

Review of Local Government Complaints 2014-15



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We are pleased to present our second Annual Review of Local Government Complaints, which publishes our complaints statistics for all English local authorities for the financial year 2014/15.

We write to each local authority annually to feed back on their performance. This includes a summary of the complaint statistics we have recorded against them for the year including the amount of complaints we uphold. The combination of statistics from these letters forms the overall data we are publishing in this report.

The headlines from this year's data show that:

- > we experienced a 10% increase in social care complaints
- > we upheld 46% of all complaints where we carried out a detailed investigation
- > we received a 11% decrease in complaints about benefits and tax
- > as a proportion of our total work, education and children's services remains our most complained about area
- > despite these changes, the overall number of local authority complaints and enquiries we received remained largely static to the previous year.

As the Ombudsman we only see the complaints that have not been resolved at a local level. To provide an insight into the complaints process at the local authority level, we surveyed councils about their experiences over the last three years.

The results, combined with concerns raised in last year's annual review, point to a local complaints system that is under increasing pressure.

We argue that:

- > councils are increasingly stretched when it comes to handling complaints - more than half are having to do 'more with less', due to a combination of increased volumes of complaints and reduced resources in complaint handling teams
- > people are waiting too long to have their issues sorted - the average time people spent trying to resolve their complaint before coming to us was nine months
- > the redress system is not accessible enough - 43% of people were not advised they could refer their complaint to the Local Government Ombudsman.

In addition, this year we saw a small, yet unprecedented, increase in the number of councils that sought to challenge our decisions and chose not to implement our recommendations to remedy a fault. While these cases are still rare, they raise an important question of how a council's actions can be held to account if it does not follow the recommendations of its ombudsman.

A responsive and outcome-focussed local complaints system is not only what the public should expect, it is an excellent driver for improving public services.

The intelligence from complaints can be used to learn lessons, spot early warning signs and understand public sentiment. Particularly in this current financial climate, further investment in good local complaint handling, both in terms of resources and developing an open culture, could help councils to achieve better outcomes for people at a lower long term cost.

By sharing our knowledge from complaints, the LGO can support this process. Releasing the data in this report is just one example where we can help hold a mirror up to councils so they can compare, contrast and reflect on their own approach to handling complaints. In doing so, we help to encourage local accountability by supporting the scrutiny of local services.

We stress that a higher volume of complaints does not necessarily mean poorer standards of service, it may indicate a council's open approach to listening to feedback and using complaints as early indicator of potential issues.

The final section of this report focuses on local scrutiny. The annexe of data tables allows anybody to view our complaint statistics by local authority or subject. It should be of particular use for elected members as a part of their scrutiny tool-kit. We provide a set of questions that councillors may wish to consider asking in order to build a clearer picture of how their authority responds to, and learns from, complaints.

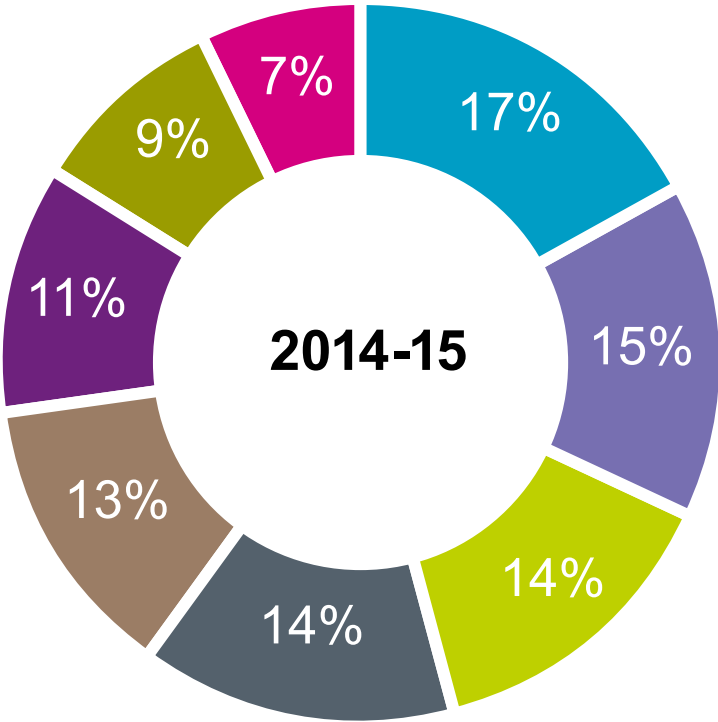
Complaint numbers and common issues



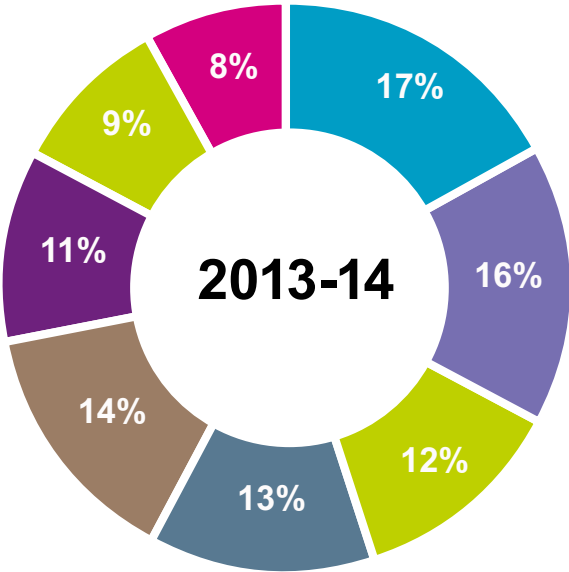
In 2014/2015 we registered **18,211 complaints and enquiries about local authorities**.

In comparison to the previous year the number remains broadly static – we recorded 18,436 complaints and enquiries in 2013/14.

While this report concentrates on local government, our remit also includes private adult care providers and some other organisations¹, and so our total amount of registered complaints and enquiries across all jurisdictions is **20,286**.



- Education & children's services
- Benefits & tax
- Adult care services (council only)
- Housing
- Planning & development
- Highways & transport
- Environmental, public protection & regulation
- Corporate & other services



¹ In this report we consider only local government complaints, defined as those registered against local and national park authorities. Our jurisdiction also extends to private care providers and some other organisations including school admission appeal panels, drainage boards, fire and rescue authorities and some government arms length bodies.

Complaint numbers and common issues

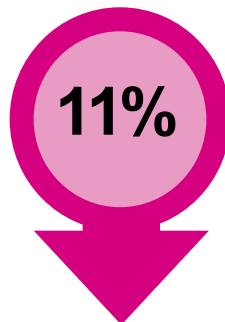


18,211

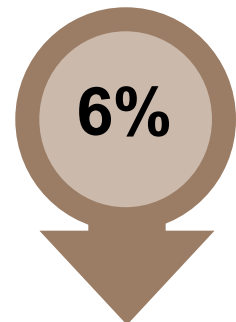
registered local authority complaints & enquiries



Adult care services



Benefits and tax



Planning & development

In terms of the number of complaints, this year we saw a **10% increase in complaints about adult care services** (where the local authority was the responsible body) and an **11% reduction in complaints about benefits and tax**.

The number of planning and development complaints were also down slightly (6%) on 2013/14.

Upheld complaints

This year we upheld 46% of all complaints where we carried out a detailed investigation.

This does not include complaints where the person has approached us before giving the council opportunity to resolve the problem, or where we are not able to look at the complaint because it is outside of our jurisdiction.

We record a complaint as upheld when we find some fault in the way a council acted, even if it has agreed to put things right during the course of our investigation or had accepted it needed to remedy the situation before the complainant approached us.



Subject focus: Education and children's services

As a proportion of our total caseload, education and children's services remains the subject about which we received the most complaints and enquiries.

Some of the common areas in which we receive complaints are child protection issues, fostering, school admission appeals and special educational needs.

This year we also contributed to the ongoing debate about the children's social care complaints system, asking whether it is creaking under the strain. Our [report](#) highlighted some of the common issues we see and questioned whether the current statutory procedure is the best way to ensure effective outcomes for children and young people who wish to complain.

Our work on school admission appeals remains important in giving parents recourse to an independent review if they feel their admission appeal has not been carried out fairly. However, the number of complaints we receive continues to decline, which coincides with the increase in the number of academies and free schools being created – over which we have no jurisdiction. We released a [report](#) which showed that the number of complaints to us has fallen by 50% in last four years, and detailed some typical faults we uncover.

Complaint numbers and common issues



Case study: reactive response put child at further risk

Mr and Mrs Roberts have two adopted daughters, Evie and Sally. They adopted Sally when she was five. Sally had suffered abuse and neglect in her early years and had spent time with foster carers before she was adopted.

Sally, who is now 16 years old, exhibited challenging behaviour, which became more severe after she was sexually assaulted.

Mr and Mrs Roberts complained about the lack of support from the council and its failure to protect their daughter from risk of sexual exploitation. Our investigation found the council took almost eight months for it to assess Sally's needs and put a support package in place, and failed to review this package for over three years.

The council's response was fragmented, reactive and not considered with the urgency the situation required. While we cannot say the council could have prevented Sally's risky behaviour, its poor response compounded the family's distress. The council had identified that Sally was at risk of serious harm, but then:

- > failed on four occasions to conduct a section 47 investigation (a section 47 enquiry is required under the Children Act where there is reasonable evidence that a child is suffering, or likely to suffer harm)
- > delayed in arranging a multi-agency meeting, exposing Sally to further risk which resulted in her being detained in police protection
- > delayed in involving the Child Sexual Exploitation service
- > failed to use the risk assessment matrix or case management template created by the Local Safeguarding Children Board specifically for children at risk of sexual exploitation

As a result of our investigation the council agreed to:

- > make sure that all staff who deal with vulnerable children are aware of the robust procedures and follow them where a child appears to be at risk of sexual exploitation
- > apologise for the distress caused by the lack of urgent response and for not following the correct procedures when assessing the risk of harm to Sally
- > pay £2,500 to the family for the lack of effective support which placed a strain on the whole family
- > review its handling of the separate allegations it mismanaged that Mr and Mrs Roberts harmed their children, with a view to repairing the damage done to its relationship with Mr and Mrs Roberts.



Subject focus: Adult social care

Complaints and enquiries about local authority **adult social care increased by 10%** against the previous year, and so remains our fastest growing area of work.

In this report we consider only the adult social care complaints where the local authority is the responsible body. As the Social Care Ombudsman, our jurisdiction extends to complaints about any adult care service, including privately funded care. We are publishing a separate annual review of social care complaints, which includes data on private providers, later this year.

Common areas of complaint include care assessments, charging for care, safeguarding and residential care.

Ensuring the safety of adults at risk, who are unable to protect themselves from abuse or exploitation, is a critical role that councils with adult social care responsibilities undertake. We receive a range of complaints about safeguarding, including when a council decides a safeguarding alert does not meet the threshold for investigation, delays in the process, disagreements about the outcome of an investigation, and not involving the families of the adult at risk.

If having received a complaint we have concerns somebody may be at risk, we adopt a 'good citizen' approach and raise an alert with the relevant local authority. In addition, we work closely with the care regulator, Care Quality Commission (CQC), to share information if we receive an individual complaint that we think could have implications for the overall quality of care at an organisation.

Care assessments form a vital role in ensuring people receive the care they need and for which they are eligible. Often we find a failure to regularly review care plans, not place the individual's needs central to the process and not take all relevant factors into account when carrying out an assessment.

Typical complaints around charging for care include issues such as poor information given about costs, a lack of clarity over whether a someone is a temporary user or not, calculation of private contributions or 'top-up fees', and inadequate notice of fee or service changes.

Complaint numbers and common issues



Case study: inadequate safeguarding investigation remedied

Archie's father, George, had lived in a care home for a number of years when his health began to deteriorate following a stroke.

He had concerns that his father was at increased risk of falls. George fell out of bed and sustained a head injury; he was admitted to hospital but sadly passed away a few days later.

Archie made a safeguarding alert to the council, who asked the manager at the care home to investigate the complaint. The manager's report found his father's fall from bed could not have been foreseen and was therefore not preventable.

Archie was not satisfied and brought his complaint to us. As part of our investigation we requested all the daily care records. These showed that on 11 occasions carers had reported finding George hanging from his bed in the three weeks prior to the fall. His bed had also been raised higher than usual.

Further investigation revealed the care home manager had not referred to the daily care records during his investigation. George's clear risk of falling from his bed that had not been identified, assessed or mitigated.

The council had accepted the findings from the care home manager without question. Had it checked the care records as we had done, it would have been clear that the safeguarding outcome report was inaccurate.

Following our investigation the council acknowledged its failings and took robust action to improve its safeguarding procedures.

It issued new detailed guidance to its staff, which directed them to check the validity of information provided by care providers and cross reference records where any abuse, neglect or injury is suspected.

The council also agreed to our recommendations to provide Archie with a written apology for failing to conduct the safeguarding investigation properly, and make a £750 payment to recognise the distress and time and trouble caused.

The local complaints system

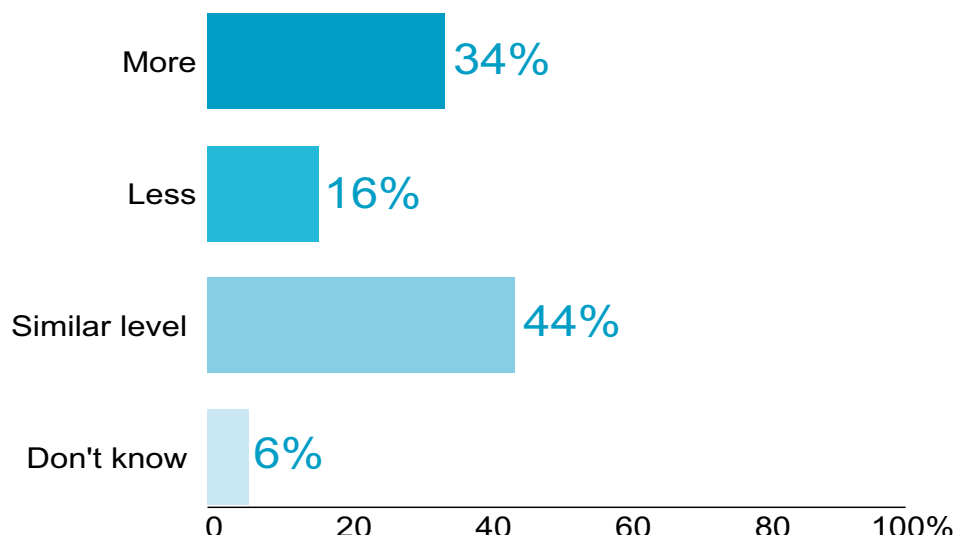


What councils told us

As the independent body for reviewing complaints, we only see those cases that cannot be resolved locally between the council and the person complaining. To present a picture of the local complaints system, we invited all councils to take part in a survey² which looked at the volume, resources available and approach to managing complaints. This builds on customer research we published last year that looked at the accessibility and timeliness of the local complaints system.

Volume of local complaints

Have you received more or less complaints last year than the previous year?



The survey showed that for the majority of councils, the number of complaints they received remained at a similar level or increased on the previous year. Only 16% of councils said that their number of complaints had decreased. While the results do not account for the size and composition of the councils responding, this data indicates that many councils on average are having to handle increasing numbers of complaints. It is important to note that a higher volume of complaints does not necessarily mean poorer standards of service, it may indicate a council's open approach to listening to feedback and using complaints as early indicator of potential issues.

² The research was carried out between February and March 2015, where we invited all local authorities to take part in a survey. Results are based on 149 responses received.

The local complaints system



Resources to manage complaints

Volume of complaints/ resources to manage complaints

	More capacity to deal with complaints	Similar capacity to deal with complaints	Less capacity to deal with complaints	Don't know
More complaints	3%	17%	13%	>1%
Similar level of complaints	3%	16%	25%	>1%
Fewer complaints	>1%	5%	9%	1%
Don't know	>1%	2%	3%	0%

At the same time that local complaints are increasing, the survey also shows councils have less capacity available to manage them.

The chart above combines the results for volume of complaints and resources to manage complaints. It shows that some councils whose resources had remained at a similar level had also reported an increase in complaints, and in total, **55% of councils' complaint handling teams are having to 'do more with less'**.

Of those that gave a reason for these changes to capacity, the majority mentioned either a reduction in staff levels within complaint handling teams, or the effects of staffing reductions across the council leaving those handling complaints to do so on top of an increasingly busy day job.

On a more positive note, the results suggest councils may be taking a more proactive approach to ensuring complaints are dealt with efficiently locally. We asked council complaint handlers if it had become easier or harder to secure the cooperation of colleagues in other parts of the business when dealing with complaints. Despite staffing reductions that all councils have experienced over the last three years, more councils said it had become easier (29%) to secure cooperation handling complaints than those that said it had become more difficult (19%). Nearly half (48%) said it remained unchanged.

The local complaints system



Accessibility and timeliness Providing remedy

In last year's annual review we highlighted our concerns that not enough people may be aware of their right to an independent review by the Ombudsman. Independent customer research³ showed that **43% of complainants were not advised that they could refer their complaint to the LGO.**

Our customer research also showed that 62% of people had been trying to resolve their problem locally for at least six months, including more than a third (36%) who had been trying for over a year. The average time that people spent trying to resolve their complaint before approaching us was nine months.

With councils now just as likely to be commissioning services as delivering them directly, the traditional lines of accountability and routes to complaining when things have gone wrong are more complex. We welcome the good practice that some councils are undertaking by ensuring that an effective and accessible complaints service forms part of the contract with commissioned service partners.

We asked councils whether their approach to providing remedies had changed over the last three years, for example due to financial restrictions, policy changes or commissioning arrangements.

70% of councils said they had not changed their approach to providing remedies. It is encouraging that a good number of authorities are continuing to learn from complaints and take a proactive approach to putting things right.

Of the just under a quarter of councils that had changed their approach to remedies, it is interesting to look at the reasons behind these.

Most of the responses quoted financial considerations as being at least part of the reason for changes to their approach. While some councils are generally looking to restrict financial recompense across the board, a number are more amenable to offering financial payments at an earlier stage or trying to resolve issues at the first point of contact, in an effort to reduce the costs associated with longer investigations.

Here is one typical example:

"On the one hand, and from a cultural perspective, officers are more amenable to providing remedies, particularly of a financial nature where things have gone wrong. On the other hand officers are working with less and less resource and more and more consideration of public funds so in some areas this can be more difficult."

A number of responses mention that councils are taking more time to discuss the desired outcomes from a complaint with the person involved, and assessing the level of injustice further, to try to come to a satisfactory outcome at the earliest opportunity. We fully support a complaints system which enables people to feel confident in speaking up, listened to and understood and assured that their complaint makes a difference.

³ Research was carried out between January and May 2014. An independent research company carried out more than 800 telephone interviews from a random selection of people who had an ongoing case with us. The full research report is available on our website.

The role of the Ombudsman



Remedying injustice

Any member of the public can come to Local Government Ombudsman for an independent review of their complaint if they are dissatisfied with what the local authority has done to put things right. If we find an individual has suffered as a result of the actions of the council, we usually recommend action to be taken by the authority to repair the situation, as well as avoid the same thing happening to others.

The courts have made clear that the findings of our independent investigations are binding – our decisions are final and can only be challenged through the high court. However, councils have a democratic mandate to make decisions about local public services and so have the right to decide how to implement our recommendations, with their actions being ultimately accountable to the local electorate.



Complying with recommendations

Each year more than 99.9% of councils comply with our recommendations, however this year we saw a small but unprecedented increase in the number of councils refusing to implement our recommendations. A number of these sought to publicly challenge the validity of our decisions through the media.

These councils are reminded of the formal process for accepting ombudsman recommendations as detailed below, and that the only formal way to challenge our findings would be through the courts.

If a council does not comply with our recommendations, we will always choose to publish a report of the investigation in the public's interest. This also requires the council to make a public announcement and make the report available to its residents.

After thorough consideration of our report, which we insist is at a full council meeting, if a council still refuses to implement our recommendations; our legislation allows us to issue a further public interest report updating our position on the case.

Ultimately our legislation does not allow us to force a council to implement a recommendation. So if after full consideration of our further report a council still decides not to comply, we will respect their democratic right. However we will require the council to notify the public by publishing a statement of non-compliance explaining the reasons for its decision. We will also publish this on our website.

Case study: Selby District Council – refusal to refund planning fees

We found the Selby District Council failed to deal properly with relevant and material planning considerations when deciding a planning application for an extension to a cottage close to the complainants' converted barn. We issued a public interest report.

The council questioned our conclusions, and was wrong to challenge these in the media. It also questioned our recommended remedy. It did offer to apologise to the complainants and pay £250 to reflect their time and trouble in pursuing their complaint. However it refused to accept our recommendation to reimburse the planning consultant fees of £1,896 incurred by the complainants. The council made this offer on the basis of us closing the complaint without issuing a report.

We issued a further report calling on the council to reconsider its position. It did apologise and pay £250 for time and trouble, but refused to reimburse the fees. Since the remedy offered did not put right all the injustice suffered, we issued a further report highlighting our unresolved concerns.

A statement of non-compliance was published after the council refused to accept all of the recommendations in the further report. We regret the council has failed to fully remedy the complaint and remain dissatisfied with its actions on this matter.

The role of the Ombudsman



Case study: Tameside MBC – refusal to refund care charges

We issued a public interest report where we found fault in the way Tameside Metropolitan Borough Council had acted when it changed the way it commissioned care and left existing care users disadvantaged.

When the council reviewed the way it commissioned placements, the home in which a man's mother lived was excluded from a new quality framework, despite meeting the set criteria. As a result, the council reduced the amount paid to 'off framework' homes and there was a shortfall in the amount paid to the care home, which the mother's family had to make up. The man's only options were to pay significantly more for his mother's care or move her to a different home – at a significant risk to her health.

Our investigation also highlighted that potentially a further 160 older people and their families across the area could be similarly affected.

The council was incorrect in its public assertion that we acted outside our powers in investigating this complaint, and was wrong to dispute our findings in the media. As it refused to implement all of our recommendations we issued a further report calling on the council to provide a remedy to the man by apologising, refunding the mother's estate the top-up fees incurred and a time and trouble payment for pursuing the issue. The council is currently considering our further report.



Case study: Isle of Wight – refusal to remedy housing complaint

We issued a report that found Isle of Wight Council at fault for offering a man and his family a property which was too small for their needs. The man and his four children were moved from accommodation which, although temporary, met their needs, into a property which was significantly less suitable and too small for them.

We recommended the council provide guidance to its housing officers, elevate the man's housing priority and pay £1,000 to recognise the distress suffered in living in unsuitable accommodation for more than two years longer than necessary.

The council accepted our recommendation to provide guidance to housing officers, and we accepted how it mitigated the effect of classifying the family's accommodation as temporary. However, we did not accept the council's justification for offering to make a payment of only £250 to recognise the distress caused.

We issued a further report that called on the council to make a payment of £1,000. After considering the further report, the council still rejected this recommendation. A statement of non-compliance was issued, which stated that we found the council's actions unacceptable in its failure to recompense the family for its severe and prolonged distress.

The role of the Ombudsman



Improving Public Services

As well as putting things right for individuals, we always look to make recommendations that will help others who have been affected by a similar issue or will avoid similar problems happening in the future.



Case study: Bin collections resolved for many

Dozens of keen gardeners were aggrieved when their green waste collection, which they paid the council £45 for, was significantly reduced without prior notice.

After the council failed to respond to Tony's complaint properly he approached us to investigate. We found that at the time the council sent out Tony's renewal notice, it had already decided to increase the winter collection break from the usual 6 weeks to 17 weeks – but had charged the same amount as the previous year. They did not inform him until 4 months later.

We found no evidence that the letter Tony received included a disclaimer about the level of service being 'under review', which the council claimed had been sent. We also decided the wording of the disclaimer was not open and transparent because the council should have shared information at the time, that the service would be suspended for 17 weeks.

The council also received nearly 100 other complaints about the extended winter suspension period, which increased our concern that others did not receive the disclaimer.

As a result of our investigation the council apologised to and partially refunded Tony. It also agreed to partially refund all other customers affected via a discount off the next year's bill.

The role of the Ombudsman



We regularly publish thematic reports which highlight systemic issues we find through our casework, or where we need to raise awareness of particular themes. These feed back our experiences from complaints so others can take on board the lessons learned and consider how these could help improve services.

Supporting learning from planning complaints

In December 2014 we published the Focus report [*Not in my back yard: Local people and the planning process*](#), which shared the lessons from our complaints about planning and development.

The report explains the role of the ombudsman in the planning process, encourages greater transparency in the way councils make decisions, and helps the public understand more about the impact they can have on the planning process.

Some organisations have told us how they have used the report in constructive ways to encourage learning and support better practices.

Allerdale Borough Council now hosts a copy of the report on the planning pages of its website, offering it as a resource for local people when commenting on applications. It used social media to promote this to people. The Chair of the council's Development Panel also wrote an editorial in the local press drawing on the report and offering advice to the public on how to submit their views on local planning applications.

Dartmoor National Park Authority used the report as the basis for a workshop for its planning officers and managers. They found it beneficial to debate their approach to each scenario set out in the case studies, with the outcome being clarification of roles on some issues and some changes to protocol – for example, making changes to how neighbourhood consultation is recorded. The report was also shared with members of the Development Management Committee.

The Royal Town Planning Institute (RTPI) has recommended the report and its case studies to its members and planning practitioners in its June edition of The Planner magazine, and intends to use it for future guidance publications.

Our Focus report can be downloaded [here](#).





By publishing our complaints data for all local authorities in one report we are providing an open resource to help people compare statistics with other local authorities and inform scrutiny at the local level. Data tables can be found as an annexe to this report.

These figures should only be used as a starting point for a discussion about the council's complaint handling, as numbers alone don't tell the full story. A high number of complaints maybe as likely to show that the authority is open and engaged with its residents, as it is to suggest there is a problem.

As part of our local authority survey, we asked some questions about how complaints data is shared locally both with the public and elected members.






More than 50% of councils publish data about their complaints for public consumption above the statutory requirement to report to cabinet annually. However, there were still **41% of councils that did not**, and we would encourage more open access to information on how complaints are being managed so the public can make better informed decisions about public services.

As local representatives of the community, councillors have a democratic mandate to scrutinise local service delivery for the benefit of all. We encourage councillors to use this report, and its data, to support scrutiny – we provide some questions they can consider asking below.

We have worked in partnership with the Local Government Association to produce a workbook and e-learning package, and we have also established a Councillors Forum. This group aims to help us to better understand the needs of councillors and to help them to become champions for learning from complaints. These are some of the examples of the recent work we have been doing with councillors to support them as community representatives in helping people complain locally, and to scrutinise local services.

Questions for councillors

Does your council:

-  actively welcome feedback from service users about how it manages complaints?
-  report the outcomes and lessons learned from complaints to all members?
-  provide similar information that is easily accessible for the public?
-  consider how commissioned partners implement an effective complaints handling service?
-  clearly signpost its complaints procedure, including people's right to come to the LGO, within all access points?