

Local Government &
Social Care
OMBUDSMAN

***Review
of local
government
complaints
2017-18***



Contents

Ombudsman's foreword	1
Key complaint themes	3
Public interest reports	4
Landmark cases	6
Compliance with recommendations	7
Using the statistics	8
• How to view complaints statistics	
• Data tables and annual letters	
• Questions for scrutiny	
Statistics	10
• Complaints and enquiries registered	
• Decisions made and investigations completed	
• Investigation uphold rates	
• Recommendations	
Future reporting on remedies	14

Ombudsman's foreword



I am pleased to present our Review of Local Government Complaints for 2017-18.

Each year I write to local authorities to feedback statistics from the complaints made to us, and comment on their performance in responding to investigations. This report gives a national picture of these complaints, summarises the main casework themes we have seen and provides links to our published data tables. Many councils use the data tables to compare and contrast against other authorities, and they are open to anybody with an interest in public services to scrutinise.

The headlines from our complaint statistics in 2017-18 are:

- > We registered 17,452 complaints and enquiries, compared to 16,863 2016-17
- > We carried out 4,020 detailed investigations in 2017-18, compared with 4,279 in 2016-17
- > Of those detailed investigations, we upheld 57%, which is up from 54% in 2016-17
- > We made 3,622 recommendations to put things right, compared to 3,574 in 2016-17. These included 644 recommendations to improve services for the wider public

- > The area in which we upheld the highest proportion of investigations was Benefits and Tax (70%). The lowest proportion was Planning and Development (41%)

When looking at complaint numbers, I want to stress that it should only form the start of the conversation about measuring corporate health – low and high volumes do not solely indicate good and bad performance.

The wider outcomes from our investigations are more important than complaint volumes. The responses to our annual survey of councils show that there has been a steady shift over the last three years in the belief that our investigations have a positive impact on improving local services.

One of the most important ways we share learning from complaints to encourage service improvement is through publishing public interest reports. We published 40% more public interest reports this year – 42 in total. We have a clear framework for deciding whether to publish a report on an individual investigation. But this uplift in numbers doesn't necessarily mean we are seeing more systemic and significant injustices; it reflects our commitment to share the lessons from cases, as well as hold local authorities to account when required. We actively promote these public interest reports, and they trigger a requirement for the authority to consider them at full council or an alternative forum of elected members.

The majority of our public interest reports were about three topics: adult social care; education and children's services; and housing. Our particular concerns in these areas were taken forward into thematic Focus Reports, which collate a number of case studies combined with our thoughts on how to avoid the common pitfalls. We published four Focus Reports last year, which we summarise in a later section.

By and large last year, we saw councils working constructively to remedy injustices and take on board how they could prevent further people being affected by issues highlighted in investigations – sometimes at a significant financial cost. I commend this culture of learning from complaints. This report details some of the landmark cases we completed, where the outcomes extend well beyond the individual complainant.

On the other hand, there were some examples of councils not being as receptive to putting things right without significant pressure from my office. However, despite these challenges, and even though our recommendations are non-binding, I am happy to say there were no formal incidents of non-compliance from councils to our recommendations last year.

A handwritten signature in black ink, appearing to read 'M. King', with a long horizontal stroke extending to the right.

Michael King

**Local Government and
Social Care Ombudsman**

July 2018

Key complaint themes

Our investigations sometimes uncover issues we see time and again across different councils. Where we have an opportunity to feed back the learning, we publish themed Focus Reports, which include good practice notes and questions to help councillors scrutinise their authorities. Last year, these were the topics we commented on:

[The Right to Decide: towards a greater understanding of mental capacity and deprivation of liberty](#)

We highlighted that sometimes the proper checks are not happening or safeguards put in place when councils and care providers make decisions on behalf of people who lack mental capacity to choose how they are cared for. Our case studies showed how people were left in situations without the right consent in place and in one case forced to live somewhere against their will for a number of years.

[Lifting the Lid on Bin Complaints: learning to improve waste and recycling services](#)

We revealed the outsourcing of services was a common factor in the complaints we uphold about waste and recycling services. While many thousands of bins are collected successfully every day, we upheld 81% of the complaints we investigated the previous year. We called on councils to ensure proper oversight of their contractors, remembering that they remain responsible and accountable even if they outsource a service, and to appreciate the impact on citizens of the increasingly commercialised nature of waste services.

[Education, Health and Care Plans: our first 100 investigations](#)

We said families of children with special educational needs (SEN) are sometimes facing a disproportionate burden to ensure they get the

support they need. After reflecting on our first 100 investigations about the replacement system for Statements of SEN, we found families were sometimes suffering excessive delays in getting the right support, with children ultimately failing to reach their potential. We found fault in nearly 80% of investigations.

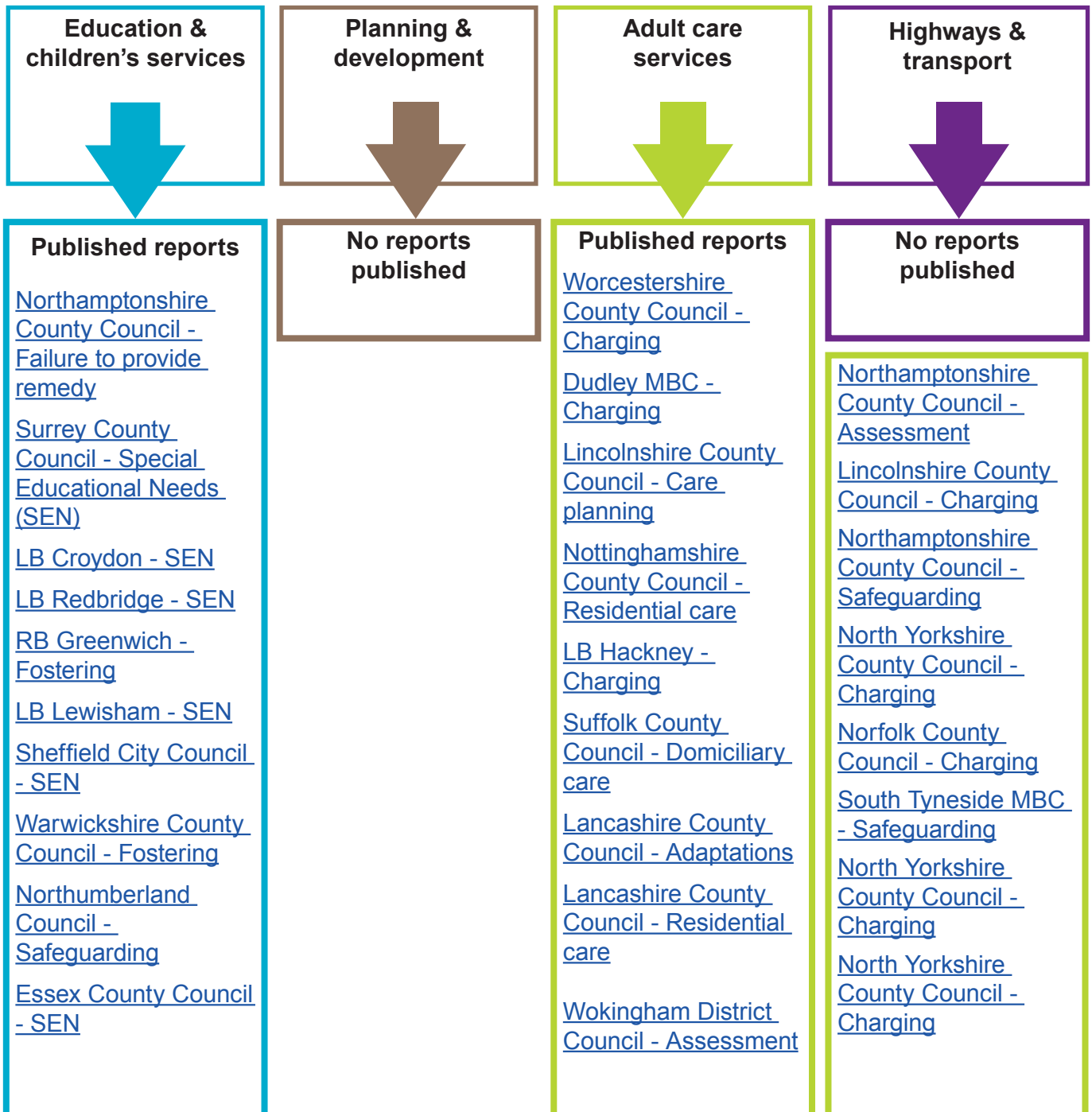
[Still No Place Like Home: councils' continuing use of unsuitable bed and breakfast accommodation for families](#)

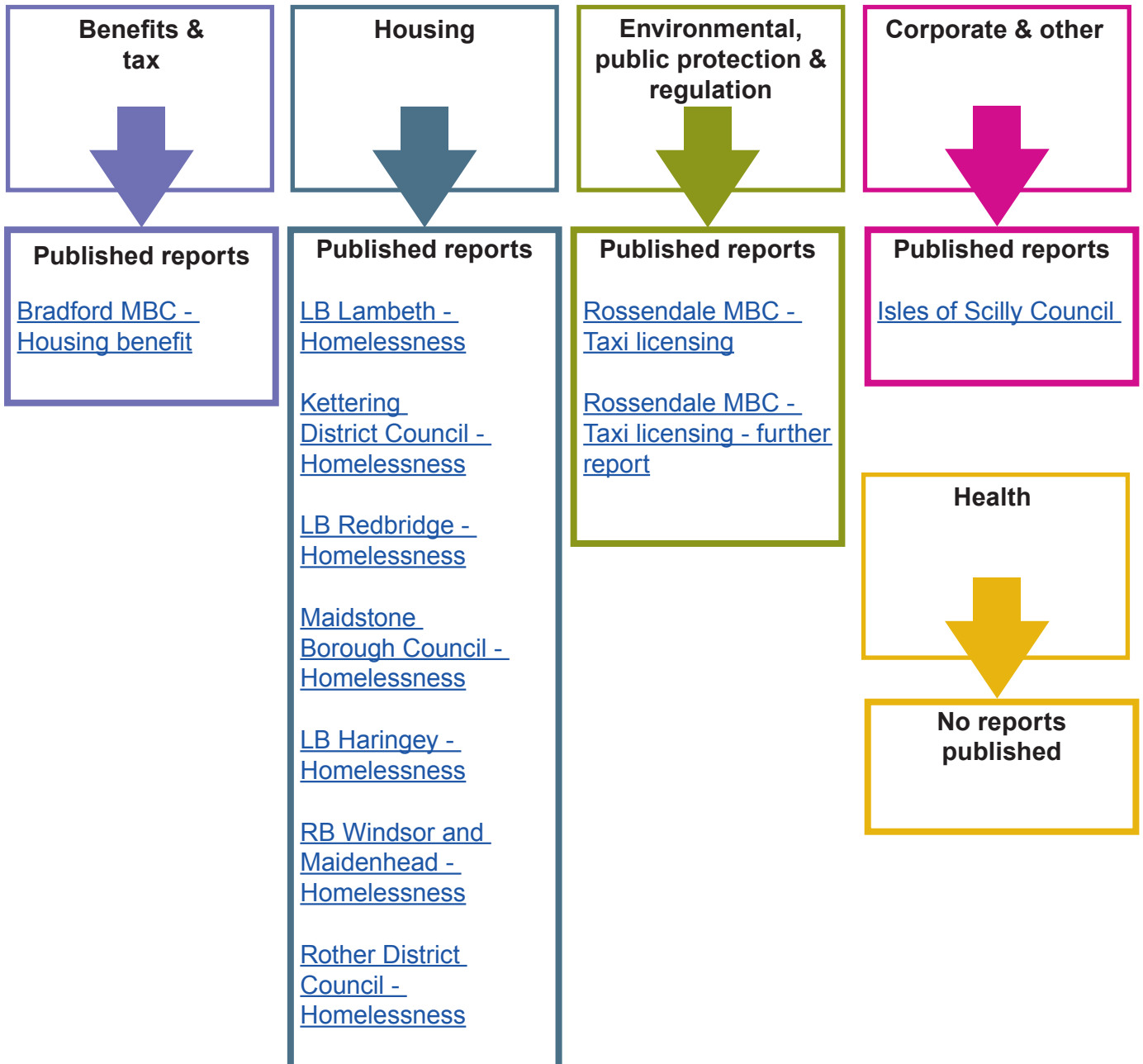
We showed that homelessness is increasingly affecting families outside of the capital, and from professions who previously may never expected to face problems finding somewhere to live. Worryingly, many of the problems highlighted in our similar report on this topic in 2013 still persist today. We also said there are signs the problems are becoming more acute, with an increase in the length of time families are having to stay in unsuitable temporary accommodation.

Public interest reports

Our decisions are published at www.lgo.org.uk/decisions and can be searched by theme, key word, category, decision outcome, date and organisation.

Our press releases to highlight our public interest reports can be found at www.lgo.org.uk/information-centre/news





Landmark cases

Last year we published a number of cases that demonstrate the power of a single complaint to make a difference to many people, when combined with a constructive attitude by councils to remedy the injustice and make improvements. By highlighting them, we are giving all councils the opportunity to learn and check their own practice in these areas. Below are the case summaries, and full details can be found by clicking on the links, or you can search the case reference numbers at www.lgo.org.uk/decisions

School transport for foster children

Case reference: [16006379](#)

Our investigation found Warwickshire County Council's school transport policy required foster carers, whose children had to attend schools beyond statutory walking distance, to pay for school transport out of their fostering allowance. This is despite them being entitled to free school transport. This put those children at a disadvantage compared to their peers. We urged all councils to check their approach. We also wrote to a number of councils to highlight our findings, where we became aware were taking the same incorrect approach. Warwickshire changed its school transport policy to explain it will treat looked after children the same way as it treats those living with their families.

Commissioning adult social care services

Case reference: [16007469](#)

Our investigation found problems in commissioning suitable homecare provision meant a married couple had to spend 10 months apart because the woman couldn't come home after a routine operation. In an effort to improve stability in the local market, Lincolnshire County Council had agreed contracts with a smaller number of preferred care providers, each solely responsible for delivering homecare services in their area. However, the newly contracted

provider didn't have capacity to provide the care to meet the woman's needs. The council agreed to identify which other families may have suffered an injustice and put things right.

Restricting appeal rights for benefit claimants

Case reference: [16016533](#)

After a single complaint, our investigation found that Bradford Metropolitan District Council had left more than 500 people waiting while it considered whether to forward their housing benefit appeals to the First Tier Tribunal. This left these people without their right to appeal, some dating back more than two years. The council agreed to clear its backlog promptly, keep us updated on progress, and review its procedures to ensure they comply with tribunal rules.

Using complaint insight to resource services

Case reference: [17000317](#)

In a sad case, where a man spent the last month of his life in bed because of delays in providing him with a specialist chair, Lancashire County Council agreed to a number of steps improve services for everybody. Amongst these, was to look at how it resourced occupational therapy services, resulting in the council completing an action plan to fill existing vacancies and recruit a significant number of new therapists.

Compliance with recommendations

Last year there were a few occasions where councils resisted following the correct process for public interest reports. This required us in three cases to follow the unusual practice of publishing a further report calling on the council to properly discharge its duties. The councils concerned were:

- > Luton Borough Council (report not published)
- > [The Council of the Isles of Scilly \(case reference: 15019440\)](#)
- > [Rossendale Borough Council \(case reference: 15011613\)](#)

While it is regrettable we had to resort to such measures, I welcome that all three councils have now agreed to fully implement our recommendations.

Clarity on financial assessments

We also had an application for a judicial review of our decision by a council thrown out at the High Court. We issued a public interest report to Wokingham Borough Council about a woman who had approached it for social care support and she had received a personal injury award for medical negligence at birth. The council disputed our view that the law required the personal injury award to be disregarded, and so funding should be provided from when she approached it.

The council challenged our report through judicial review. It felt we should take a 'purposive' approach to the law, and consider its resources when making our decisions. It also argued we should suspend investigations if any of the principles are subject to general litigation in the courts. The court dismissed the council's case as being 'totally without merit' and we published our report in early 2018. The judgment provides clarity for all councils on how we will investigate complaints about personal injury awards. It also confirms that we will hold councils to account on the established law, rights and standards, not based on local funding pressures.

Using the statistics

How to view complaint statistics

When viewing data for individual councils, it is important to understand the volume of complaints does not, in itself, indicate the quality of a council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well.

Complaint figures should be used as the start of a conversation, rather than an absolute measure of corporate health of an authority.

The figures in this report are correct at the time of publication but may be subject to change to correct any errors in how cases have been categorised. We do not expect any adjustment to significantly alter the overall figures.

Data tables and annual letters

You can download the [data tables for our local government complaints 2017-18](#), which provides information at a local authority level.

You can view individual council [annual letters](#).

How councillors can use our data to support scrutiny

Many local authorities already use our annual letters and complaint statistics to report to scrutiny committees and other oversight functions.

As a councillor, you can use information about complaints to help identify issues affecting local people. We suggest some ways you could use our data to inform scrutiny of local services:

Complaints received

- > Does the Ombudsman receive particularly high or low numbers of complaints in particular service areas?

Remember that a high number of complaints could indicate a council open to receiving feedback, not just be indicative of problems with services. Despite that, discrepancies across service areas could indicate good or bad complaint handling, or good or bad signposting to the Ombudsman in certain departments.

You could compare the number of complaints to us against the number of complaints made to the council, or against other similar authorities, to build up a better picture.

Uphold rates

- > Are there any service areas where there are particularly high or low uphold rates?

Uphold rates show the proportion of investigations in which we find some fault, and can indicate problems with services. Compare these with the national averages in our report or against other authorities.

Recommendations

- > How does your council remedy injustices and learn from complaints to improve things for local people?

Look at the number of service improvement recommendations your council agrees to make following our investigations – what does this say about the council's willingness to learn from complaints.

The number of investigations with a satisfactory remedy indicates that, while we found it had been at fault, the council had followed the right steps to put things right in its complaint response.

General complaint handling

There are some questions you could ask about your council's approach to complaint handling.

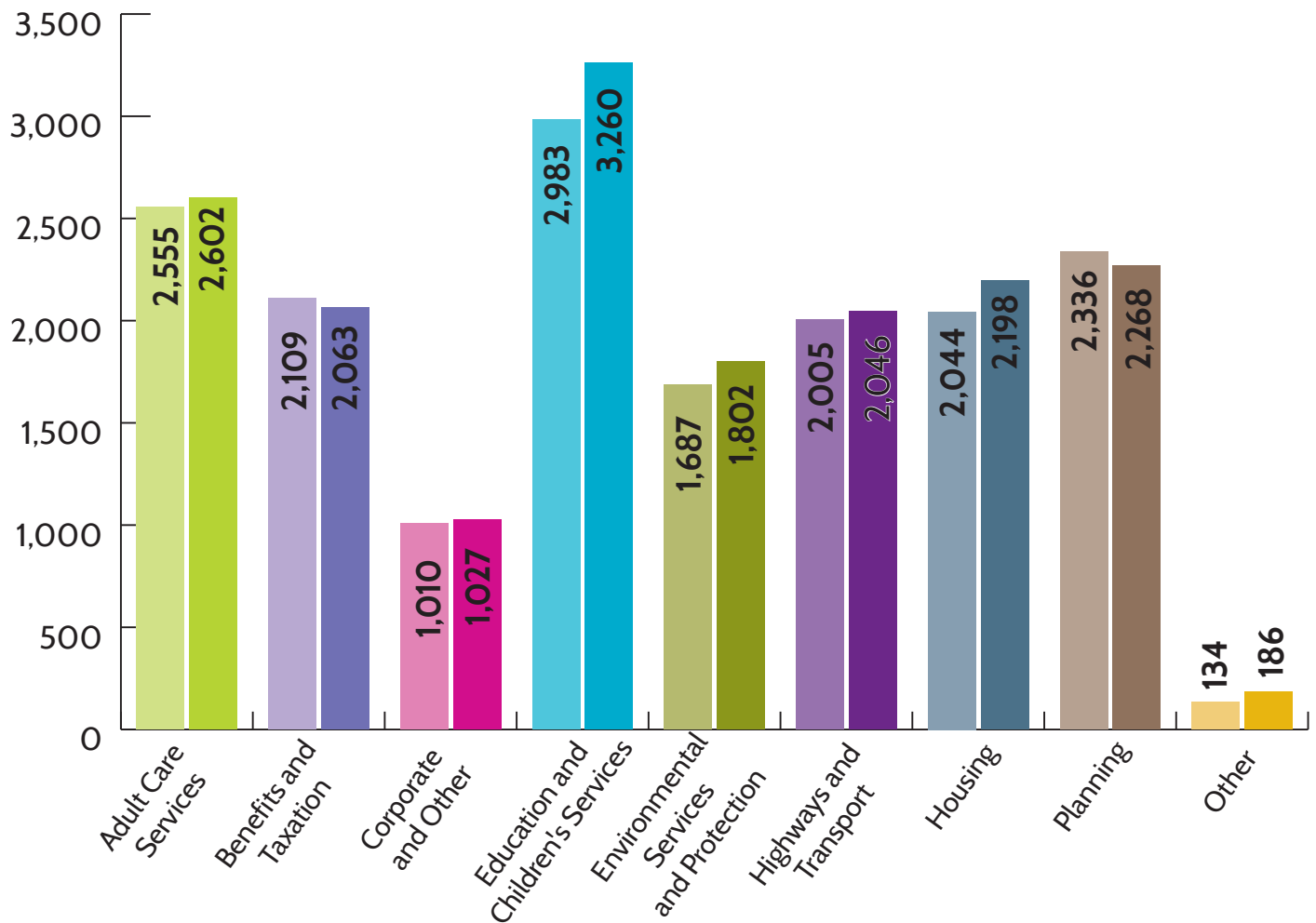
- > How quickly does your council respond to complaints?
- > How quickly does your council look to put things right when there is evidence of fault?
- > How does it make sure all partners it commissions services from also have effective complaint handling processes?

Statistics

The following statistics are an accumulation of the data from individual councils' annual performance. They encompass each English local authority, National Parks Authorities, the Greater London Authority, Transport for London, and the Environment Agency. Where available, we have provided a comparison with the previous year.

The last section of this report explains the changes we are making to further enhance how we report in the future on how our recommendations are implemented.

Complaints and enquiries received 2016-17 (left column) compared with 2017-18



Decisions made and investigations completed

2016-17

7,793
cases dealt with by initial
check

2017-18

8,135
cases dealt with by initial
check

- > We were not the right organisation to help
- > People had not completed the council or care provider's complaints process

4,650
cases dealt with by
assessment

4,808
cases dealt with by
assessment

- > We started making enquiries but decided there were good reasons why we could not, or should not, investigate fully

4,279
cases dealt with by
investigation

4,020
cases dealt with by
investigation

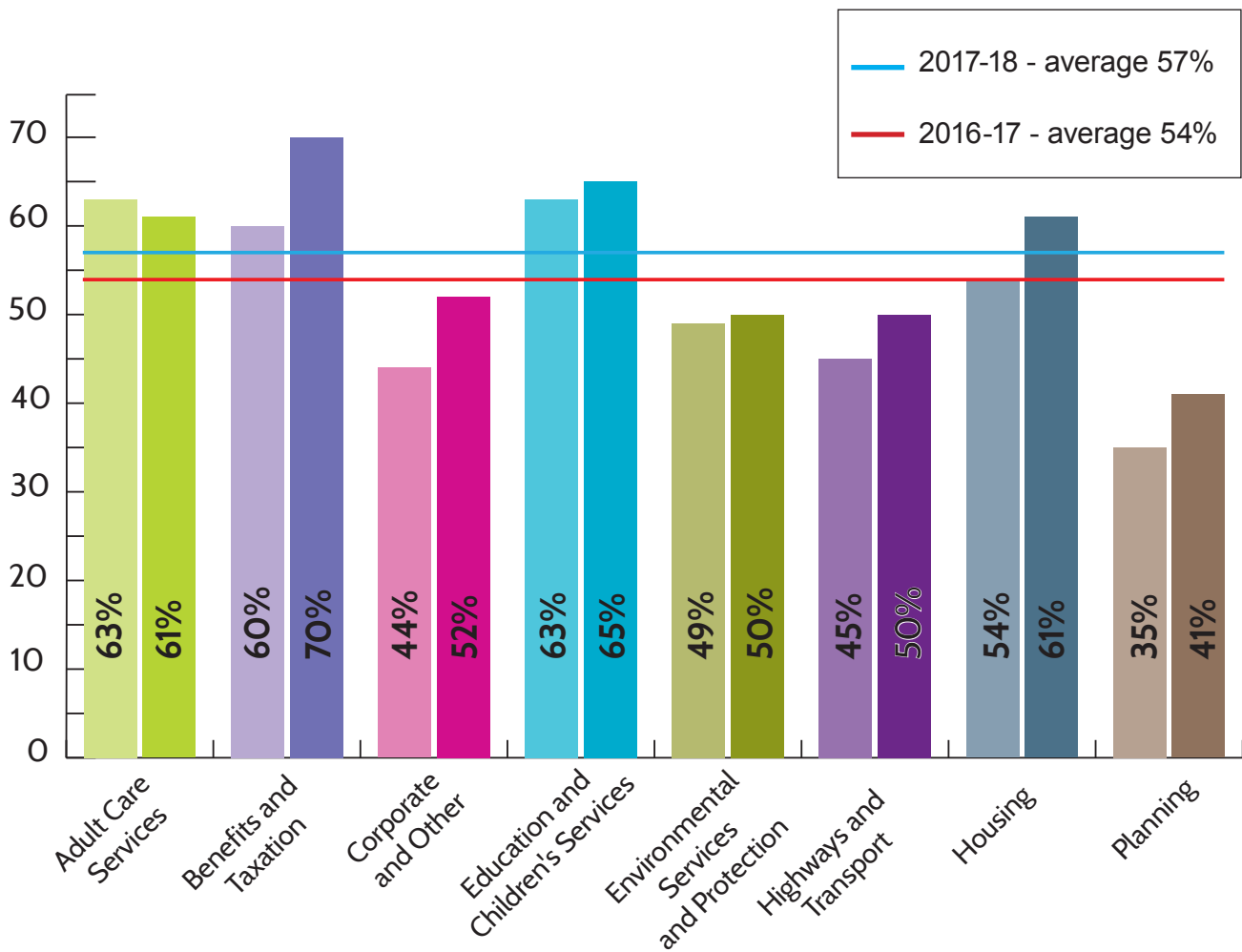
- > We made a decision on whether there was fault and/or injustice
- > We made recommendations to put things right, or provided assurance the body acted correctly

1,982
investigations
not upheld

2,297
investigations
upheld

1,745
investigations
not upheld

2,275
investigations
upheld

Investigation uphold rates (in percentages) 2016-17 (left column) v 2017-18

Recommendations



Councils providing a satisfactory remedy before a complaint has reached us increased by 34% in 2017-18

(230 in 2017-18 compared with 172 in 2016-17)



1,745 number of remedied cases in 2017-18

Types of recommendations

Recommendations to remedy personal injustice typically include things like: an apology, financial redress, provision of services, writing off a debt, or a new appeal or review of a case. They can also encompass creative recommendations to fix things based on the person's circumstances.

Recommendations to improve services typically include things like: a review of policies, change to practices, training staff, and raising awareness raising of issues within the authority and to the public. We can also ask authorities to put things right specifically for others that did not directly complain to us, but may have been affected by the issues found within an investigation.

Satisfactory remedy shows the number of cases where the authority was at fault, but we decided it had done all that it could to put things right by offering a satisfactory remedy during the local complaints process.

Future reporting on remedies

We made a lot of changes to our processes last year to lay the groundwork for us to improve the way we record and publish data about how complaints are remedied.

We are doing this to move away from a simplistic focus on complaint volumes and turn the focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many.

A small number of councils are taking part in a pilot project this year to more systematically record our recommendations and how these are implemented. The aim is to report fully against all councils from 2019-20, with the data visualised through an interactive map. We will be making changes to the format of our annual letters as a result and will be engaging with councils on this early next year.

This new reporting will provide local authorities with a powerful suite of data to track progress against actions they have agreed to remedy injustices, and provide evidence of the outcomes they've improved for their citizens by responding positively to our recommendations.

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