

Our ref: PT/jm

Ask for: James Merrifield

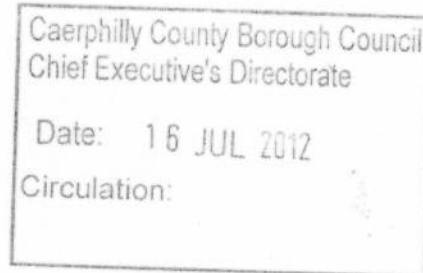
Your ref:

01656 644 200

Date: 13 July 2012

[James.Merrifield@ombudsman-wales.org.uk](mailto:James.Merrifield@ombudsman-wales.org.uk)

Mr Anthony O'Sullivan  
Chief Executive  
Caerphilly County Borough Council  
Penallta House  
Tredomen Park  
Ystrad Mynach  
Hengoed  
CF82 7PG



Dear Mr O'Sullivan

### **Annual Letter 2011/12**

Following the recent publication of my Annual Report, I am pleased to enclose the Annual Letter (2011-2012) for Caerphilly County Borough Council.

The Annual Letter provides you with a clear and concise breakdown of all complaints received and investigated by my office during 2011/12 in relation to your Council. You will also find details of the time taken by your Council in responding to requests for information from my office, as well as summaries of all reports issued in relation to your Council.

As outlined in my Annual Report, the total number of complaints received by my office about maladministration and service failure increased by 13% compared with 2010/11. Whilst health complaints continue to be the most numerous type of complaints received by my office, Planning and Housing remain the next largest areas of complaint.

It is pleasing to note the increased levels of 'Quick Fixes' and 'Voluntary Settlements' which would often not be possible without the cooperation of public bodies. This means that it has been possible to increase the number of complaints closed at earlier stages without the need for a full investigation (where it is clear that there are no systemic issues associated with the complaint).

Nevertheless, my office had reason to issue a number of Public Interest Reports during 2011/12 which raised serious concerns and failings. A number relate to local authority complaints, I would encourage all councils to revisit these reports, which are available on my website, to ensure that the lessons are learnt. Others relate to health matters but could also have general learning opportunities for local authorities.

I raised concerns in last year's Annual Letters regarding the amount of time taken by public bodies in Wales in responding to requests for information from my office and it is disappointing that this situation has not improved. The statistics for 2011/12 show that average response times for Local Authorities, as well as other bodies in Wales, has worsened to the extent that roughly three quarters of responses are received more than four weeks after they were requested. I continue to urge all Welsh public bodies to assist my staff in progressing their investigations by providing responses in a timely manner.

In reference to the performance of your Council, the figures indicate there has been a slight increase in both the complaints received and those taken into investigation by my office in comparison to the figures for 2010/11. The figures also indicate that the largest number of complaints related to Planning and Building Control, followed by Housing and Children's Social Services. The numbers in relation to all three areas of complaint exceeded those which could be expected for your Authority.

It is pleasing to note that my office did not issue any 'Upheld' reports against your Authority during 2011/12. It is also pleasing to note that your Authority's response times compare positively with the Local Authority and All Wales averages, although there is still room for improvement in this area.

Finally, I have outlined my concern at the 49% increase in the number of Code of Conduct complaints received by my office in this year's Annual Report, together with steps which I will consider taking to tackle any emerging practices in respect of such complaints. I have also set out changes designed to promote a local resolution process and reduce the number of complaints by councillors against other councillors which are brought to my office. Consequently, I hope to be able to report a decline in the number of Code of Conduct complaints received next year.

A copy of this letter will be published on our website shortly. If you consider it would be beneficial, I would be glad to meet with you to discuss the contents of this letter and the work of my office.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Tyndall', written in a cursive style.

Peter Tyndall  
Ombudsman

## **Appendix**

### **Explanatory Notes**

Sections A and B provide a breakdown of the number of complaints about Caerphilly County Borough Council which were received and taken into investigation by my office during 2011-2012.

Section C compares the number of complaints against Caerphilly which were received by my office during 2011-2012, with the local authority average for the same period. The figures are broken down into subject categories.

Sections D and E compare the number of complaints against Caerphilly which were received and taken into investigation by my office during 2011-2012, with the local authority average (adjusted for population distribution<sup>1</sup>) during the same period.

Section F compares the complaint outcomes for Caerphilly during 2011-2012, 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 response times of Caerphilly during 2011-2012 with the average response times for all local authorities, and all public bodies in Wales during the same period. Graph G measures the time between the date my office issues 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 Caerphilly Councillors during 2011-2012.

Finally, Section 'I' contains the summaries of all reports issued in relation to Caerphilly during 2011-2012.

In order to assist in measuring performance during 2011-2012, many sections also contain the relevant figures for 2010-2011.

### **Housing Stock**

As with the figures for 2010-2011, the figures for 2011-2012 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](mailto:james.merrifield@ombudsman-wales.org.uk).

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<sup>1</sup><http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=16889> . All figures have been rounded to 0 decimal places.

**A: Complaints received by my office**

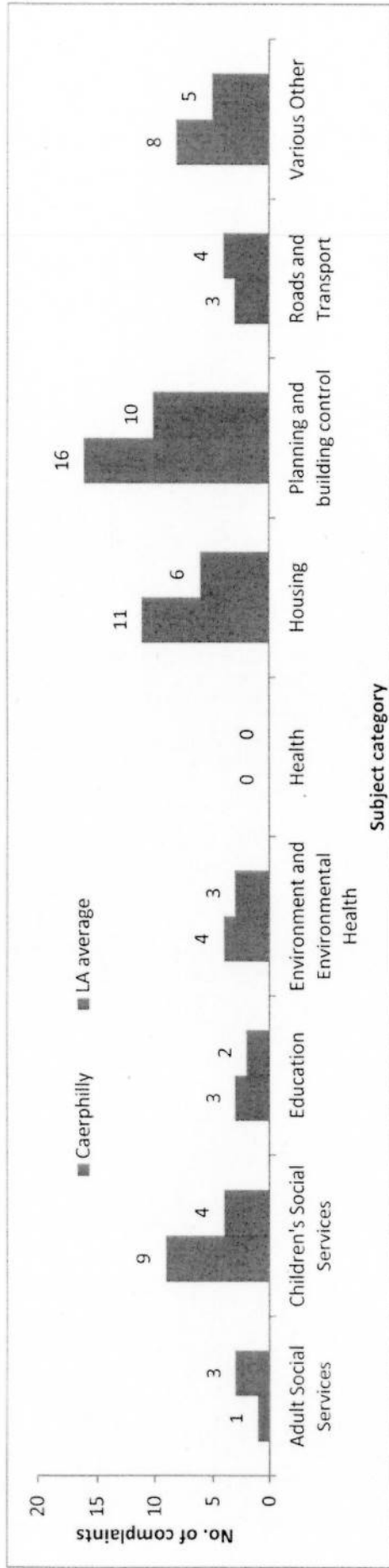
<b>Subject</b>	<b>2011-2012</b>	<b>2010-2011</b>
Adult Social Services	1	5
Benefits Administration	1	3
Children's Social Services	9	5
Community facilities, recreation and leisure	0	1
Education	3	1
Environment and Environmental Health	4	0
Finance and Taxation	2	3
Health	0	1
Housing	11	17
Planning and building control	16	10
Roads and Transport	3	5
Various Other	8	3
<b>Total</b>	<b>58</b>	<b>54</b>

**B: Complaints taken into investigation by my office**

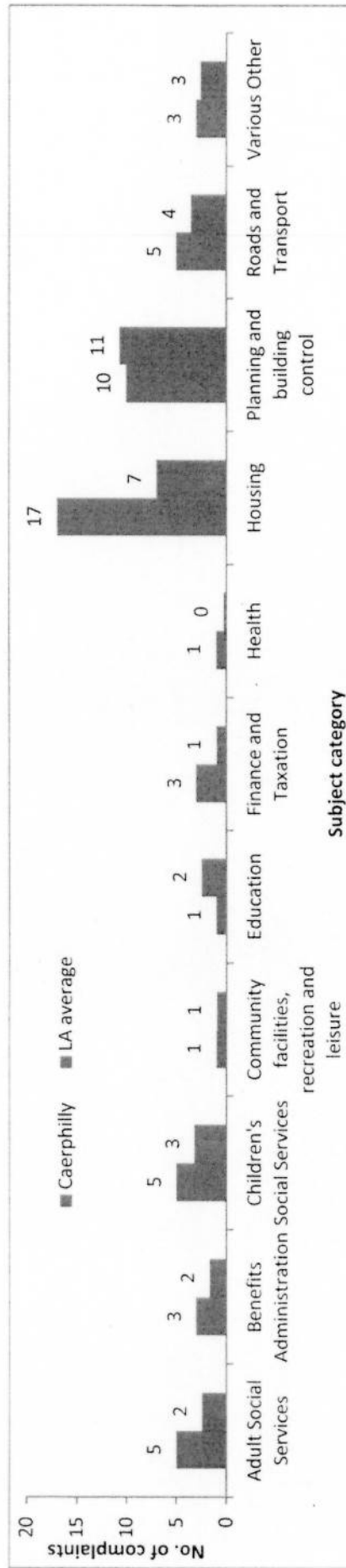
	<b>2011-2012</b>	<b>2010-2011</b>
Number of complaints taken into investigation	5	3

C: Comparison of complaints by subject category with LA average

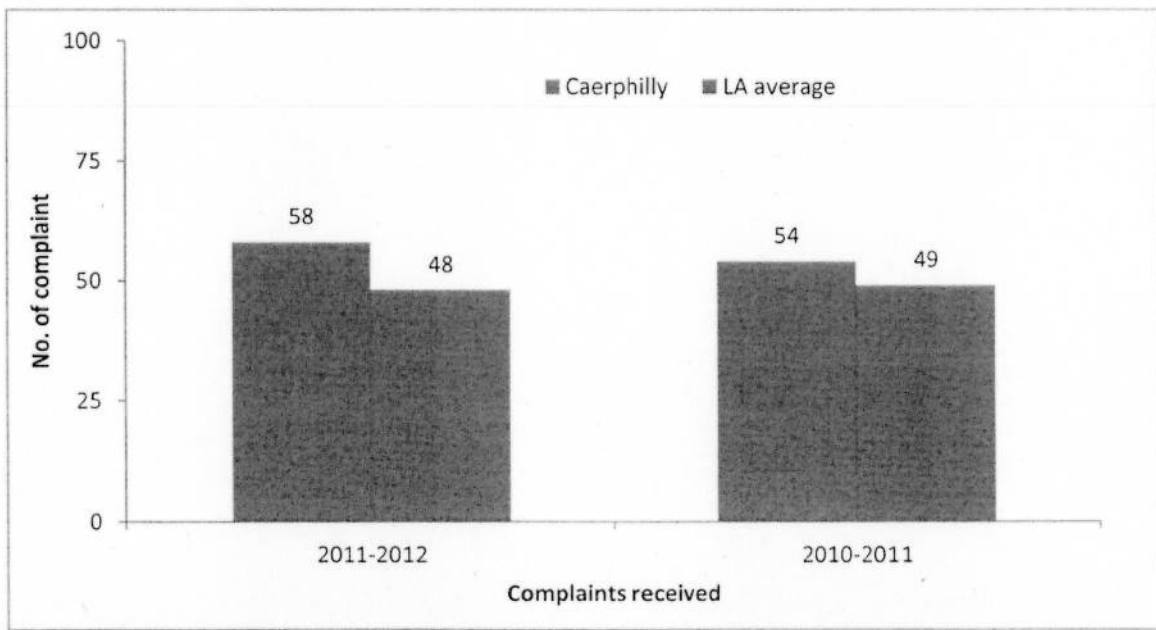
2011-2012



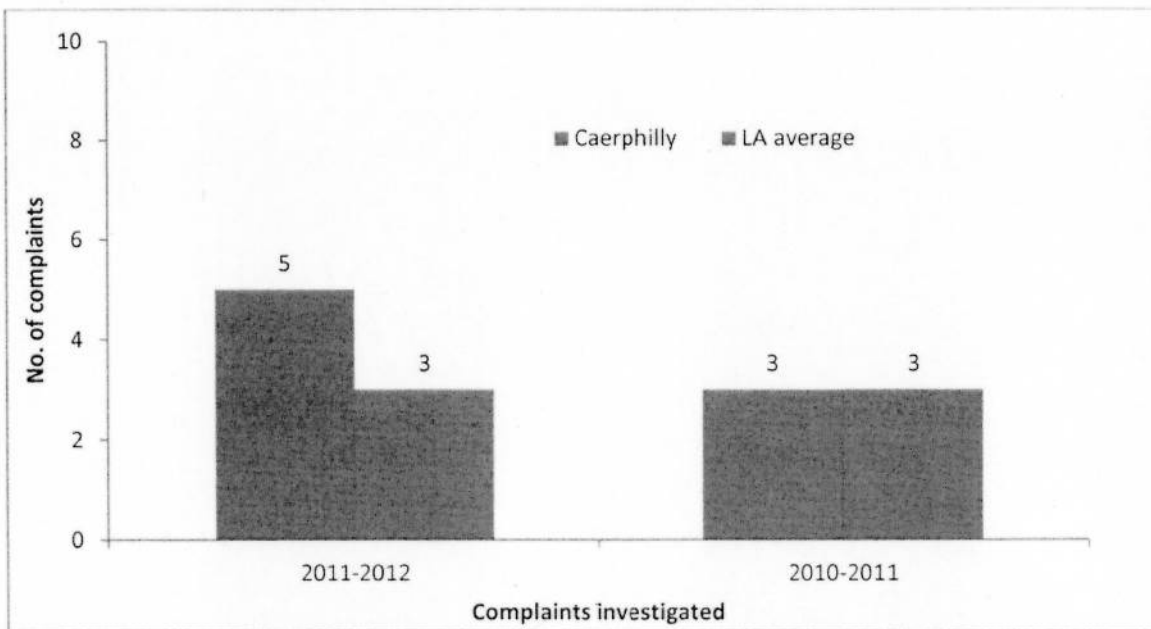
2010-2011



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

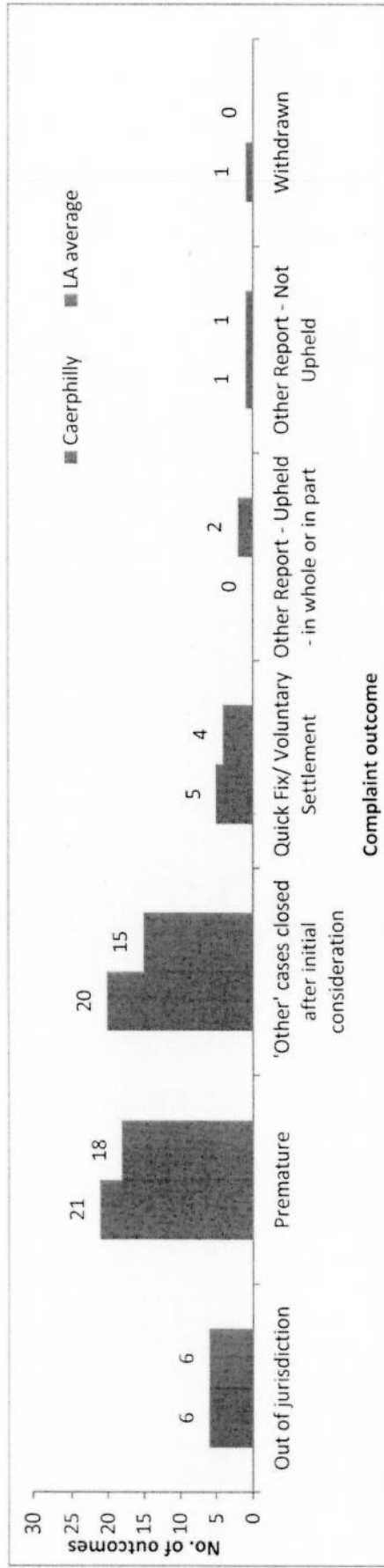


**E: Comparison of complaints taken into investigation by my office with average, adjusted for population distribution**

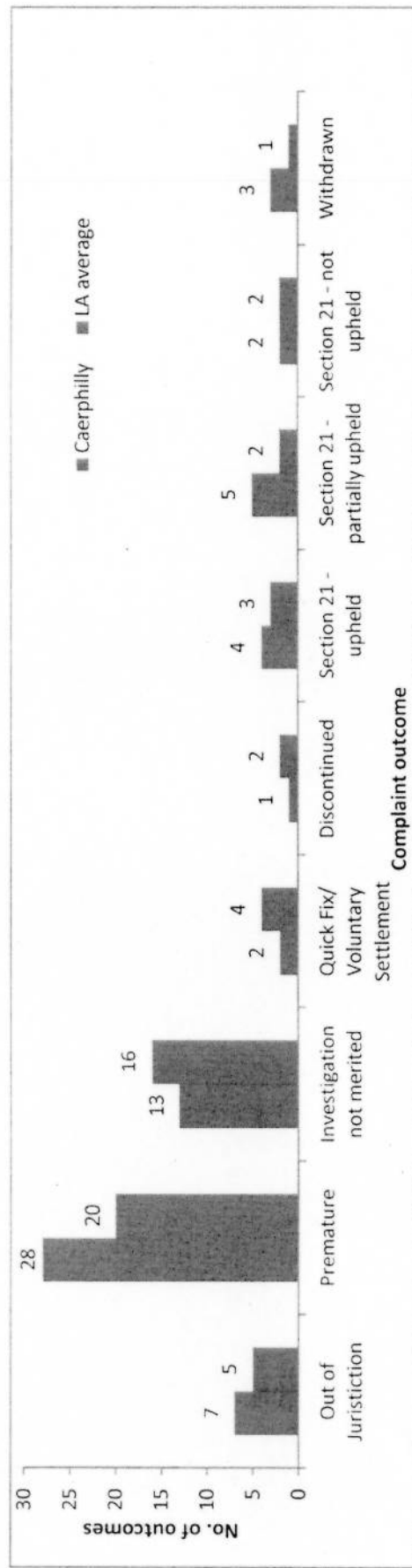


F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution

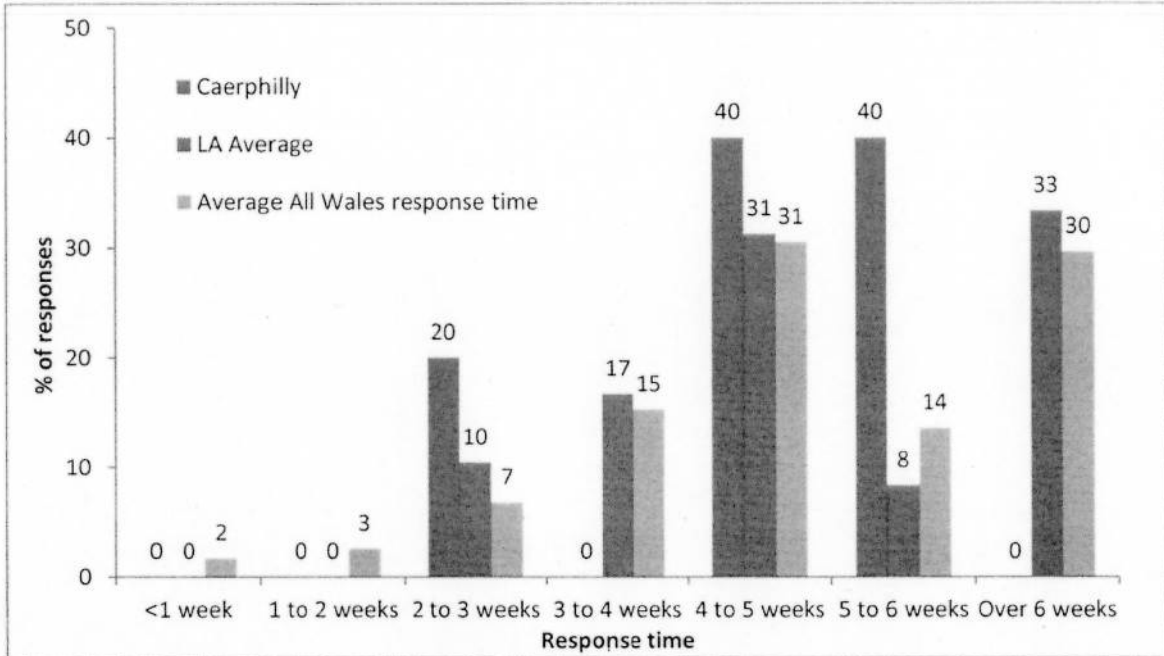
2010-2011



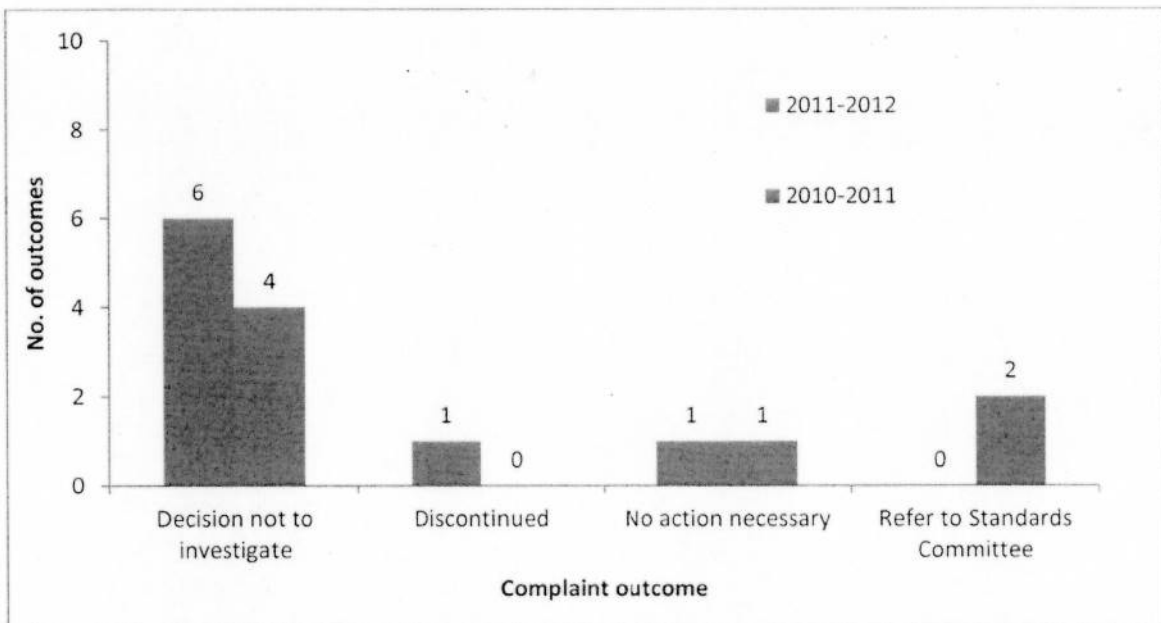
2010-2011



**G: Comparison of Caerphilly's times for responding to requests for information with average LA and average All Wales response times, 2011 – 2012**



**H: Code of Conduct complaints**





## **I: Report summaries**

### **Education**

#### **Not Upheld**

##### **November 2011 – Admissions procedures and appeals – Admissions Appeals Panel, Tynewydd Primary School & Caerphilly County Borough Council**

Mr B applied to the School for a place in its reception class for his daughter (whom I shall call Amy), but was refused because there had been too many applicants for the number of places available ("oversubscription"). The School's published standard admission number was 35, but there were 39 applicants for the reception class. The Council (as admissions authority) applied its published admissions criteria. As Amy did not live within the designated catchment area, had no siblings at the School, and lived too far from the School she was refused a place. Instead, she was offered a place at a school within whose catchment area she lived. Mr B appealed to the Panel, arguing that Amy had previously attended the School's nursery class and that Mr B's mother lived nearby who had been able to take Amy each day. If this arrangement could not continue, either Mr B, or his wife, would have to give up work in order to take Amy to the school offered, resulting in hardship for the family. The Panel applied the prejudice test, in which the Panel is obliged by law to consider whether the School would be prejudiced by admitting yet further pupils beyond the admission number and, if it would, whether the prejudice to the School is outweighed by the prejudice arguments/circumstances advanced by the child's parents. The Panel denied Mr B's appeal.

Mr B complained to the Ombudsman about: the Panel's composition and qualification of its members; that it had been unfair and had not properly considered his arguments; had rushed in its deliberations; and members had not worn name plates for the hearing. As against the Council, complaints included that it had used the wrong map to designate the catchment area for the School (as the School had been moved to a new site), and that its admissions officer had told him the waiting list for the School was closed on 31 August (which was before the School term began).

The investigation found that the Panel composition, membership and qualification had been in accordance with the statutory Code issued by the Welsh Government. Panel members had been introduced to Mr B at the outset of the hearing, so even if name plates were absent they had been identified. There was evidence that the Panel had taken into account Mr B's arguments and properly applied the prejudice test in taking its decision. Published information for parents explicitly stated that children were not guaranteed a place at the School's reception class if they had previously attended its nursery, and parents had been written to. The new School did not change the catchment area, as in applying the admissions criteria the distance was calculated from the new site to the applicant child's home. This in fact benefitted Mr B in the calculation, as the School was geographically closer, but he still lived outside its catchment area. The Council's officer had been correct in her comment about the waiting list as this was a date prescribed by the Welsh Government's Code. The Ombudsman did not uphold Mr B's complaints.

**Case reference 201101455 & 201101685**