern was investigated. The complaint was upheld and the Ombudsman recommended that:

- The Health Board and the Council should:
 - a) apologise for the failings identified in this report;
 - b) undertake formal consideration of whether it is appropriate for those involved in regular contract arrangements with a Home to also undertake an investigation into allegations of poor nursing standards/Care standards at that Home and arrange additional training in investigative skills for members of staff undertaking POVA investigations;
 - c) ensure that all staff involved in the POVA process are made aware of the content of this report and additional training is provided on the requirements of the process. Both bodies should also ensure that the staff involved in the POVA process are given additional training on how to recognise a complaint and what to do with a complaint which needs to be considered outside of the POVA process.

- The Health board should:
 - d) make a payment to Mrs C of £250 in recognition of the failings of the Health Board identified in the report and makes a payment to Mrs C of £250 in recognition of the additional stress, anxiety and time and trouble they have been put to in pursuing their complaint.

- The Council should:
 - e) make a payment to Mrs C of £750 in recognition of the failings of the Council identified in the report and makes a payment to Mrs C of £250 in recognition of the additional stress, anxiety and time and trouble they have been put to in pursuing their complaint.

**Neath Port Talbot County Borough Council – Services for vulnerable adults
Case reference 201302531 – Report issued July 2014**

Mr M complained on behalf of a support group (the Group) set up by a number of carers of users of social services in the area of Neath Port Talbot County Borough Council (the Council) that:

- the Council had refused to allow the service users (or their carers on their behalf) to receive direct payments;
- the Council had refused to accept a joint complaint from the Group on the carers' behalf;
- there had been unacceptable delay in the Council's handling of the matter.

The Acting Ombudsman found that the Council had failed to take forward the service users' request for direct payments; however, this was in part due to a dispute about the amount the Council was willing to pay them. The Acting Ombudsman did not uphold the complaint about the amount of direct payment the Council was offering. The Acting Ombudsman accepted that the Council had faced some difficulties in dealing with the Group's complaint as there were questions over the service users' mental capacity to agree to a joint complaint, and whether the Group was an appropriate person to represent them given that Mr M had an apparent conflict of interest as the proprietor of a care agency. However, the Acting Ombudsman found that there were some failings in how the Council dealt with the complaint. In particular, it took too long to carry out an assessment of the service users' mental capacity to agree to the joint complaint and, having decided that the Group was not an appropriate person to bring the complaint, it failed to pass the Group's appeal against this decision to the third stage of the Statutory Social Services Complaints Procedure when requested to do so by the Group.

The Acting Ombudsman recommended that the Council should:

- a) provide a written apology to the Group for the failings identified;
- b) contact the individual carers who make up the Group to establish whether they still want to pursue direct payments for their relatives, and if they do, take that forward.

The Council agreed to implement the above recommendations.

Social Services – Children

Quick fixes & Voluntary settlements

**Neath Port Talbot County Borough Council – Children in care/taken into care/'at risk' register/child abuse/custody of children
Case reference 201400753 – May 2014**

Ms A complained to the Ombudsman about the Council's failure to respond to her complaint. Following contact from the Ombudsman's office, the Council agreed to provide Ms A with a written response to the concerns she had raised, in accordance with Stage One of the statutory complaints procedure.

COUNTY/COUNTY BOROUGH COUNCILS

County/ County Borough Council	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Blaenau Gwent	6	4	10				1		1	22
Bridgend	2	9	19				1		1	32
Caerphilly	9	19	19				1	1		49
Cardiff	11	41	27		17		1		1	98
Carmarthenshire	5	23	17	2	7	1	1		2	58
Ceredigion	3	12	12	1	2		7	1		38
Conwy	8	8	13		1					30
Denbighshire	7	10	8		1		1	1		28
Flintshire	7	20	12		3		1			43
Gwynedd	7	9	12		3		1		1	33
Isle of Anglesey	4	14	13							31
Merthyr Tydfil	5	5	6				1			17
Monmouthshire	2	9	5				2		1	19
Neath Port Talbot	3	15	14		3		2			37
Newport	1	14	18		1					34
Pembrokeshire	5	14	13		3					35
Powys	4	20	22		3		1	1		51
Rhondda Cynon Taf	4	17	13		1					35
Swansea	9	20	28		1		1			59
Vale of Glamorgan	6	9	12		3		1			31
Torfaen	2	7	13		4					26
Wrexham	7	22	22	1	5		1	1		59
TOTAL	117	321	328	4	58	1	24	5	7	865

COUNTY/COUNTY BOROUGH COUNCILS

County/ County Borough Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Blaenau Gwent	1			1				2
Caerphilly	4	1						5
Cardiff	15		2		1		3	21
Carmarthenshire	15							15
Ceredigion	2		1					3
Conwy	1							1
Denbighshire	2							2
Flintshire	1	1						2
Gwynedd	6	1			2			9
Isle of Anglesey	2		3		1			6
Merthyr Tydfil	4							4
Monmouthshire	2		1					3
Neath Port Talbot	2	1						3
Newport City			1					1
Pembrokeshire	5	1						6
Powys	8	2						10
Rhondda Cynon Taf	7		1		2			10
Swansea	9	1						10
Vale of Glamorgan Council	7		1					8
Torfaen	7	2						9
Wrexham			1				1	2
Total	100	11	10	1	6	4	132	