



ANNUAL REPORT AND ACCOUNTS

2016/17



Annual Report & Accounts

of

The Public Services Ombudsman for Wales
for the year ended
31 March 2017

Laid before the National Assembly for Wales
under paragraphs 14,16 and 17 of Schedule 1
of the Public Services Ombudsman (Wales) Act 2005

Contents

Performance Report.....	1
Ombudsman’s Review of the Year.....	2
Who we are, what we do	8
The Complaints Service	12
Overall Casework Statistics.....	14
Cases of Note	24
Annual Sustainability Report	27
Annual Equality Report.....	29
Key Financial Data	35
Accountability Report.....	37
Corporate Governance Report.....	38
Statement of Accounting Officer’s Responsibilities.....	42
Annual Governance Statement 2016/17.....	43
Remuneration Report.....	54
National Assembly for Wales Accountability and Audit Report.....	58
Reconciliation of Net Resource to Net Cash Requirement.....	59
The Certificate and Report of the Auditor General for Wales to the National Assembly for Wales..	60
Financial Statements.....	63
Statement of Comprehensive Net Expenditure.....	64
Statement of Financial Position.....	65
Statement of Cash Flows	66
Statement of Changes in Taxpayers’ Equity	67
Notes to the Financial Statements	68
Pensions Disclosures	82
Annexes	93
Annex A: Public Body.....	94
Complaints closed – Statistical Breakdown by outcomes by public body	94
Annex B: Code of Conduct Complaints closed – Statistical Breakdown by outcomes by local authority.....	105
Annex C: Complaints About PSOW service.....	109



Ombudsman's Review of the Year



It is with great pleasure that I present the first combined annual report and accounts for the Public Services Ombudsman for Wales (PSOW) for the year ended 31 March 2017, which was my second full year in office. In accordance with paragraph 18 of Schedule 1 to the Act, I have personal responsibility for the overall organisation, management and staffing of the office and for its procedures in relation to financial and other matters.

Progress in Innovation, Improvement and Influence: A Review of 2016/17

I am delighted to be able to report substantial progress in the activities of the office over the past year, with specific reference to our three year strategic themes of *innovation*, *improvement* and *influence*, which have led to substantial increases in outcomes for complainants and, I hope, positive impacts on public services.

In terms of *innovation* the office made further progress on compliance, ensuring that recommendations for improvement are implemented and that we ensure that the learning from complaints is acted upon. We also continued to make progress with changes emerging from our paperless project.

This year I established Sounding Boards for the first time, holding meetings with voluntary sector representatives and the health sector, providing a “safe space” where bodies in jurisdiction, or key representative bodies, can challenge me about what we do and how we do it.

One area of particular improvement was the improvement on timescales – with a move towards *complainant centred timescales* and I am pleased that the Complaints Advice Team succeeded in ensuring that targets are met from when we receive complaints, rather than

when we have gathered sufficient information in order to investigate. The establishment of the Code Advisory Group has meant the proactive oversight of code of conduct complaints, and a seven per cent reduction in cases taking longer than six months. I was delighted that the introduction of the Public Interest Test has reduced the number of low-level complaints being considered by my office and that in the very rare occasions where we do refer more serious matters to the Adjudication Panel for Wales, it has found breaches of the code.

A new Quality Assurance Framework was developed with staff so that as well as coping with ever increasing quantities of work, the qualitative aspects of what we do are also supported. There have also been a range of good practice seminars for staff and a Staff Risk Workshop to

help support a new approach to Risk Management. We also appointed ICRS in order to undertake independent review of complaints about our services and also undertook a review of our information security.

The *improvement* function has started well. All Improvement Officers have developed specific action plans for the relevant bodies in jurisdiction this has led to a number of specific improvements in their complaint handling cultures:

Ceredigion County Council accounted for 28 per cent of upheld local government closed complaints in 2014/15; in 2016/17 this figure was 17 per cent.

Abertawe Bro Morgannwg University Health Board saw a substantial reduction of more than 25 per cent of their complaints received.

There was a small reduction in overall complaints closed against Aneurin Bevan University Health Board, which included a 14 per cent reduction in upheld complaints.

Whilst both Hywel Dda and Cwm Taf University Health Boards saw a significant increase in their complaint volumes, I am pleased to see that there was no corresponding increase in upheld complaints for Hywel Dda. In fact, there was a 50 per cent reduction. However, Cwm Taf saw a slight increase in upheld reports.

Unfortunately complaint volumes, upheld complaints, and public interest reports all increased for Betsi Cadwaladr University Health Board in 2016/17.

Given the variance in Health Board performance in complaint handling my office will be organising a special seminar for health complaints and best practice.

I was delighted that my first thematic report on Out of Hours services led to a peer review by the Welsh Government to be implemented throughout 2017. I produced a further thematic report *Ending Groundhog Day, Lessons from Poor Complaint Handling* in March 2017.

In 2016/17 there was a further increase in the use of Voluntary Settlement, an increase of some 26% per cent on the previous year. However, whilst this can lead to speedier resolution for complainants and cheaper processes for public services, it is important that Early Resolution is not seen as some form of easy escape for bodies in my jurisdiction. In May 2016 I issued a Section 22 report against Hywel Dda University Health Board when it failed to comply with an Early Resolution agreement. I expect the same level of compliance to an Early Resolution as with a recommendation emanating from an investigation.

I published six public interest reports in the course of the year, three of which were in relation to Betsi Cadwaladr University Health Board, a number of health reports also related to Out of Hours services.

In order to meet the needs of the people of Wales, my office can only function effectively through getting the best out of the talented people in its employ. During 2016/17 further developments were made to a new performance review and development planning system with further investment in training including HR support, Management Training and Coaching. We conducted a Staff Survey which led to an action plan which is being implemented. We have also looked at the structure of the organisation with further changes in relation to policy, communications, data, HR, information and ICT to ensure that we are fit for the future. In terms of staffing costs of particular note was the confirmation by the Cardiff and Vale of Glamorgan Pension Fund that the long standing pension deficit has been eradicated with the office intending to return £292,000 of the cash allocated in the 2017/18 Estimates. No further deficit payments are required.

In terms of our *influence* and collaboration with other bodies inside and outside Wales 2016/17 was a busy year. We implemented joint Internal Audit arrangements with the Older People and the Children's Commissioners and also implemented payroll arrangements for the Future Generations Commissioner. I was also delighted to participate in Wales Audit Office events on complaints in both North and South Wales. Memoranda of Understanding were signed with a number of Commissioners and Healthcare Inspectorate Wales.

I also met with NHS Chief Executives, Medical Directors and the NHS Confederation ensuring robust but constructive engagement and discussion.

During the course of the year I had positive appearances at the Equality, Local Government and Communities Committee and the Finance Committee of the National Assembly for Wales (NAW).

I was delighted to be elected to both the European and World Boards of the International Ombudsman Institute (IOI) and to continue as vice Chair of the Ombudsman Association (OA). PSOW staff have also played a key part in broader networks, with Chris Vinestock, the Chief Operating Officer, contributing to work on Service Standards across the sector, Katrin Shaw, Assistant Director of Investigations, chairing the Ombudsman Association Legal Interest Group and Marilyn Morgan providing PA services on a part time basis to the OA. One Investigation Manager, Claire Beynon, provided direct training to the new Northern Ireland Public Service Ombudsman and Jenny Strinati and Susan Hudson collaborated with other jurisdictions on Equality and Human Rights issues.

In October 2016 the IOI and OA held a seminar at Aberystwyth University which looked at the differing jurisdictions emerging in Scotland, Ireland and Northern Ireland in the context of draft PSOW legislation and the event was addressed by Rafael Ribó, Catalan Ombudsman and President of the European IOI, as well as Simon Thomas AM Chair of the NAW Finance Committee.

During 2016/17 we submitted a Regulatory Impact Assessment to the Finance Committee and I am very hopeful that the legislation will now be taken forward in 2017/18.

Finally, 2016/17 was a year of not just positive activity, but of positive outcomes. Despite the challenge of increasing workloads the number of complainants who received a positive outcome from my office, either through voluntary settlement or an upheld complaint, increased by 16 per cent!



Nick Bennett
Ombudsman

SNAPSHOT OF THE YEAR 2016/17

April

Published our new three-year strategic plan 'Innovation, Influence and Improvement'



May

Issued the first ever special report against a Health Board under Section 22 of the PSOW Act



June

Held our first meeting of the Service User Sounding Board comprising representatives from voluntary and advocacy groups to feedback on accessibility and of our service and processes

Chaired the Academi Wales summer school

Participated in Wales Audit Office complaints seminars



July

Our annual report highlighted a 4% rise in Welsh NHS complaints

Issued the Annual Letters to Health Boards and County Councils



August

Exhibited at the National Eisteddfod in Abergavenny

Issued updated Code of Conduct Guidance for county and town/community councillors



September

Took steps to improve transparency and openness by publishing our first open data spreadsheet – a list of all complaints closed by the office during 2015/16

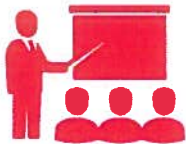


SNAPSHOT OF THE YEAR 2016/17

October

Held a joint seminar with The WISERD-Centre for Welsh Politics and Society, Aberystwyth University, the Ombudsman Association and the International Ombudsman Institute to discuss the Ombudsman in a decade of public policy change

Elected as a Director of International Ombudsman Institute



November

Held our first Health Sector Sounding Board meeting
Issued three public interest reports against Health Boards



December

Welsh Government committed to conducting a peer review of out of hours care following a recommendation in our thematic report last year

Issued a public interest report against Bridgend County Borough Council for not monitoring a looked-after child's savings while he was in care, eventually resulting in him receiving the full amount back



January

Held awareness session on the role of the Ombudsman for Assembly Members



February

Launched the pilot of a tool to help investigators consider human rights in Ombudsman casework



March

Raised awareness of our work at the first Wales Council for Voluntary Action's annual conference

Published the second thematic report in 12 months - 'Ending Groundhog Day: Lessons from Poor Complaint Handling' which looked at failings in investigations by public bodies in Wales



Who we are, what we do

Role of the Public Services Ombudsman for Wales

As Ombudsman, I have two specific roles. The first is to consider complaints about public services providers in Wales; the second role is to consider complaints that members of local authorities have broken the Code of Conduct. I am independent of all government bodies and the service that I provide is free of charge.

Complaints about public service providers

Under the PSOW Act 2005, I consider complaints about bodies which, generally, are those that provide public services where responsibility for their provision has been devolved to Wales. The types of bodies I can look into include:

- local government (both county and community councils)
- the National Health Service (including GPs and dentists)
- registered social landlords (housing associations) and
- the Welsh Government, together with its sponsored bodies.

I am also able to consider complaints about privately arranged or funded social care and palliative care services.

When considering complaints, I look to see whether people have been treated unfairly or inconsiderately, or have received a bad service through some fault on the part of the service provider. Attention will also be given to whether the service provider has acted in accordance with the law and its own policies. If a complaint is upheld I will recommend appropriate redress. The main approach taken when recommending redress is, where possible, to put the complainant (or the person who has suffered the injustice) back in the position they would have been in if the problem had not occurred. Furthermore, if from the investigation I see evidence of a systemic weakness, then recommendations will be made with the aim of reducing the likelihood of others being similarly affected in future.

Code of Conduct Complaints

Under the provisions of Part III of the Local Government Act 2000 and also relevant Orders made by the National Assembly for Wales under that Act, I consider complaints that

members of local authorities have breached their authority's Code of Conduct. I can consider complaints about the behaviour of members of:

- county and county borough councils
- community councils
- fire authorities
- national park authorities and
- police and crime panels.

All these authorities have a code of conduct which sets out in detail how members must follow recognised principles of behaviour in public life.

If a county councillor wishes to make a complaint about another county councillor within their own authority, then I expect them to first of all make their complaint to that authority's Monitoring Officer, as it may be possible to resolve the matter locally without my involvement.

Management Team

The Management Team has continued to support and advise me in relation to strategic direction as well as the operational, day to day, running of the office.

Shared Services and Collaboration

My Finance, ICT and HR staff, who enable the delivery of our objectives, already work collaboratively when appropriate, sharing professional knowledge through a network comprising Welsh Government sponsored bodies plus Commissioners and they will continue to do so.

We continue to look to identify opportunities to work towards any pooled arrangement for sharing knowledge, skills and experience to achieve cost savings.

Improvement Officers

Last year I introduced into the roles of a number of investigation staff in my office, the additional role of 'improvement officer'. Whilst the main element of their role remains the investigation of complaints, their improvement role will include stakeholder engagement with certain bodies in jurisdiction as well as subject leads for areas which continue to affect quality public services.

I am pleased to say that I do not consider Cardiff & Vale University Health Board a priority for improvement engagement with my office any longer and so it no longer has an improvement officer linked to it. However, an improvement officer has been assigned to one new body for the coming year.

So for 2017/18 those organisations assigned an Improvement Officer are:

- Abertawe Bro Morgannwg University Health Board
- Aneurin Bevan University Health Board
- Betsi Cadwaladr University Health Board
- Ceredigion County Council
- Cwm Taf University Health Board
- Hywel Dda University Health Board
- Powys County Council

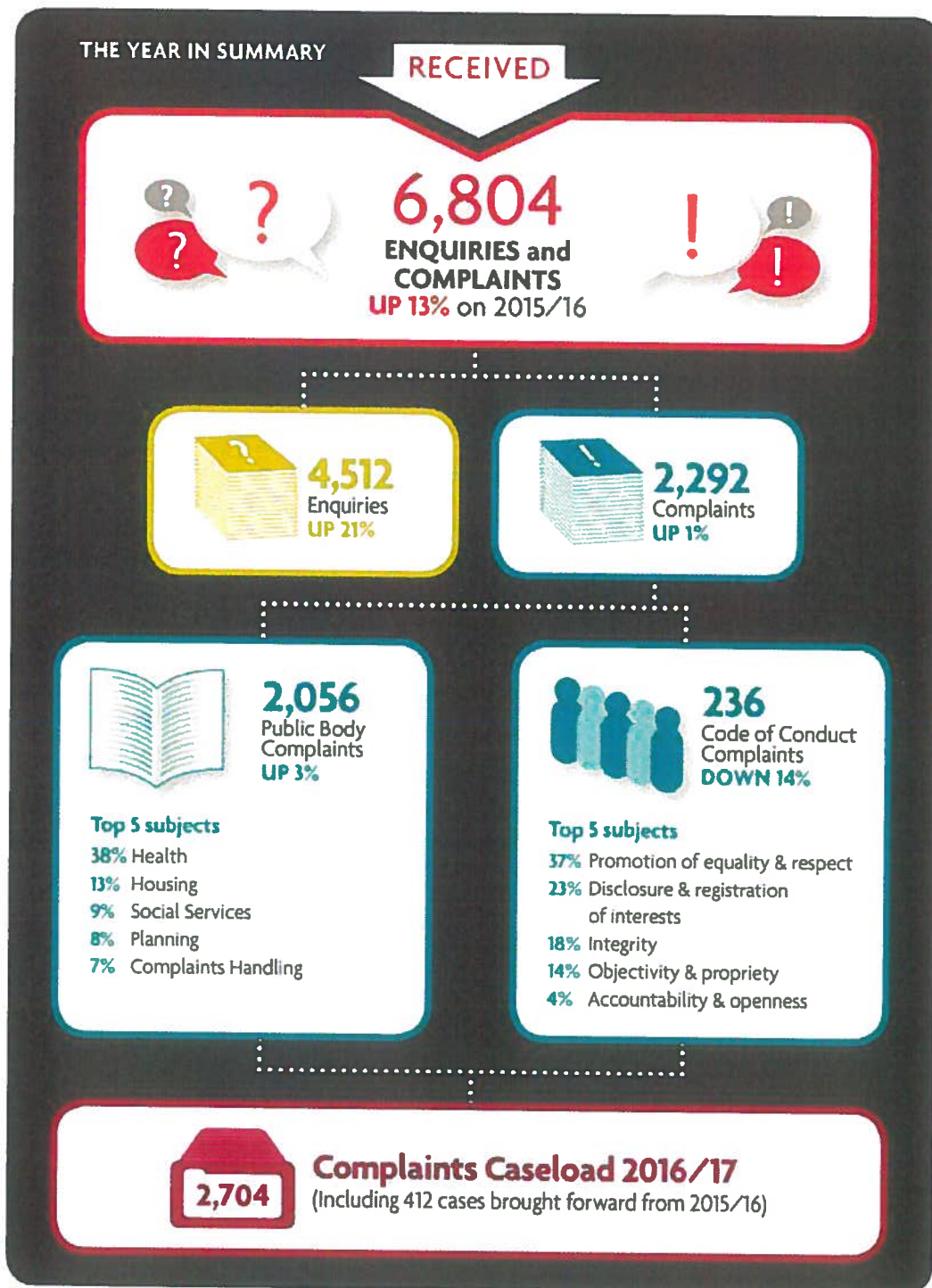
In engaging with these bodies we hope to see ongoing improvements in complaints handling, learning and putting things right, along with the governance arrangements necessary for continuous improvement. We will regularly review our data, and the insights we gain from these arrangements, to identify areas for improvements. I will in due course consider whether it would be beneficial to extend this approach to other bodies.

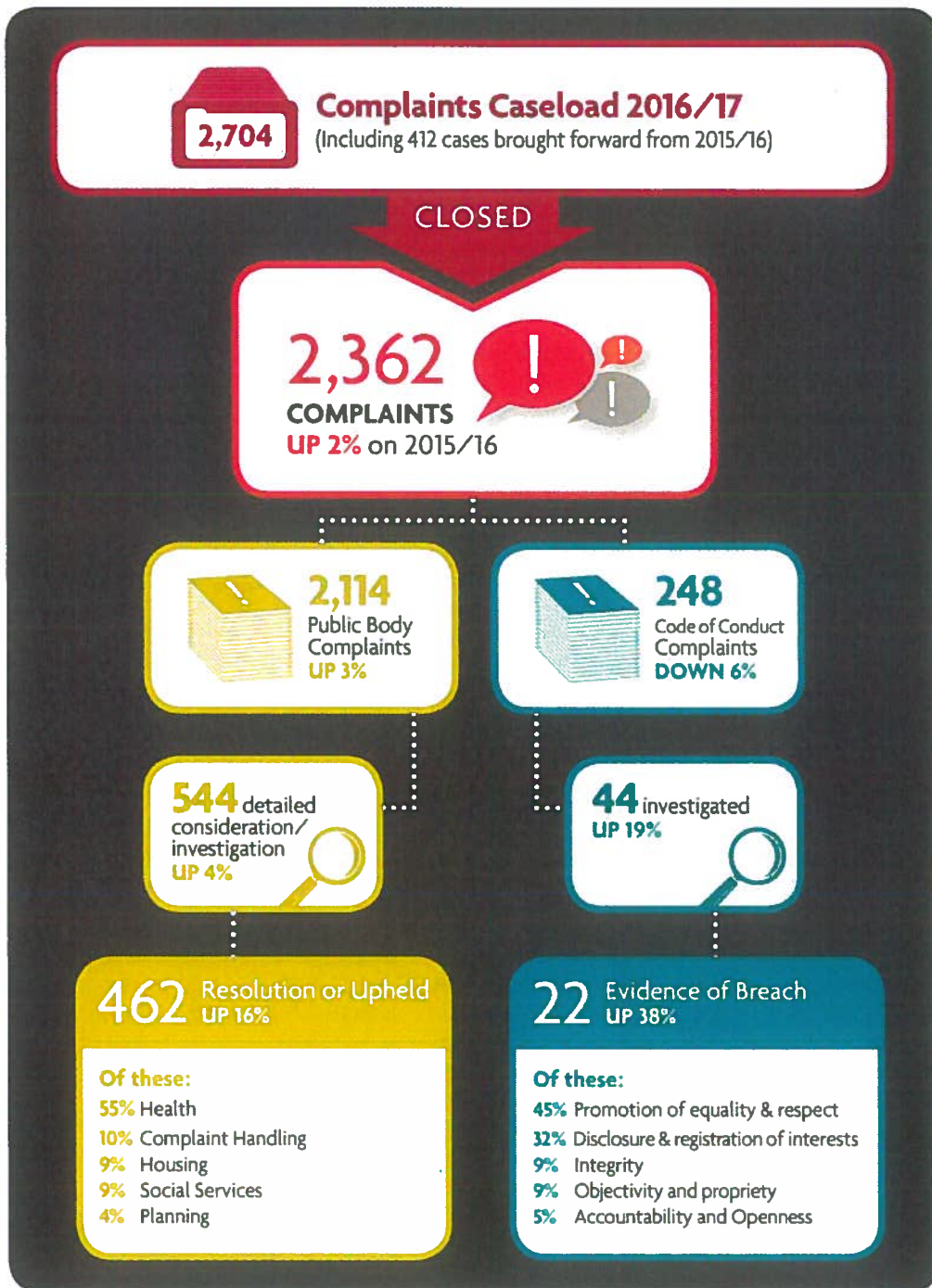
Subject leads are in place for:

- health
- housing
- local government planning services
- social services
- school appeals
- the code of conduct for local authority members
- our service provision on the Welsh language, and
- recommendations and compliance

Subject leads are specifically tasked with identifying trends from casework across the office, leading on thematic reports, and monitoring legislative and other developments affecting the subject areas.

The Complaints Service

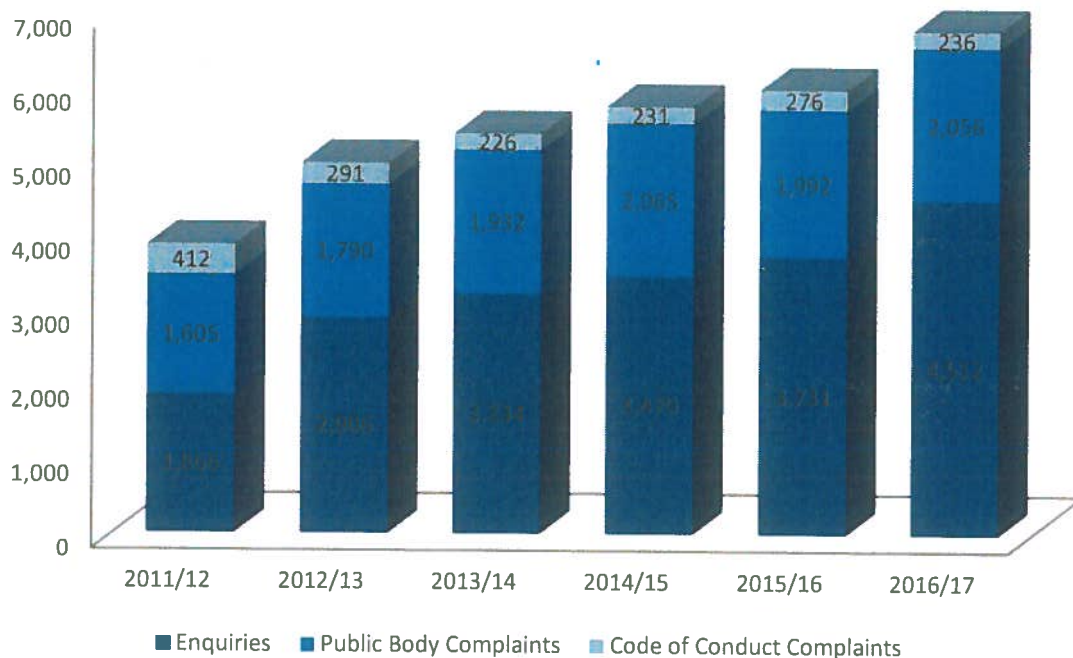




Overall Casework Statistics

The number of enquiries and complaints (public body complaints, and complaints about the conduct of members of local authorities) totalled 6804 during 2016/17 which is a 13% increase on the position for 2015/16. Over the past six years, overall casework has increased by 75%.

Total Enquiries and Complaints received by year



Enquiries

The office dealt with 4,512 enquiries during 2016/17 compared with 3,731 the previous year. This is a 21% increase. Despite this increase we have continued to maintain a fast and efficient service at the frontline.

We set ourselves the target of answering our main line reception calls within 30 seconds in 95% of cases. The Team performed impressively in this regard, answering 98% of calls within this timescale.

An enquiry is a contact made by a potential complainant asking about the service provided, which does not, result in a formal complaint being made to me at that time. At this point in our service we will advise people how to make a complaint to me or, where the matter is outside my jurisdiction, direct the enquirer to the appropriate organisation able to help them. Where appropriate, the Complaints Advice Team will also seek to resolve a problem at enquiry stage without taking the matter forward to the stage of a formal complaint.

Public Body Complaints

During 2016/17 we received 2,056 complaints about public sector providers – a 3% increase on the previous financial year. This brings public body complaints to a similar level as 2014/15 when my office received 2,065 complaints.

Sectoral breakdown of complaints received

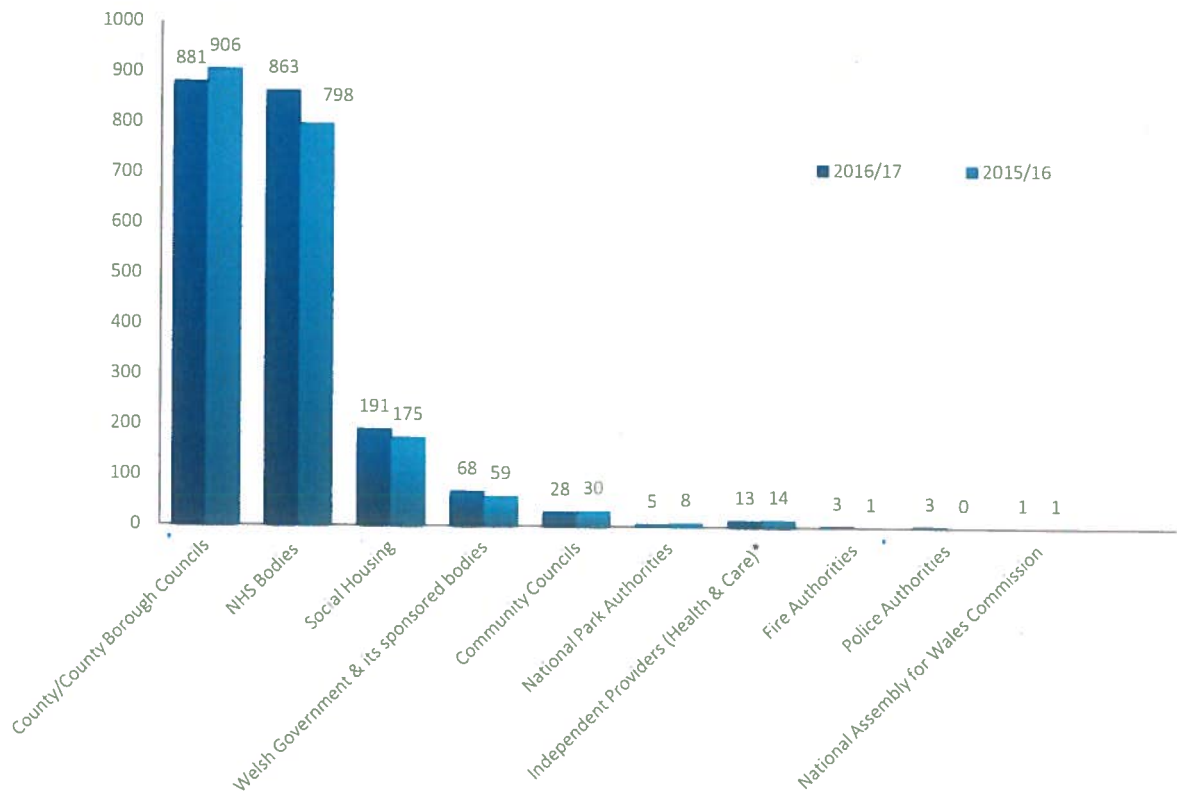
County councils have always generated the most complaints to this office due to the wide range of services they provide. However, for the second year running there has been a decrease in the number of complaints – down from 906 during 2015/16 to 881 in 2016/17.

Once again there has been an increase in complaints about NHS bodies. These include complaints about Local Health Boards, NHS trusts, GPs and dentists. There was a 8% increase in complaints about health bodies compared with 2015/16 (863 compared with 798)

Complaints about NHS Bodies have increased by 8% from 798 in 2015/16 to 863 in 2016/17. A large proportion of that increase is due to a rise in complaints **received** about Betsi Cadwaladr University Health Board of 23%.

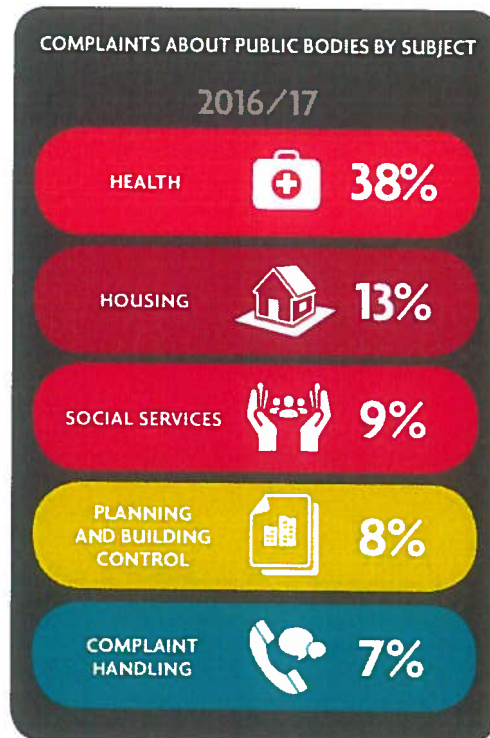
The chart on page 16 shows the distribution of the complaints received by sector.

Complaints received by public body sector

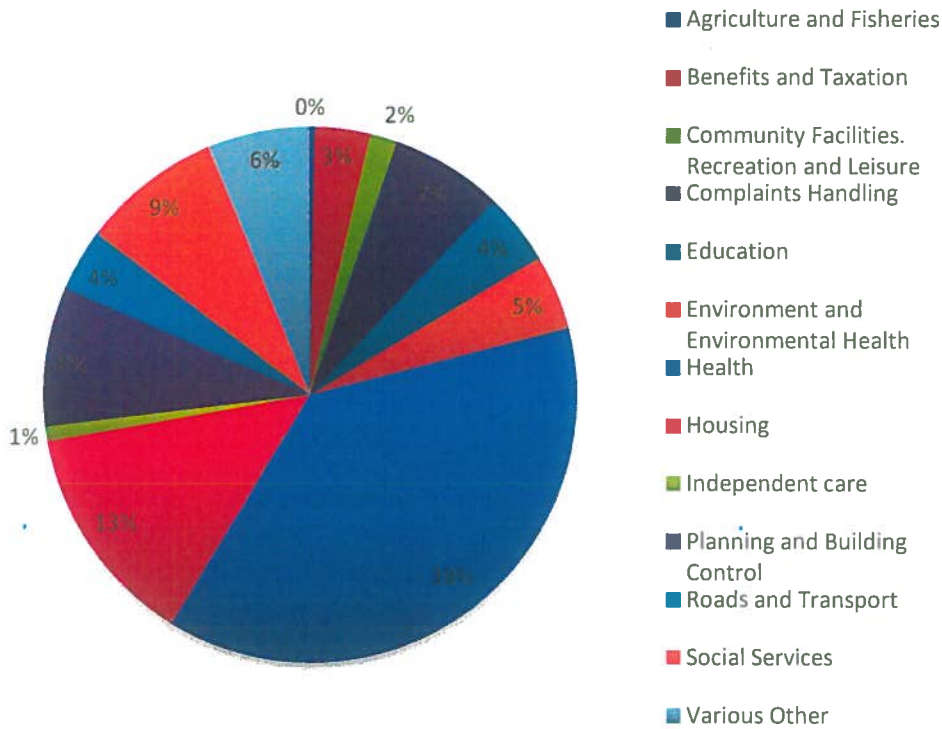


Complaints received about public bodies by subject

As consistent with previous years, health was the major part of our office caseload, up from 36% last year to 38% this year. This was followed by housing (13%) and planning and building control (8%). Social Services remained at a similar proportion as the previous financial year at 9%.



Complaints received about public bodies by subject



Outcomes of complaints considered

We closed 2,114 complaints about public service providers during the past year compared with 2,050 in 2015/16 (an increase of 3%). A summary of the outcomes is set out in the table below and detailed breakdowns of the outcomes by public service provider can be found at Annex A.

I am pleased that staff have managed to achieve this level of case closures during the year, together with the fact that the number of cases on hand at the end of 2016/17 stood at 345, compared with 412 at the end of 2015/16 (which is a reduction of 13%). This is well within what I consider to be a reasonable caseload for the office to have open at any one time.

Complaint about a Public Body	2016/17	2015/16
Closed after initial consideration	1570	1488
Complaint withdrawn	0	41
Complaint settled voluntarily	287	227
Investigation discontinued	16	19
Investigation: complaint not upheld	66	105
Investigation: complaint upheld in whole or in part	168	163
Investigation: complaint upheld in whole or in part – public interest report	6	7
Investigation: complaint upheld in whole or in part – public interest report (S22)	1	0
Total Outcomes – Complaints	2114	2050

Decision times

Time taken to tell the complainant if I will take up their complaint

We set ourselves a target to tell complainants whether or not I will take up their complaint. This year we introduced new key performance indicators. Previously there was a blanket four week target for all complaints, regardless of complexity. This has been changed to ensure the focus is on measuring against the service user's experience rather than the previous internal focus.

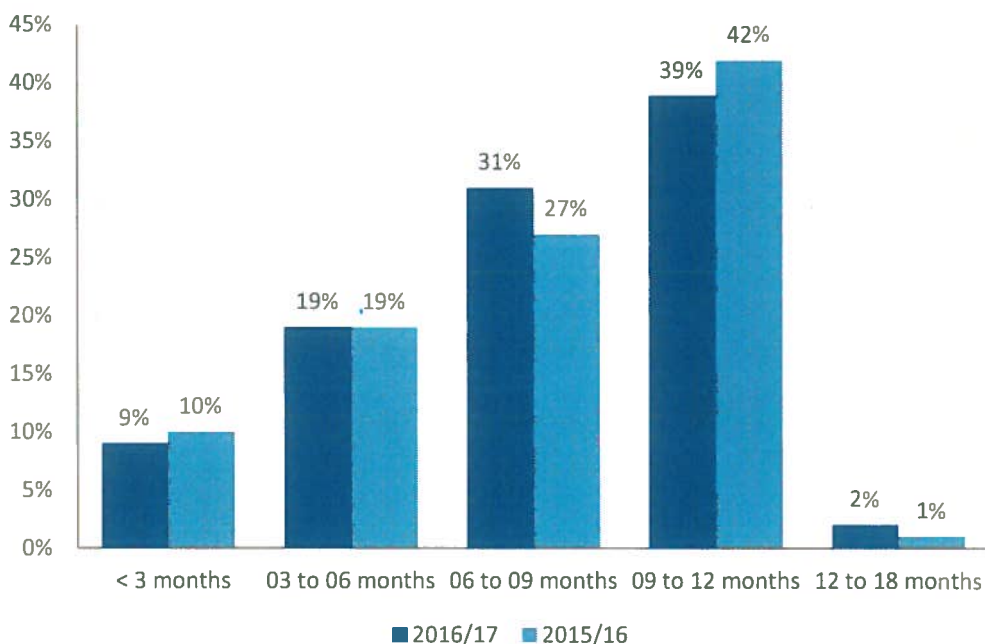
The new decision times are as follows:

- Decision on whether complaint within jurisdiction/premature - within 3 weeks.
- Decision on whether to investigate, following detailed assessment - within 6 weeks.
- Where decision to seek early resolution without need to investigate, resolution achieved - within 9 weeks.
- Date sufficient information received (DSIR) from complainant to investigation start date – within six weeks

	Percentage 2016/17
Decision on whether complaint within jurisdiction/premature – within three weeks	95%
Decision on whether or not to investigate, following detailed assessment - within six weeks.	92%
Where decision to seek early resolution without need to investigate, resolution achieved – within nine weeks	95%
DSIR to Investigation start date – within six weeks	80%

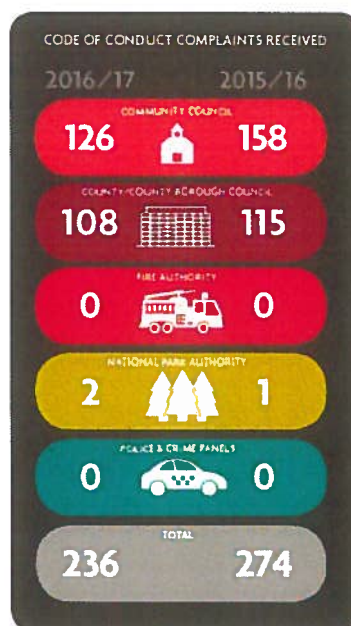
Investigation Decision Times

In 2016/17 we completed 98% of investigations within 12 months, against the 100% target we set ourselves. There were seven investigations that went over 12 months. These cases were complex and required further investigatory work, or where there were significant challenges to draft findings by the complainant or public body. The chart below gives further details on investigation timescales.



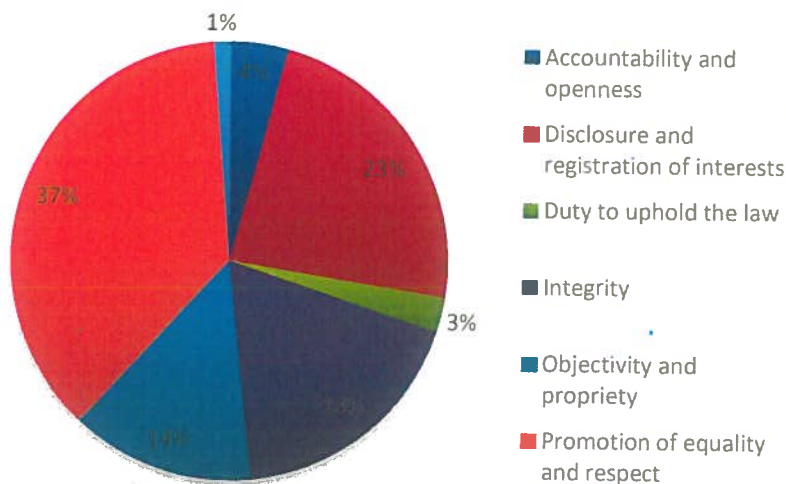
Code of Conduct Complaints

The number of code of conduct complaints decreased by 14% compared with 2015/16 (236 in 2016/17 against 274). This is encouraging considering historically, code of conduct complaints increase in the period before local elections.



Nature of Code of Conduct complaints received

The majority of complaints received during 2016/17 related to matters of 'promotion of equality and respect' accounting for 37% of the complaints made to me. (this was 41% in 2015/16). Disclosure and registration of interests (23%) and Integrity (18%) were the next largest areas of complaint which is consistent with the previous year.



Summary of Code of Conduct complaint outcomes

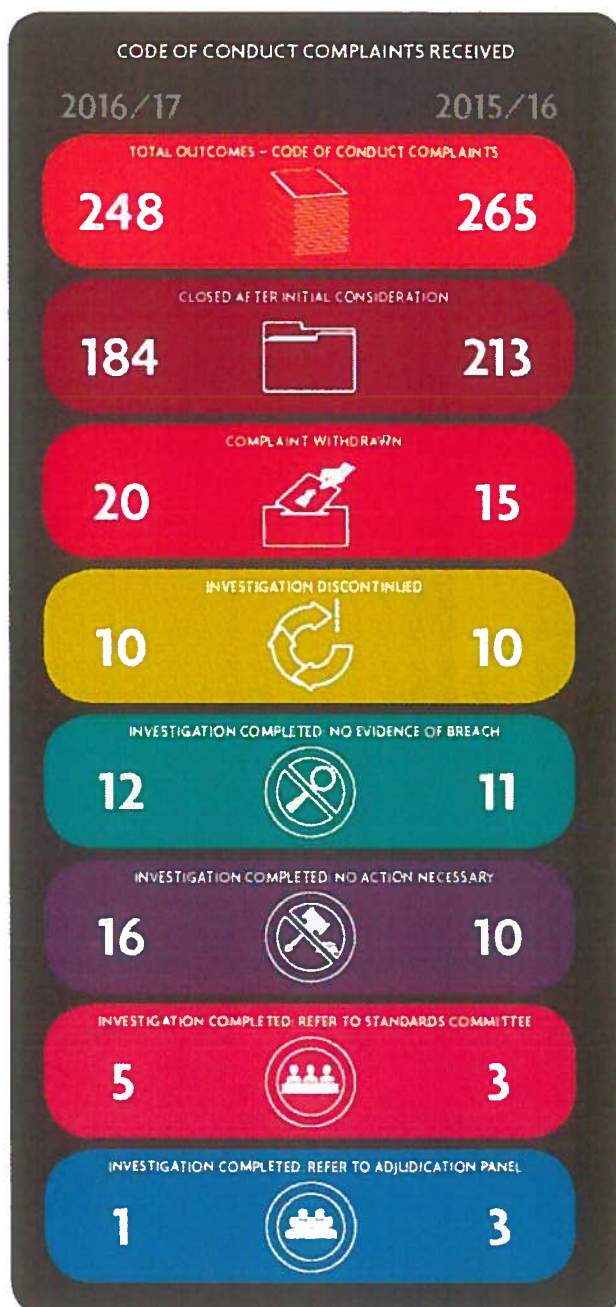
Of the 248 Code of Conduct complaints closed in 2016/17, the majority (184) were closed under the category 'Closed after initial consideration.'

This includes decisions such as

- there was no 'prima facie' evidence of a breach of the Code
- the alleged breach was insufficiently serious to warrant an investigation (and unlikely to attract a sanction)

With regard to code of conduct closed cases, a greater number were fully investigated this year (34) compared to 2015/16 (27). Six cases were referred either to local authority's standards committee or to the Adjudication Panel for Wales in 2016/17, the same number as the previous year. In these circumstances it is for these bodies to consider the evidence found, together with any defence put forward by the member concerned. It is then for them to determine whether a breach has occurred and, if so, what penalty, if any, should be imposed.

A breakdown of the outcomes is below:



A detailed breakdown of the outcome of Code of Conduct complaints investigated, by authority, during 2016/17 is set out in the Annex.

Decision times

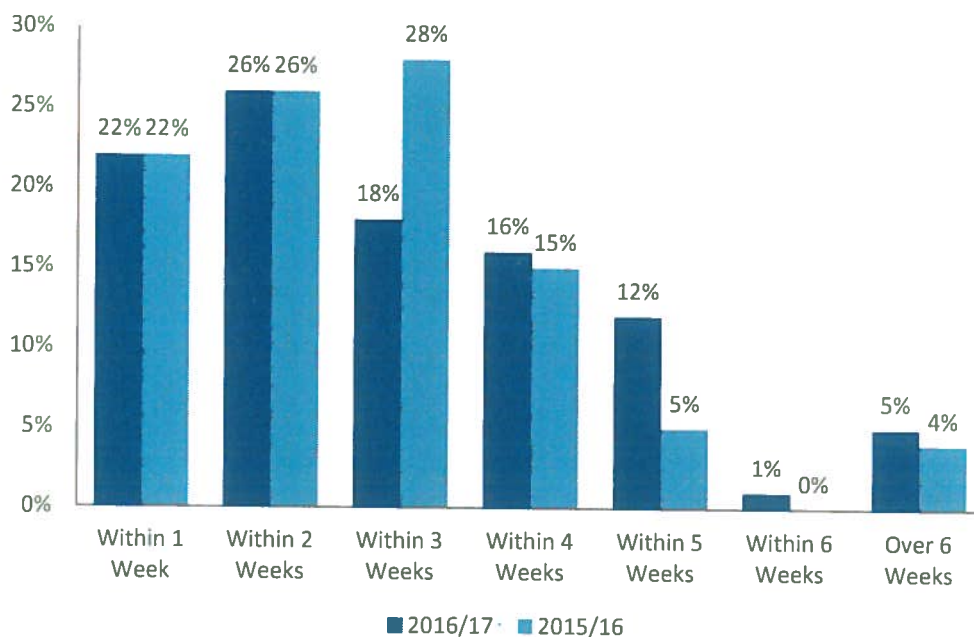
Time taken to tell the complainant if I will take up their complaint

In respect of Code of Conduct complaints, 82% of complainants were informed within four weeks of whether I would take up their complaint (from the date that sufficient information is received). This is considerably lower than during 2015/16 where 91% were informed within four weeks.

However, this is partially explained by the fact that a greater number of complaints this year reached investigation. I consider that it is fairer for us to take into consideration what a member has to say before taking a decision and this process can take some time. This is because the commencement of a formal investigation against a member is a stressful and serious matter for the member being complained about.

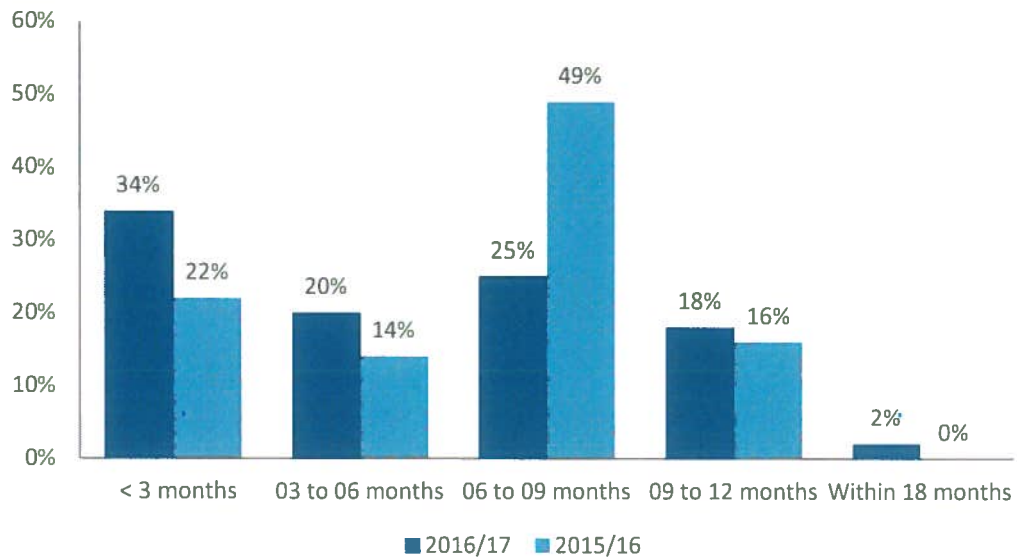
Further details on these decision timescales are shown below.

Code of Conduct time taken to tell the complainant if I will take up their complaint



Decision times for concluding Code of Conduct investigations

Comparing performance against 2015/16, a greater percentage of investigations were closed within three months (34% compared to 22% in 2015/16.)



Cases of Note

During 2016/17, I produced seven public interest reports, including one special report (see below).

All but one of the investigations were health related and worryingly, three of the cases were against the same hospital – Ysbyty Glan Clwyd run by Betsi Cadwaladr University Health Board.

The six health cases included:

- A patient with a history of chronic renal failure who waited 12 hours to see a consultant, and died a few hours later.
- A cancer patient who was left waiting 132 days to receive his first treatment.
- A patient at a South Wales hospital that died following a complete lack of medical staff involvement in his care over a weekend.

I am pleased that in all health cases, apologies were made to the families affected by shortcomings and recommendations were agreed to ensure the same mistakes are not repeated, although this will only ever provide some comfort to the families affected.

Another high profile investigation surrounded the monitoring of a looked-after child's savings accounts by Bridgend County Borough Council while he was in their care. While public interest reports from my office are anonymised, in this case, the complainant wished to speak to the media publicly.



Rob Johnson, 18, complained to my office that the Council had not managed his savings properly and in accordance with its policy. He said that some of his savings were wrongly used to pay for trips for which he should have received a special allowance.

My investigation found that the Council had failed to keep adequate records or retain Mr Johnson's saving books at the end of his fostering placement and it was unclear why his savings were as low as they were. These failings, amongst others, amounted to maladministration and my office calculated a figure for appropriate recompense for his savings.

Initially Bridgend Council refused to pay the amount but at a later date did make the £3,310 payment in full.

Mr Johnson said he was "over the moon" with the outcome, adding:

"It just shows that making a complaint does make a difference."

All our public interest reports are publicly accessible and can be found [here](#).

I am pleased to say in all of the code of conduct cases my office has referred to either local Standards Committees or the Adjudication Panel for Wales, the member has been found to have breached the code when the matter has been heard. This vindicates my decisions to investigate the complaints and refer them.

Thematic Reports

March 2017 saw the publication of the second thematic report in 12 months. *'Ending Groundhog Day: Lessons from Poor Complaint Handling'* comprises 18 cases from public services across Wales where the service user had been let down by inadequate investigations and a failure to take ownership of complaints.

Failings highlighted include the inappropriate involvement in the investigation of staff complained about, as well as delayed and inaccurate responses.

My report calls for an end to the fear and blame culture that exists in some public bodies, and a move towards seeing complaints as learning tools. I also identified improved data collection as a means of identifying patterns of poor complaint handling and tackling bad practice.

If the new Ombudsman legislation is passed this year, it will allow the gathering and reporting of consistent complaint data across Welsh public services.

Special Report

Last year, a special report, under Section 22 of the Act, was issued against Hywel Dda University Health Board – the first time for a Health Board.

Under the provisions of the Public Services Ombudsman (Wales) Act 2005, pursuant to section 3, the Ombudsman is able to take any action he considers appropriate to resolve a complaint as an alternative to investigating it. This can include agreeing with a relevant body that it will take certain actions within a stipulated time. Where the Ombudsman is not satisfied that the relevant body has carried out the actions it explicitly agreed to undertake within the time specified he may issue a special report under s22(6) of the Act.