



## **Review of Local Government Complaints 2013-14**





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## Local Government Ombudsman

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“At a time of even greater choice and diversity in local public service provision, public information is essential to support the decisions people make.”

It is important that the LGO is an open and transparent organisation and provides assurance to the public about the work we do and how we spend public money. Local authority complaints make up the bulk of our work. Our unique role is to remedy personal injustice caused by maladministration or service failure by conducting independent and impartial investigations. The recommendations we make affect many more people because we often ask for changes to policy and practice which improve local complaint handling, public administration and service delivery. We regard this as an important part of our role to enhance local accountability to people who use services, many of whom rely on them for their day to day well-being.

At a time of even greater choice and diversity in local public service provision, public information is essential to support the decisions people make. Since April 2013 we have published the decision statements for all our cases on our website. For the first time, this report brings together in one place a summary of data we provide to each council in England in an annual review of complaints in their area. It supplements the LGO Annual Report and Accounts which gives more information about our performance, and follows the first annual review of social care complaints published in May this year.

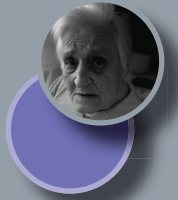
Complaints processes should be responsive to the public. It is important that people know where to complain, how to complain and are satisfied with remedies proposed. Positioned at the apex

of the local complaints system, we want to continue to work with local authorities in support of excellent local complaint handling to put things right as soon as possible. We also want to ensure that the journey for complainants through local procedures to the LGO is as effective as possible. In an increasingly complex delivery environment where the council is more likely to commission than provide a service, we know that journey can be complicated and confusing. To prompt our thinking on this we have included some results from our customer satisfaction research carried out recently, which raises questions about where improvements can be made.

The report includes examples from some of our cases. They are only illustrative of the many matters we deal with, but they give a flavour of how we can help individuals who have experienced problems, and indicate the sort of changes and improvements we can bring about.

I hope this report will help officers and councillors, as well as all those who provide public services locally, to reflect on how they handle and learn from complaints. I hope it will also help all those who use local public services understand better how to raise concerns to good effect.

**Dr Jane Martin**  
**Local Government Ombudsman**



# Introduction

The data within this report refers to the complaints and enquiries we received, and the decisions we made, about English local authorities in the business year April 2013 – March 2014.

This is the first time we have combined our usual practice of writing to councils to report back the annual complaint statistics for their authority, with a report that looks at the state of local government complaints as a whole. This report will become an annual publication, intended to be a tool for those involved in complaint handling, policy making and local scrutiny to analyse trends in complaints about local public services.

We want to give open and transparent access to our data on complaints. We also want to help councils to view their statistics in the context of other local authorities. This is a common request we receive, so with this report we are publishing all of the data in one place. We know that councils have their own unique demographic make-up, so for those wanting to identify similar comparable authorities, we would refer them to the [CIPFA Nearest Neighbour model](#).

In the final section, we provide questions for local councillors to help them assess how their authority responds to, and learns from, complaints.



## Complaint numbers & trends 2013-14

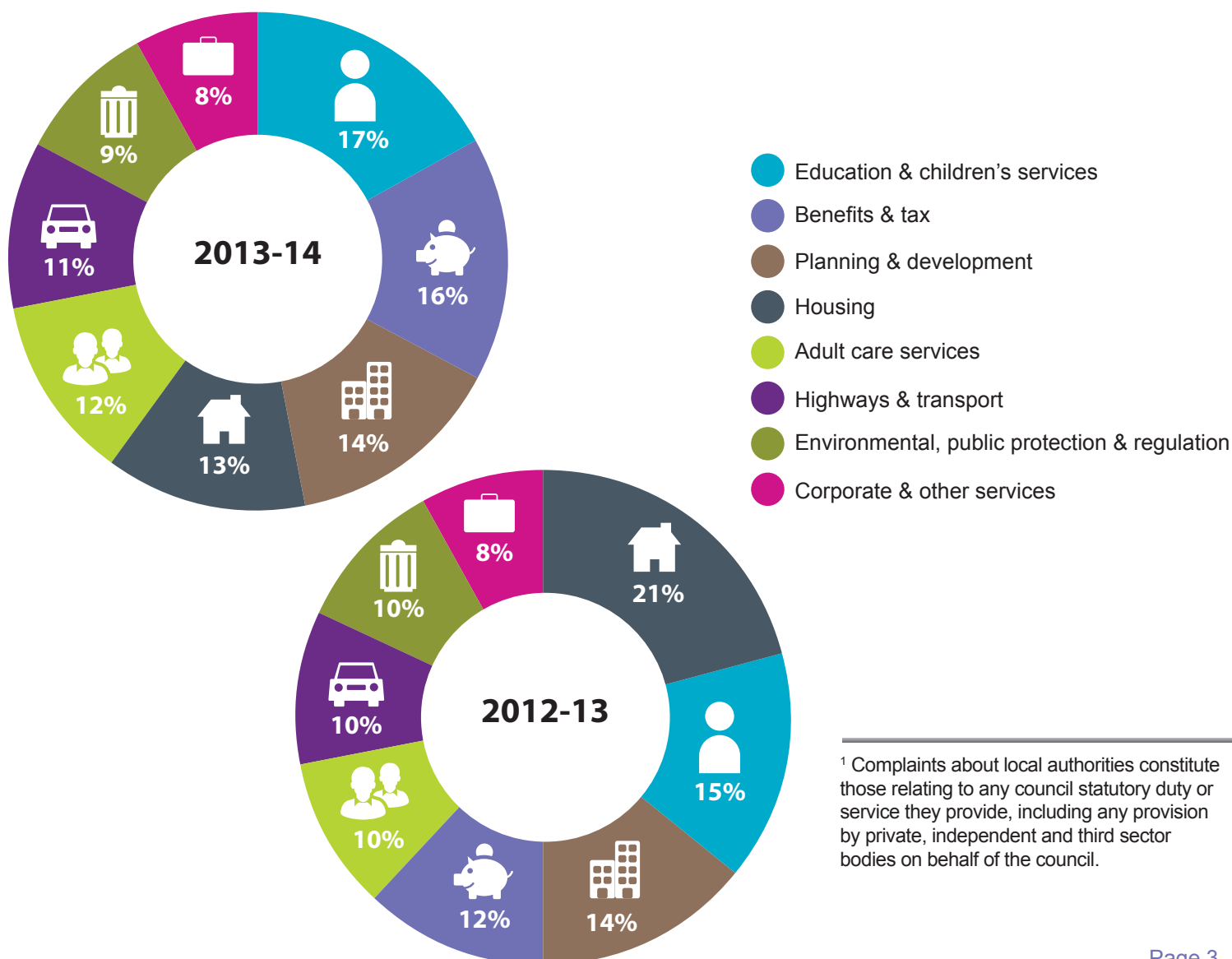
In 2013-14 the LGO registered a total of **20,306** new complaints and enquiries, an increase from 20,186 in the previous year.

While the bulk of our work is about councils, our jurisdiction includes all registered social care providers. For complaints and enquiries solely about local authorities<sup>1</sup> we registered **18,436** new cases, which is a similar level to the previous year's total of 18,940.

However, the broadly static total number of complaints this year accommodated a **39% decrease in housing complaints** – meaning that, in real terms, complaints and enquiries about other council services increased. The expected reduction in housing complaints was because all new complaints about councils' role as social landlords became the responsibility of the Housing Ombudsman Service in April 2013.

Complaints about benefits and tax, and adult social care, were the two areas of work that saw the biggest percentage increase on last year. They were also the two areas in which we are more likely to find fault in a detailed investigation.

The graphics below show the breakdown of complaints and enquiries received in the different areas of our work over the last two years.





# Complaint numbers & trends 2013-14

## Benefits & tax

Complaints and enquiries about **benefits and tax increased by 26%** on the previous year, and had our highest **uphold rate of 49%**.

We recognise that there have been changes to legislation affecting benefits and tax during the year but we have no evidence to indicate whether or not there is a link between these changes and the increase in complaints.

We help people get redress on a range of areas but one of the most common types of complaint we receive is around council tax. We also look at issues with housing benefit, council tax support and debt recovery, including the actions of bailiffs.

Some people who complain to us about benefits and tax rely on these council services for their everyday wellbeing, therefore failures to administer properly can have an acute impact on their lives. Some of these services comprise of 'crisis funds' designed to support those in particular need. A common fault we see from councils is a failure to consider whether the person complaining may be in a vulnerable situation.

Some of the other regular issues we find are:

- > not notifying people of their appeal rights
- > administrative errors around payments
- > not exercising discretion or taking a fixed view
- > a failure to follow policies.

The nature of complaints about benefits and tax means that a remedy will usually include a recommendation for a financial payment, which could include the waiving of debts or a refund. If we find a systemic problem we will suggest the council reviews its procedures to ensure others are not adversely affected.

## Council tax discretion

Bernard bought an empty property and was renovating it. He originally received an exemption covering empty homes undergoing renovation, and did not pay council tax.

The Local Government Finance Act then allowed the council to impose a premium on owners of properties empty for more than two years. Bernard later became liable for 150 per cent council tax.

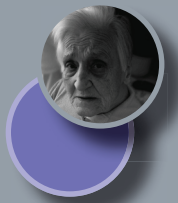
Bernard contacted the council to ask if it could reduce the amount he was paying because of his personal circumstances, but officers wrongly told him that that the council had no discretion to reduce it on an individual basis.

During our investigation the council told us that it does in fact have a scheme offering discretionary reductions, but said that Bernard would not qualify. The council decided in advance that it would automatically refuse an individual application where they do not fall into a set class of criteria, thereby fettering its own discretion.

The council has agreed to invite Bernard to make an application for a discretionary reduction in his council tax bill and consider it from the date at which he first asked the council for help.

We have asked the council to make a decision within two months and provide Bernard with the reasons for its decision in writing, so that he has the option to appeal to the Valuation Tribunal if his application is unsuccessful.





# Complaint numbers & trends 2013-14

## Social care

Complaints and enquiries about **adult social care increased by 16%** and we **upheld 48%** of complaints after detailed investigations. As the Social Care Ombudsman we provide a route for redress for all care complaints – both publicly and privately funded – and our recently published review of social care complaints for 2013<sup>2</sup> highlighted it as one of our fastest growing areas of our work.

The three areas most complained about last year were assessment and care planning; fees, grants and payments; and residential care.

Assessing and planning for care is one of the most fundamental local authority duties. Often we find fault within the assessment process when all the facts have not been taken into account, or a person's individual needs are not placed at the heart of the process, resulting in care packages that do not meet people's needs.

People not being given clear and comprehensive information is a common fault around the charging of care, as well as so called 'top-up fees' being sought when the person's care should be fully covered by public funding.

Complaints about residential care often come from family members because the person receiving care is unable to complain. A common issue is the failure to monitor properly and record the condition of people, and the care provided, which leaves family members uncertain that loved ones are properly cared for in their absence.

It is difficult to put a price on the cost of missed or inadequate care, but in remedying a situation we can recommend a financial payment.

This can be an amount to recognise how the injustice has affected the person, or when somebody has lost out financially we can recommend that costs are waived or refunded. Where poor planning and care assessments have taken place we will usually recommend a fresh assessment is carried out. We will always seek to ensure that the same mistakes do not happen again, and where appropriate we will recommend councils carry out reviews of policies and procedures, and undertake staff training.

### Ignoring the evidence

Peter has autism, epilepsy and moderate learning disabilities. He lives at home with his mother. After his NHS funding was withdrawn the council assessed his needs but failed to comply with its legal duty to agree an aftercare plan.

Care professionals raised concerns that the care package offered would not meet Peter's needs but our investigation showed that the council failed to take into account all the relevant evidence. As a result Peter and his mother were left without the support they needed and Peter was unable to access respite. Their frustration was further increased when the council's response to the complaint contained inaccurate information.

We recommended that the council reassess and expedite the process of identifying Peter's needs so a care package could be agreed. We also recommended that they apologise for the way they carried out the original assessment and for how they responded to the complaint. We also recommended a financial remedy.

<sup>2</sup> Our [Review of Adult Social Care Complaints](#) covered the 2013 calendar year and published for the first time our statistics for social care complaints about private care providers as well as local authorities.



## Complaint numbers & trends 2013-14

**18,436** registered local authority complaints & enquiries



Housing  
down 39%



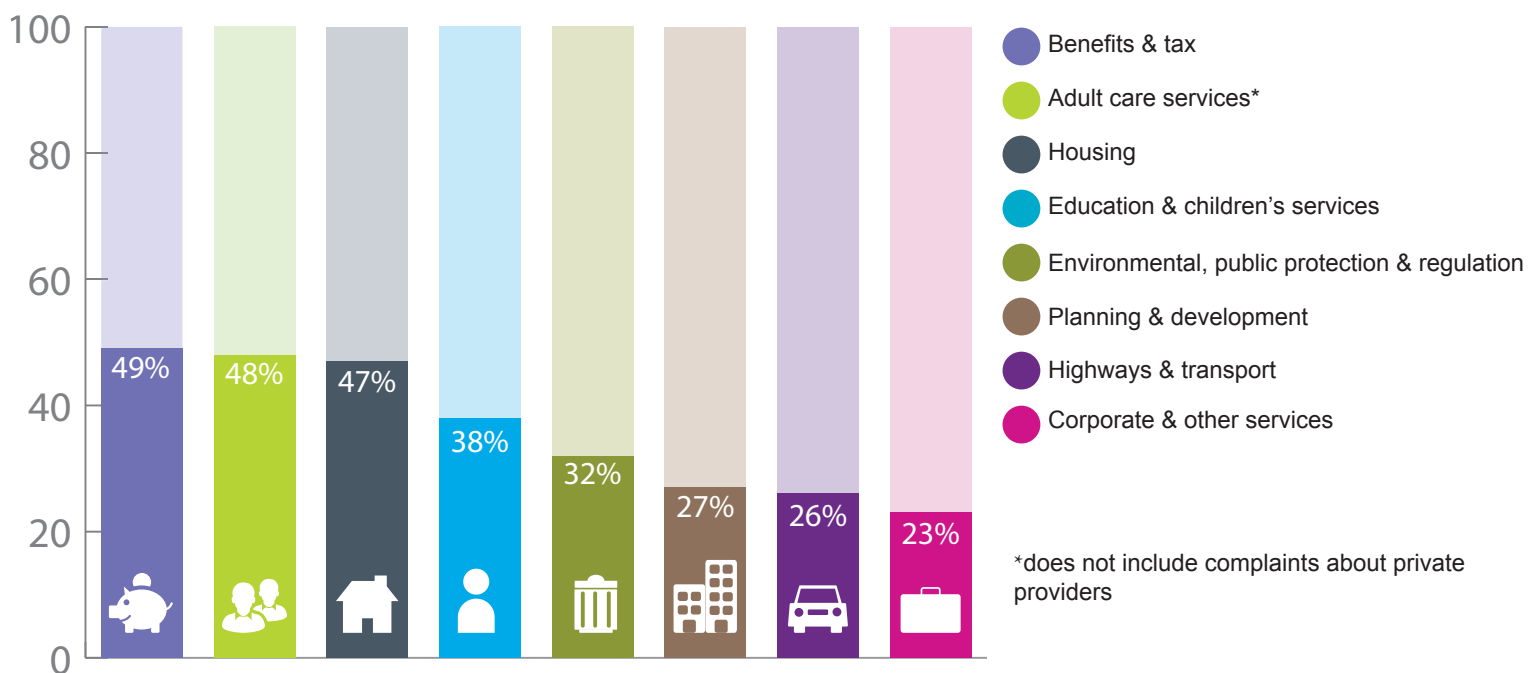
Adult care services  
up 16%



Benefits & tax  
up 26%

### Complaints upheld

For the first time this year we have started to record complaint outcomes in a simpler way to show whether or not we have upheld a complaint. This year we **upheld 46%** of all complaints we investigated in detail. Below are the percentages by complaint type.







# The complainant's journey

The people in the best position to hold service providers to account are those who use the service. Complainants tell us they want their complaints considered as quickly as possible by somebody who has the authority to put things right, and they want authorities to take responsibility when things have gone wrong. This demonstrates the need for councils to have an effective complaint handling service – one which is simple to access and provides a timely and consistent service.

Our role is to offer the assurance of an independent and consistent view when complaints cannot be resolved locally, and use our powers to ensure injustices are remedied. But referral to the ombudsman should be the last resort, once local routes to redress have been exhausted. We want to support councils to have the best possible front-line complaints service, which we do by sharing information and best practice.

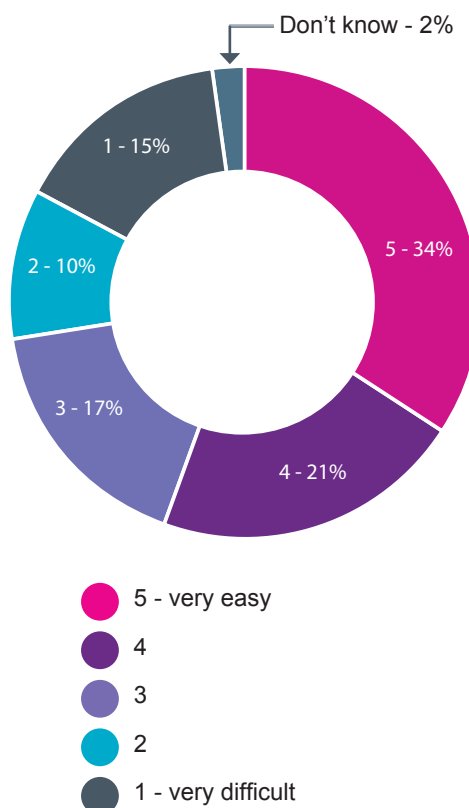
During the year we carried out independent customer satisfaction<sup>3</sup> research about our service. The results also provided insight into the local authority complaints system as a whole, which may help councils better understand the customer experience of the system. They pose some questions about whether the local government complaints system is operating as effectively as it could be.

## Accessibility

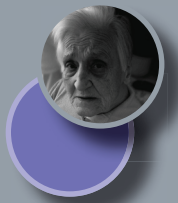
We know that the complaint system can feel more like a maze for people seeking to raise a complaint. Our research focused on the key access points when complainants navigate their way through local procedures to the Ombudsman. The figures below indicate where improvements could be made.

People were asked to say, on a scale of 1 to 5, how easy it was **to find information on how to make a complaint about their authority**. It is positive that over 50% of people rated it near the easy end of the scale. However, a quarter of people also rated it as difficult. The system should work as effectively as possible so that people can easily raise complaints locally and embark on a simple route to redress as soon as possible. Clear information about local procedures will also help to avoid people coming to the Ombudsman only to be referred back to the council.

### How easy was it to find information on how to make a complaint about your authority?



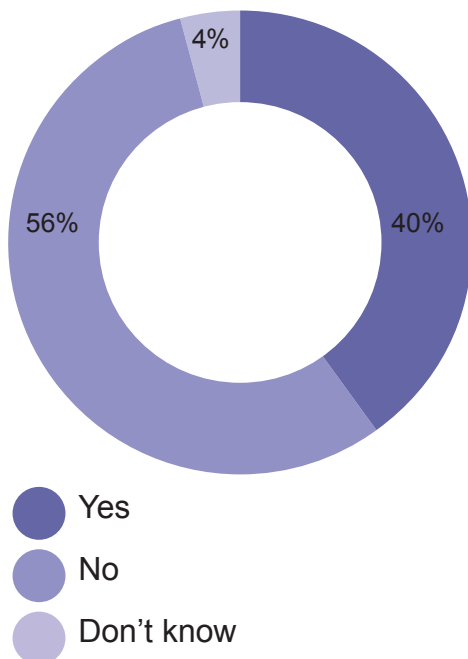
<sup>3</sup> Our research involved an independent research company carrying out more than 800 telephone interviews with people who had ongoing cases with us. The aim was to gain a better understanding of the customer satisfaction of our service, independent of the complaint outcome. Those surveyed were a random selection from our whole caseload, so will include a small percentage of people who had a non-local authority related complaint, for example regarding a private care home. The research in full will be available on our website.



# The complainant's journey

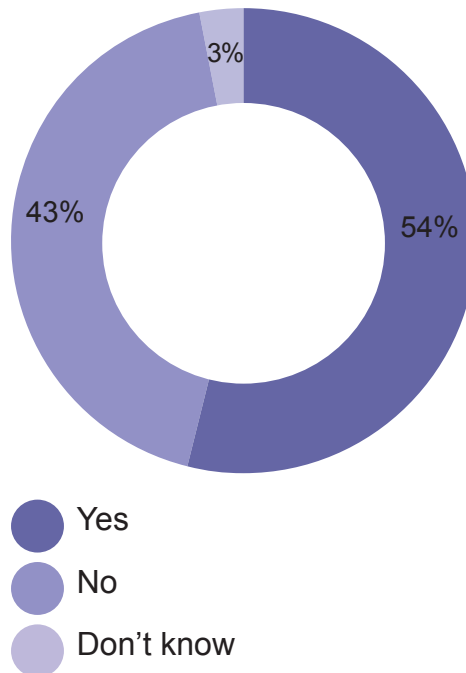
**56% of people did not recall being made aware of their local authority's complaint handling procedures.** All councils have published complaints procedures, but this would indicate that the majority of people who complain do not feel engaged with them. Councils may want to reflect on whether there are better ways to ensure complainants understand what they can expect from their local complaints service.

**Were you made aware of the local authority's complaint handling procedures?**



**43% of people were not advised that they could refer their complaint to the Local Government Ombudsman.** It is not a statutory requirement for councils to signpost to the ombudsman. These results indicate that many councils do follow this good practice, but despite this, not enough people are being advised of their right to access redress.

**Were you advised that you could refer your complaint to the Local Government Ombudsman?**



Councils increasingly deliver their services through a mix of public, private and third-sector parties, and personal choice is increasingly part of the mix for consumers. Whilst councils have a good track record historically of signposting people to the ombudsman, the companies who work for them may be less familiar with the LGO, and not as effective in providing an accessible complaints service. In this multi-agency environment, councils may want to ask whether their contracted companies are responding to complaints effectively, and whether they ensure that accountability is retained through the commissioning and contracting process.

## Timeliness

The research also indicates that some complaints are taking a long time to be resolved locally before people come to us for an independent view.

The research 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 somebody tried to resolve their complaint before approaching us was nine months.**

We recognise that some complaints can be complex and require detailed investigation locally, and we know there are some statutory processes, such as for children's social care, which require a longer timescale, but we advise that most complaints should take no longer than 12 weeks to be resolved. This is a reasonable time for a council to consider a complaint and come to a final response. It is also good practice to have published complaint procedures that include time targets for specific stages, which are well publicised. In the rare cases that warrant further time, this should be communicated to the complainant as soon as it is known.

Sometimes people complain to us before they've given the council the full opportunity to resolve the matter. When this happens, we refer people back to the council and advise how we can help if, after exhausting the local process, they remain dissatisfied. If a complaint comes back to us following this scenario we class it as a re-submitted complaint.

This year we made decisions on 1,387 cases that were re-submitted to us. We found some form of fault in 292 of these, which is **more than a fifth** (21%) of the total amount of re-submitted cases. In these instances, it could indicate a missed opportunity for local authorities to resolve the complaint before they were referred to us.

# Better services for people: sharing the lessons from complaints



The thousands of complaints and enquiries we deal with each year place us in a unique position to draw on these experiences to shape wider service improvements.

In April 2013 we started to publish all of our decision statements, unless where to do so would have compromised the anonymity of the person complaining. This brings greater transparency to our decision making, whilst providing an important resource to inform local scrutiny and service improvement.

For some complaints we highlight a wider public interest by releasing a detailed investigation report. We published 58 of these this year.

We also published new [Guidance on Remedies](#). Produced primarily for our own staff, we also made this publicly available so complaint handlers can understand our approach to remedies, and use it as a resource when suggesting suitable remedies locally.

## Making complaints count

As well as helping individuals achieve redress, our investigations can have a wider outcome for the public. Sometimes we uncover systemic fault, and a single investigation can recommend remedies that right the wrongs for many people in similar situations to the person complaining.

### Justice for hundreds of foster carers

More than 340 foster carers were given the right support that they had been denied, following a single investigation.

Fiona was asked by the council, and agreed to care for her nephew after his parents became unable to care for him. Left struggling to cope, she complained to us that she was not receiving the correct amount of financial support from the council.

Upon investigation, it was discovered that a council-wide approach meant that more than 340 other 'family and friends' carers were also missing out on payments to which they were entitled. A whole group of people who provide such a critical support system for children who can no longer live with their parents were being mistreated.

The council not only agreed to increase Fiona's payments, and backdate that which she had missed out, but it also agreed to pay all those carers receiving special guardianship allowance the correct rate, and to pay all its foster carers at least the Government's national minimum fostering allowance rate.

The case led to us producing an in-depth report calling for equality for carers who look after the children of family and close friends. It encouraged other authorities to look again at their own processes and procedures to ensure that other carers across the country were not being disadvantaged in the same way.

# Better services for people: sharing the lessons from complaints



## Elderly tenants reimbursed

Trudie lives in council-managed sheltered accommodation for people over the age of 60 and was worried that she was paying too much for her water. Her bill was nearly double the local water authority's Assessed Household Charge of £175.

The council said it had charged her for water use in accordance with its policy. But, during our investigation, the council identified that it had been charging all the residents far more than it had paid the water company, which was not in accordance with the Water Resale Order.

In total, the council had overcharged tenants by more than £38,000 over the space of five years.

The council has since written to Trudie to apologise and tell her and nearly 60 elderly neighbours that they are owed money and that they will be reimbursed that which they had been overcharged. It also agreed to carry out a review of how it charges tenants for water across the authority.

## Driving service improvement

Many people say to us that a major motivation for complaining is for somebody to take responsibility for what has happened and to ensure that mistakes that have afflicted them do not happen to others. We will often ask for an apology and our investigations always seek to inform and drive service improvement, with councils agreeing to carry out reviews, policy changes or training to ensure faults are not repeated.

## Care charging policy revoked

Jenny agreed to have home care after a stay in hospital and for the first six weeks this was free.

A review of Jenny's care was carried out and her social worker recommended that she needed a long-term care package. The county council then applied a weekly charge before completing its financial assessment.

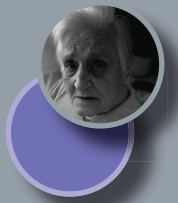
Guidance from the Department of Health says that councils should not apply charges retrospectively, and should not charge before a financial assessment is carried out and the customer informed.

Our investigation found that the council's provisional charging policy, which had been in effect for 18 months, did not comply with statutory guidance.

We recommended that the council reconsider the policy, waive Jenny's provisional charge and make a payment of £200 to her son for the time and trouble in having to bring the complaint to us.

With other older people potentially affected by the policy, we recommended, and the council agreed, to identify who they were and make arrangements to repay any charges due to them.

# Better services for people: sharing the lessons from complaints



## Putting things right

In deciding upon remedial action or a payment to acknowledge an injustice, we will take into account the unique circumstances of each case. We can suggest remedies that are a creative way of replacing something that was missed as a result of the fault – for example a contribution towards a child's education fund – or takes into account other people that were affected.

### Village gets respite from noise

An investigation helped a village community get respite from years of excessive noise, and the community centre receive support.

A group of residents complained about the noise from a nearby racetrack, and said that their local council had not been enforcing the historic restrictions that were part of its planning approval.

The villagers had been affected for a number of years and said that the council was slow to act in enforcing the issues. It left them feeling like they were trapped in their homes, unable to spend time in their gardens.

As part of the remedy, the council instructed a barrister to provide legal advice on the contents of a new notice to be served on the new track operators.

The LGO also recommended that the council consider outstanding queries about the impact alterations to the track had made on noise levels. One couple received £2,500 and the council paid £5,000 to a second couple as a contribution towards legal fees they had incurred.

The council also made a £1,000 donation to the village schoolroom committee for the benefit of other residents who were also involved in the complaint.

## Supporting local complaints procedures

Sharing the learning from complaints is an important part of encouraging good local complaints handling and service improvement. Using our experience of complaint handling, we offer advice and training to councils to help them deal with complaints more effectively.

This year we provided 45 training courses to more than 750 council staff involved in complaint handling. The feedback from attendees after the courses showed that:

- > 45% more people know how to use complaints to drive service level improvements
- > 89% more people feel confident about dealing with complaints



# Local scrutiny & accountability: a key role for councillors



During 2013 the Local Government Information Unit (LGIU) published a report, following a survey of over 400 local government senior officers and elected members, into how we could use our complaints data to enhance local accountability. It found that more than 75% of respondents wanted us to provide more access to detailed information about local government complaints.

We are fully committed to support local scrutiny and the representative role of councillors. They have a democratic mandate to scrutinise the way services are delivered and hold those services to account, and we believe they can use complaints as an important tool to support that process.

We started publishing all of our decision statements online on new complaints after 1 April 2013 – becoming the first UK public sector ombudsman to do so.

This year we have also sent to every council leader a copy of the annual letter we present to council chief executives. These letters provide our complaint statistics about their authority and feed back any particular issues of concern.

## Questions for elected members and scrutiny committees

Members may wish to consider the following questions to assess whether their council is responding to and learning from complaints.

Does your council:

- > regularly report its experience and learning from complaints to elected members?
- > provide open access to complaints data for councillors and the public?
- > actively seek feedback from service users on its complaints handling?
- > clearly display information about its complaints process online and in all service delivery settings?
- > advise complainants of their right to access the ombudsman, and provide the correct contact information?
- > ensure providers of services also respond to complaints raised and learn from them through commissioning and contracting?





# About the ombudsman

Since 1974 the Local Government Ombudsman has independently and impartially investigated complaints about councils and other bodies within our jurisdiction. Our services are free of charge. If we find something wrong, we can ask the council to take action to put it right. What we ask the council to do will depend on the particular complaint, how serious the fault was and how the complainant was affected. We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise for the fault and the injustice caused
- > take action to put things right as soon as possible
- > pay a financial remedy to acknowledge the impact of the injustice caused, such as distress
- > improve procedures so similar problems do not happen again

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