Ombudsman

PUBLIC SERVICES OMBUDSMAN FOR WALES

Annual Report 2006/07

The Annual Report 2006/07

of

The Public Services Ombudsman for Wales

Laid before the National Assembly for Wales
under paragraph 14 of Schedule 1
of the Public Services Ombudsman (Wales) Act 2005
on 26 June 2007

1 Introduction

This is the first Annual Report of the Public Services Ombudsman for Wales.

The new office came into formal existence on 1 April 2006, the Public Services Ombudsman (Wales) Act 2005 having merged the four distinct ombudsmen posts which I previously held as Commissioner for Local Administration in Wales, Health Service Commissioner for Wales, Welsh Administration Ombudsman, and Social Housing Ombudsman for Wales.

It is a pleasure to be able to report that the inaugural year of the new Ombudsman service for Wales has gone smoothly, and that more people than ever before have used the service. I have been fortunate to be able to build on a year of shadow running as Public Services Ombudsman for Wales (PSOW) – the passage of the legislation having been sufficiently advanced to justify operating, from the beginning of 2005-6, my nominally separate roles so far as possible as a combined operation under the PSOW banner.

The publicity which the advent of the new service received at the beginning of 2005-6, and consequently greater awareness amongst members of the public that the service existed, had a dramatic effect on the number of complaints brought to me during 2005-6, which increased by almost a third over the previous year. 2006-7 has shown that the increased level of demand was no flash in the pan: there has been a further significant increase in the number of complaints to me of maladministration or service failure – although I am happy to say that the impact on the overall workload for my office has been partially offset by a marked reduction in the number of allegations that members of community councils have breached the code of conduct.

The essence of my role is to investigate independently and impartially complaints from members of the public, and to seek appropriate redress for them if I uphold the complaint. But it is also important that I ensure that any wider lessons from my investigations are learnt. It is for that reason that some of my investigations lead to public interest reports – 21 in the past year - and that I have a power to issue formal guidance to bodies in my jurisdiction about good administrative practice. I am mindful of the plethora of statutory guidance and advice on good practice which public bodies have to contend with, and don't intend to add to it too often. Complaints handling and redress are obviously an area of administrative practice on which the Ombudsman is well placed to give guidance. During the year, I issued formal guidance to local authorities on complaints handling, developed in partnership with the Welsh Local

Government Association, Solace Wales and Citizens' Advice Cymru. I collaborated with One Voice Wales on the advice on complaints procedures which they issued in March 2007 to community and town councils.

I also contributed to the work which the Welsh Assembly Government has done towards raising standards in the public service across Wales through "Making the Connections", and is doing to integrate a new system of redress for the less severe instances of clinical negligence with a revised NHS complaints system. I was a member of a working group assisting the Parliamentary Ombudsman to draw up her important new document "Principles of Good Administration". I shall be looking to promote those principles, which I believe are universal, in Wales in the year ahead.

This annual report is also an important vehicle for highlighting areas where my investigations have shown that there is room for improvement: I highlight as a topic of particular concern in this report that some local authorities are not tackling problems of anti-social behaviour as effectively as they should.

It is important that I in turn learn from feedback about the way in which I and my staff perform our role. During the year I set up a formal complaints mechanism for members of the public to complain about the service offered by my office. I also commissioned ORS to undertake a "customer satisfaction survey" amongst complainants. Unsurprisingly, those whose complaints had been upheld tended to have a markedly more favourable view of all aspects of the service than those whose complaints had not! Nonetheless, the results of the survey were valuable and for the most part encouraging. I intend to continue such surveys in future years, and to use this year's results as a baseline against which to measure progress. One area in which I believe there is scope to do better is the time taken to deal with complaints. This year's report shows significant improvement on last year's figures, but we are not yet fully achieving the targets I have set. Feedback from bodies in my jurisdiction is also important. During the year I held seminars in North Wales and West Wales as a vehicle for discussing with bodies in jurisdiction the changes brought about by the PSOW Act, and having a dialogue about their experience of the ombudsman service.

I am grateful once again to my staff for their enthusiasm, hard work and team spirit. It has been a pleasure to work with them.

Adam Peat
Ombudsman

2 My Role as Public Services Ombudsman for Wales

As Public Services Ombudsman for Wales, my primary role is to investigate complaints made by members of the public that they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction. Putting that into rather more everyday terms, I am looking to see whether people have been treated unfairly or inconsiderately, or have received a bad service through some fault on the part of the public body providing it.

The bodies in my jurisdiction include local government (both county and community councils); the National Health Service (including GPs and dentists); registered social landlords (housing associations); and the National Assembly for Wales itself (in practice, the Welsh Assembly Government) together with its sponsored bodies.

I expect public bodies to treat people fairly, considerately and efficiently. If I uphold a complaint I will recommend appropriate redress. If I see evidence of a systemic weakness I will also make recommendations which aim to reduce the likelihood of others being similarly affected in future.

My investigations are undertaken in private. Where I publish a report, it is anonymised to protect (as far as possible without compromising the effectiveness of the report) the identity not only of the complainant but also of other individuals involved.

What changed on 1 April 2006?

The major benefit of the coming into force of the Public Services Ombudsman (Wales) Act has undoubtedly been the creation of a "one-stop shop" so far as members of the public are concerned. The merging of the previously distinct jurisdictions will also make it easier for me to look holistically at a complaint which spans different sectors e.g. health and social services.

However, there were other significant and beneficial changes, as the Act in bringing together the four previous jurisdictions harmonised the provisions of the different schemes, and this has some important implications for particular sectors:

- Complaints about the NHS, about housing associations, and about the National Assembly and its ASPBs may in future lead to public reports, as has always been the case for local government.
- Complainants about those bodies will no longer normally have to "invoke and exhaust" the relevant complaints procedure before they can bring their complaint to me. Instead the requirement is that they should normally have brought the matter to the attention of the authority concerned, and given them a reasonable opportunity to investigate and respond. In particular, that means that complainants about the NHS can bring their complaint to me straight after the "local resolution" stage of the NHS

complaints procedure if they so wish.

There have also been some significant extensions to my jurisdiction with effect from 1 April 2006:

- I can now consider complaints of maladministration against community councils (this is unique in the UK)
- community health councils are also new in jurisdiction
- complaints about the operation of recruitment and appointment procedures can now be investigated (only possible in Wales and Northern Ireland).

The new Act gives me the power to do anything which is calculated to facilitate the settlement of a complaint, as well as or instead of investigating it. In the right circumstances, the existence of this new power to seek a "quick fix" without an investigation can be a boon both to the complainant and to the body concerned, as the following example shows:

Health: Cardiff Local Health Board

Ms Y, a Cardiff resident, wrote to me to complain that Cardiff Local Health Board had declined to fund her programme of Human Growth Hormone treatment via an NHS hospital in Bristol, although it had said it would do so if treatment took place at the University Hospital of Wales. There were special circumstances which had led to her being treated at Bristol. Given that the LHB was prepared to meet the cost of the treatment, which was not affected by where it was carried out, one of my officers telephoned the LHB and suggested further consideration of those special circumstances. The following day the LHB rang back to say that it had reconsidered its decision and would fund the out-of-area treatment without further delay.

The new Act has helpfully introduced a two-tier structure for reporting formally on my investigations. Reports under section 16 of the Act are public interest reports. The body concerned is obliged to give publicity to such a report at its own expense. Where I do not consider the public interest requires a section 16 report (and provided the body concerned has agreed to implement any recommendation I may have made) I can make a report under s.21 of the Act. There is no requirement on the body concerned to publicise s.21 reports, although details of them can be found on my website and copies are normally available from my office on request.

Section 33 of the Act creates a new duty on authorities to take reasonable steps to inform members of the public of their right to complain to the Ombudsman. In particular, authorities are required to include information about how to do so in, or with:

- any information they publish about the authority's services to the public
- any information they publish about the authority's complaints procedure
- any response to a complaint.

Complaints that members of local authorities have broken the Code of Conduct

As Public Services Ombudsman for Wales, I have exactly the same role in investigating complaints that members of local authorities have broken the Code of Conduct as I did previously as Local Government Ombudsman. The provisions of Part III of the Local Government Act 2000 continue to apply, as do the relevant Orders made by the National Assembly for Wales under that Act.

Where I find evidence that a member has significantly breached their authority's code of conduct, I submit a report setting out the evidence either to the authority's standard committee, or (generally in more serious cases) to the President of the Adjudication Panel for Wales. It is for the standards committee or a tribunal to consider the evidence I have found together with any defence put forward by the member concerned and determine whether a breach has occurred and, if so, what penalty if any should be imposed.

My aim for the office of Public Services Ombudsman for Wales

The aim I have set for this new office is to provide a first class Ombudsman service to Wales. I intend to do this by:

1. investigating complaints as thoroughly as necessary and as quickly as possible
2. raising awareness of the Ombudsman service and making it easily accessible to potential users
3. using lessons learnt from my investigations to promote good practice and good governance by public bodies
4. ensuring good governance and effective management within my office.

3 Complaints of maladministration and service failure

Overview

As can be seen from the table below, the number of complaints of maladministration or service failure by public bodies has continued to rise. Whilst 2005/06 saw a 34% increase over 2004/05, this year has seen a further 10% increase over 2005/06. I am pleased to see a further increase again this year, since I believe that this is due to an increased awareness amongst members of the public of the service that I provide, rather than indicating a deteriorating performance by bodies in my jurisdiction.

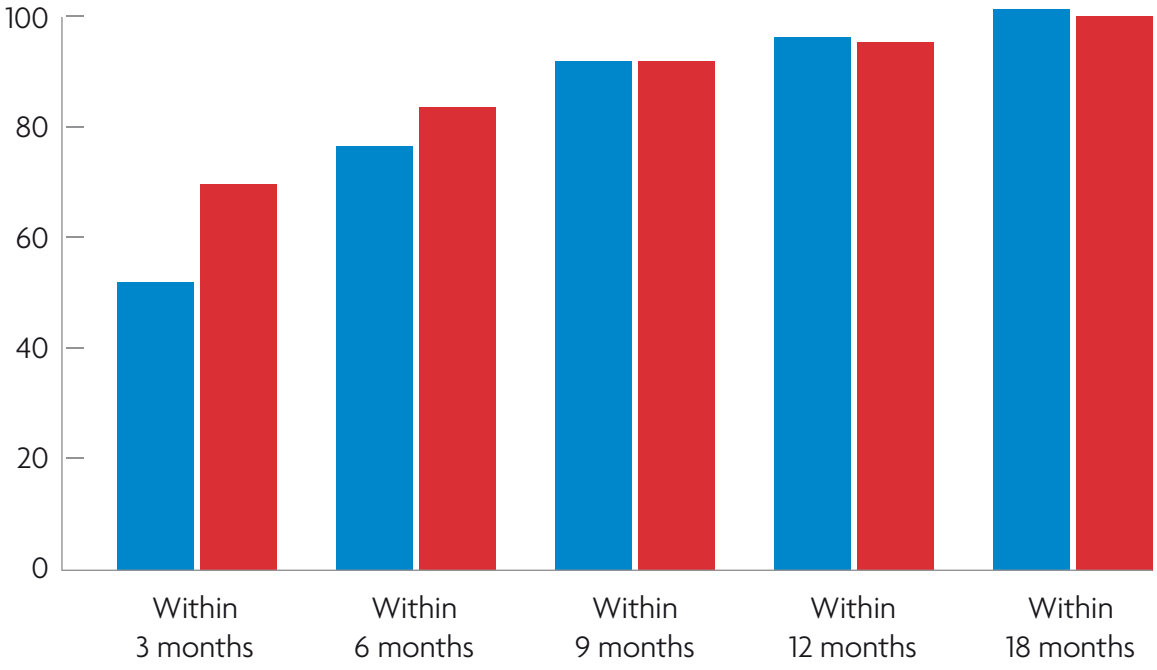
	Total Number of Complaints
Cases carried over from 2004/05	477
New cases 2005/06	1,157
Total complaints 2005/06	**1,634**
Cases carried over from 2005/06	410
Cases reopened in 2006/07	12*
New cases 2006/07	1,276
Total complaints 2006/07	**1,698**
Cases to be carried forward to 2007/08	**457**

** A small number of cases are reopened due to further information having been received from the complainant subsequent to closure.*

In addition to the above, the office also dealt with **1,074 enquiries** during 2006/07.

One of my strategic aims is to investigate complaints as thoroughly as necessary and as quickly as possible. Accordingly I have set targets in my strategic plan for the time taken to conclude investigation from the date an effective complaint was received (an effective complaint is one which gives enough information to enable us to assess whether it is eligible for initial investigation). The outcome against these targets are set out in the following chart.

Decision Times for Concluding Cases



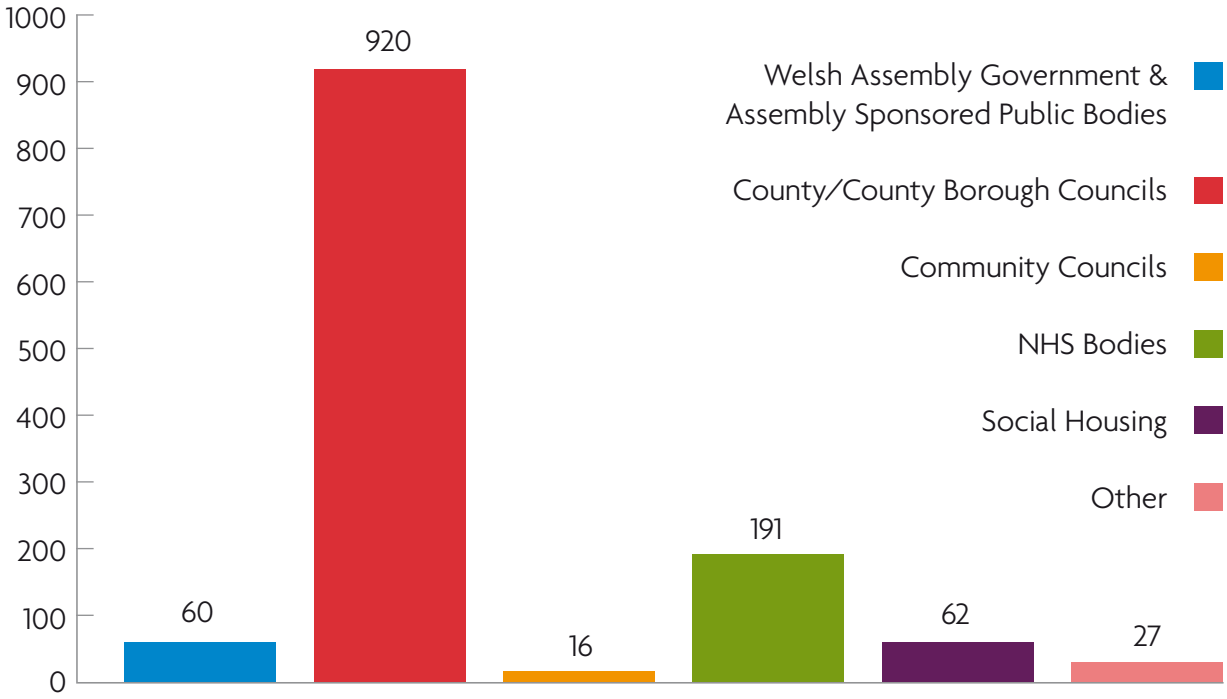
	Within 3 months	Within 6 months	Within 9 months	Within 12 months	Within 18 months
Target %	50	75	90	95	100
Outcome %	68	82	90	94	99

I noted in my annual report last year that I was dissatisfied with the fact that too many cases had taken over 12 months to complete – 10% in fact. I am pleased that this figure has now been reduced to 6% during 2006/07 and I hope to better it again in 2007/08.

As a means towards achieving overall faster decision times for cases, I also set targets for the time taken to make the initial decision as to whether to investigate a complaint or not. These subsidiary target times were not fully met: 62% of such decisions were taken within 3 weeks, whereas the target was 90%; and 92% were taken within 6 week, whereas the target was 100%. Nonetheless, I am satisfied that setting these targets has contributed to the overall speeding up of case closure times and I intend to set such targets again for 2007/08.

Set out below is a breakdown of complaints received by type of body.

Sectoral breakdown of complaints

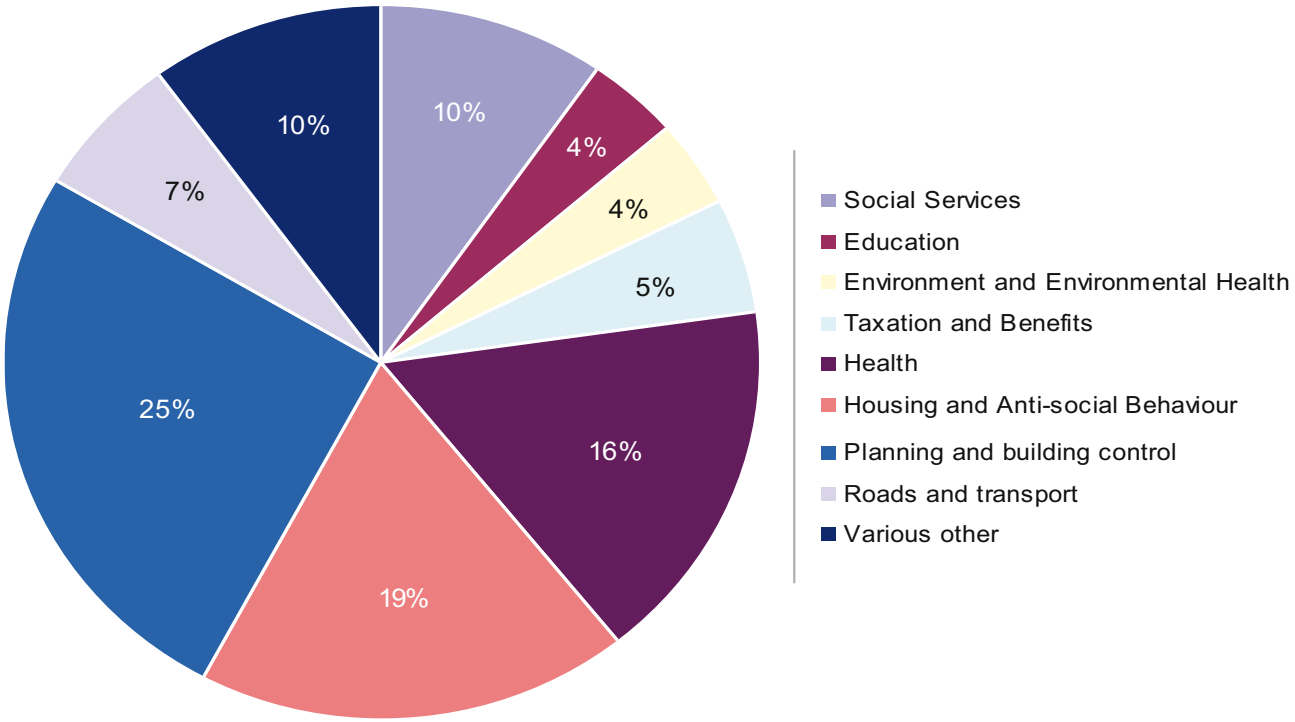


As can be seen, the great majority of complaints received are in respect of county/county borough councils. This follows the pattern of complaints received in earlier years, and is to be expected given that county councils provide such an important range of services to the public.

As previously mentioned, complaints of maladministration can now be made against community councils, although the extent of services provided to the public by many community councils is quite limited at present. Only 16 complaints were received by my office in respect of community council matters during 2006/07. However, I was only able to consider complaints about problems that occurred on or after 1 April 2006, and it may well be that I will receive significantly more complaints next year.

The top four areas of complaint by service area have been planning, housing, health, and social services, as illustrated below:

Complaints about public bodies by subject



Summary of Outcomes

The table below is an overall summary of the outcomes of the cases closed during the past year:

Complaint about a Public Body	
Decision not to investigate	748
Complaint withdrawn	16
Complaint settled ("quick fix")	27
Investigation discontinued	72
Complaint not upheld	229
Complaint upheld in whole or in part	134
Complaint upheld in whole or in part – public interest report	21
Total Outcomes – Complaints	**1,247**

A breakdown by listed authority of the outcome of complaints investigated is set out at Annex C.

4 Learning lessons, promoting good practice

Formal guidance by the Ombudsman on good administrative practice

Under s. 31 of the PSOW Act I have a power to issue, following consultation, formal guidance to bodies in my jurisdiction about good administrative practice. I am mindful of the large amount of statutory guidance which public bodies have to contend with, and intend to use my power to give formal guidance under the Act sparingly. Complaints handling and redress are clearly an area of administrative practice on which the Ombudsman is well placed to give guidance. In September 2006, I issued 'Guidance to Local Authorities on Complaints Handling' (available on my website at: www.ombudsman-wales.org.uk). This formal guidance was developed in partnership with the Welsh Local Government Association, Society of Local Authority Chief Executives Wales and Citizens Advice Cymru.

This guidance applied only to county and county borough councils. I did not consider it would be appropriate at this time to issue statutory guidance on complaints handling to community councils. Instead, I collaborated with One Voice Wales in drawing up good practice advice on complaint handling which took realistic account of the scale on which community councils operate. One Voice Wales sent copies of this advice to all town and community councils in Wales in March 2007.

Public interest reports

I issued a total of 21 public interest reports under section 16 of the PSOW Act during the year. Summaries of each of those reports are at Annex A (apart from those dealing with responses to anti-social behaviour, which are incorporated in the following section) and their full text is available on my website at www.ombudsman-wales.org.uk

All 21 of these reports concern county or county borough councils. I am only able to make a public interest report as regards other listed authorities in respect of matters occurring on or after 1 April 2006. I anticipate that I will make public interest reports next year in respect of certain investigations which were still in progress as this report was being written. I have selected a number of cases dealt with during the year about events which occurred pre 1 April 2006 and summaries of these cases appear at Annex B. The full text of these reports is not available however.

Working with the Welsh Assembly Government

I contributed to the work which the Welsh Assembly Government has done towards raising customer service standards in the public service across Wales through "Making the Connections", in particular to the development of the core principle which states that citizens should find it easy to complain and to get things put right when the service they receive is not good enough.

The Welsh Assembly Government has begun a project to develop a system of redress for the less severe instances of clinical negligence, which it is intended to integrate with a revised NHS complaints system. I accepted an invitation to join the project board.

Learning from other Ombudsmen

During the year, I met on a number of occasions with fellow public sector ombudsmen. Members of my staff have also benefited from discussions with their counterparts and British & Irish Ombudsman Association meetings. These have been valuable opportunities to exchange examples of good practice and to share and discuss issues of mutual concern.

I was a member of a working group assisting the Parliamentary Ombudsman to draw up her important new document "Principles of Good Administration". I shall be looking to promote those principles, which I believe are universal, in Wales in the year ahead.

Particularly valuable was a session held by the Human Rights Steering Group of the Public Sector Ombudsmen forum, held in October 2006. Following this a one day course on human rights was arranged for all my staff.

5 Topic of special concern: tackling anti-social behaviour

I have reported on a number of cases during the year in which my investigations have found serious failings on the part of listed authorities in tackling anti-social behaviour. I have considered whether it would be appropriate to issue formal guidance on good administrative practice in this area, and will keep the possibility under review for the future. However I have concluded that the problem does not seem to lie in any shortage of existing statutory guidance or material on good practice. The problem is rather that some authorities are not paying sufficient regard to it, while other authorities have comprehensive policies and procedures on paper which are simply not being put into practice.

I wish to remind authorities of the paramount importance of the Welsh Assembly Government's Code of Guidance 2005 (www.wales.gov.uk) issued under the Anti-social Behaviour Act 2003, which set out the obligations of local authorities on anti-social behaviour and in particular the need to adopt specific procedures for dealing with reports of racial harassment or abuse. This is an area of practice which some of my investigations have found to be lacking. Authorities should also bear in mind their obligations under the Human Rights Act 1998: Article 8 may be engaged in severe cases of nuisance and anti-social behaviour.

Additionally, I would like to draw the attention of local authorities and housing associations to the following sources of guidance on good practice:

- the Living in Harmony Toolkit- A Guide to Preventing, Managing and Resolving Neighbour Disputes (available from the Welsh Assembly Government)
- the Chartered Institute of Housing's comprehensive guide entitled "Tackling Anti-Social Behaviour" by Nickson and Hunter.
- the joint CIH Cymru & Housemark Policy Briefing Paper entitled 'Anti-Social Behaviour: Understanding Policy – Promoting Good Practice' (www.cih.org/cymru)
- the special report of the Local Government Ombudsmen for England "Neighbour Nuisance and Anti-Social Behaviour" (www.lgo.gov.uk),
- the "Anti-Social Behaviour Policies and Procedures" document published by the London Borough of Lewisham (www.lewisham.gov.uk) which provides a strong example of the way a council has detailed how it will respond to complaints of racial harassment and what services it will provide to the victim.

The following are cases which highlight significant systemic failure on the part of the local authority either to have appropriate procedures in place or to implement its policies effectively and were the subject of public interest reports under Section 16 of the Act.

Complaint made by Mrs W against Conwy County Borough Council
(Public Interest Report 2004/0537 issued August 2006)

Mrs W is a Council tenant who complained to me that the Council had failed to deal with repeated breaches by her neighbours of the conditions of tenancy of the Council.

She submitted evidence to the Council of acts of nuisance and unacceptable behaviour from early in the start of her neighbours' tenancy. It included racist verbal abuse, noise, foul smells and acts of intimidation. The nuisance affected others who also complained to the Council either directly or through the Community Council. However the Council had regarded the issue as a neighbour dispute and had adopted a low key approach to dealing with it.

The investigation showed that for the majority of the duration of the difficulties experienced by Mrs W, the Council did not have procedures in place for dealing with anti-social behaviour. When it did introduce procedures these did not cover racial abuse or racial harassment. Other administrative weaknesses were highlighted which led to failures in the Council's response to the situation. Despite having a substantial body of evidence available from Mrs W and from other witnesses, the Council failed to recognise the severity of the situation and take appropriate action. When the Council eventually took legal action against the perpetrators after some years, it was ineffectual. The Council had not provided effective support to Mrs W and her health had suffered.

I found that there had been extensive systemic maladministration leading to personal injustice to the complainant. I recommended that the Council should bring its procedures up to date and should take appropriate action against the perpetrators of the nuisance to resolve matters. I also recommended that as Mrs W had withdrawn from her Right to Buy application as a direct result of the Council's failure to act, the Council should offer her a fresh opportunity to buy her property at the offer price and with the rate of discount prevailing at the time Mrs W made her RTB application. I also recommended that it should pay her £2,500 per year until the time the nuisance was/is resolved.

Complaint made by Ms S, Mr W and Mr K against Cardiff County Council (Public Interest Report 200501496/7 and 8 issued January 2007)

Ms S and Mr W were Council tenants and Mr K was a former Council tenant who had exercised his right to buy. All of them complained through their Member of Parliament that the Council had failed to deal properly with repeated breaches of the Council's conditions of tenancy by a neighbour.

Complaints had been made to the Council of acts of nuisance and unacceptable behaviour from the early stages of the neighbours' tenancy. The perpetrator was served with an abatement notice and was subsequently prosecuted for breaches of the notice three times. A fourth prosecution was abandoned in favour of obtaining an anti-social behaviour order granted for 4 years in February 2006.

The Council has a clear and detailed nuisance policy. Despite that, the investigation found that the Council had failed over a long period of time to deal effectively with the nuisance that occurred although a wealth of evidence was available. In particular housing staff had failed to consider options such as injunctions, demotion of the tenancy or possession proceedings despite the nuisance policy giving detailed guidance on the alternative measures. It was apparent that the liaison and co-operation between the Council's Housing Department and its Environmental Health Department was inadequate in these cases. When the Housing Department did resolve to take action, it was dilatory and ultimately ineffectual. The Council's failure to take reasonably prompt and effective action was maladministration which caused personal injustice to the complainants. The continuing nuisance had in particular affected Ms S's health.

I recommended that the Council apologise to the complainants and offer financial redress to each of them. I also recommended that the Council should take urgent steps to improve the management of nuisance cases within its Housing Department, ensuring prompt and effective liaison and co-operation between the Council's Housing Department and its Environmental Health and Legal departments. Additionally, I recommended a payment to Mr W in the sum of £500, to Mr K of £1,500 and to Ms S the sum of £2,500.

Complaint by Mr and Mrs R against Caerphilly County Borough Council (Public Interest Report 200500032 issued September 2006)

Mr and Mrs R, who are owner occupiers, complained that the Council failed to take effective action to deal with their complaints of nuisance from their neighbour who is a Council tenant. They complained primarily of harassment and un-neighbourly behaviour.

Mr and Mrs R made a number of complaints about anti-social behaviour by the tenant's family and her partner. The allegations included abuse, threatening behaviour and rubbish being thrown into their property. In July 2001 the tenant's partner damaged Mr and Mrs R's property and was subsequently convicted in the courts. There was no evidence of a proper investigation of this incident by housing officers. There was delay in advising the tenant that there had been a breach of her tenancy conditions following her partner's conviction for criminal damage and assault on a visitor to Mr and Mrs R's property.

I found that these shortcomings were maladministration. There was evidence that the Council had not complied with its own procedures in dealing with Mr and Mrs R's complaint. Also housing officers had not reached their operational decisions fairly and objectively based on the evidence on the Council's files and there was a reluctance to take action against the tenant. I was particularly concerned by the lack of proper record-keeping in this case, which had given weight to Mr and Mrs R's complaints that their concerns were not properly investigated.

I recommended that the Council should take prompt and effective action should the neighbour nuisance recur. I also recommended that the Council should apologise to Mr and Mrs R and make them a compensatory payment of £2,000.

I have investigated other complaints of failure to tackle anti-social behaviour and issued reports under Section 21 of the PSOW Act, such as the following:

Complaint by Mr T against Neath Port Talbot County Borough Council

Mr T, a Council tenant complained that the Council had taken too long to deal with incidents of nuisance from his next door neighbour and did not have appropriate noise monitoring equipment.

I found that the Council had an appropriate policy and procedures in place and had at various times made investigations and initiated legal remedies against the perpetrator, which resulted in some short lived improvements in behaviour. However, some of its actions were delayed and there was a failure in communication between the Housing and Environmental Health departments at one stage. The Council did not have noise monitoring equipment but agreed to obtain this and to review its procedures, also to make a payment of £1,000 to the complainant in recognition of the failings.

I consider noise monitoring equipment to be a basic tool: if there are any other County Councils which lack this equipment they should obtain it. In my view, no resident complaining of noise nuisance should have to wait more than two weeks for the installation of that equipment. Information as to the precise timing of the use of such equipment should be withheld from the alleged perpetrator, as advised by the Home Office.

Finally, a contrasting case which shows good practice:

Complaint by Miss W against Clwyd Alyn Housing Association

Miss W complained that Clwyd Alyn had not acted in relation to complaints she had made against one of her neighbours and that it had failed both to evict the alleged perpetrator and to transfer her for her own safety when she had witnessed an act of criminal damage by this person.

Clwyd Alyn has a dedicated anti-social behaviour officer and a robust policy for dealing with complaints of this nature. It was able to provide a detailed record of the enquiries it had made and evidence to support the decisions it had taken on the case including its response to the complainant's transfer request. Accordingly, I did not uphold the complaint.

6 Issue of Special Report: Gwynedd Council

It was with regret that I found it necessary to issue in December 2006 the first special report under Section 22 of the Public Services Ombudsman for Wales Act 2005. One of the circumstances in which a special report can be issued is where the Ombudsman –

"(a) has prepared a report under section 21... and

(b) is not satisfied that the listed authority has implemented his recommendations before the end of the permitted period."

I issued my special report following my investigations into two separate complaints about Gwynedd's housing allocations procedures. The investigations were concluded in July 2006. In both cases I found failures in the way that the applications to be housed by the Authority had been handled. Gwynedd Council gave an undertaking to me that it would implement the recommendations contained in my investigation reports, including that the Council would adopt and implement, within one month, an allocations policy fully compliant with the law.

Whilst I received a letter at the end of July which suggested that the Council had adopted a new lawful allocation policy, that letter went on to say that other matters within the policy were being reviewed and that these would be given further attention in forthcoming months. Despite pursuing Gwynedd Council for sight of its revised and implemented Housing Allocations policy document, by November I had received no such copy.

The Council had explicitly agreed to accept and implement my recommendations. That agreement was a major consideration in my decision not to require the Council to go to the expense of having to publish those reports and advertise their existence.

I had first made the Council aware that elements of its housing allocations policy were unlawful back in the summer of 2005. This arose from some initial enquiries that I made into a complaint (which was not pursued to full investigation) that I had received at that time. The Council was also aware of the Special Report on 'Housing Allocations and Homelessness' that I had issued in February 2006. That report set out the legal position and issued guidance on this subject, and recommended that local authorities should review as a matter of urgency their existing policies to ensure that they complied with the law.

In the conclusion of my special report I said: "It is quite unacceptable that a major public authority should be aware over so lengthy a period that a significant area of its policy and procedure is unlawful, and fail to take prompt and effective action to rectify matters. It is equally unacceptable that the Council should fail to live up to a formal undertaking given to me as Ombudsman."

I recommended that the Council should give further consideration to my earlier reports and implement the full recommendations made as a matter of urgency, in order to ensure all housing applicants are treated properly, fairly, and in accordance with the law.

I am pleased to say that Gwynedd Council accepted my Special Report; I am monitoring implementation.

7 Allegations of misconduct by local authority members

In last year's Annual Report I expressed my concern that I was receiving a disproportionate number of trivial complaints about the members of a handful of community councils and that these allegations were often made by members of a council against fellow-councillors apparently on a 'tit-for-tat' basis. I referred to the fact that I had warned all members of two community councils against making vexatious allegations, which is itself a breach of the code of conduct.

I further stated that in a few cases it seemed to me that personal animosities may have been adversely affecting the ability of the council to serve the community effectively. That concern was borne out more dramatically than I had anticipated when in May 2006, the residents of Dunvant, Swansea became so disenchanted with the way that their community councillors were endlessly squabbling amongst themselves that they voted for the abolition of the council.

I wrote in 'The Voice' - the magazine of One Voice Wales: "I regret greatly the self-destructive behaviour that was the downfall of Dunvant Community Council, and hope that no other council will go the same way. If there ever comes a time in the life of a council when bad feeling between councillors is beginning to damage the council's work and reputation, members should remind themselves of Dunvant's fate and do whatever they can to mend matters before it is too late."

I believe that this message has been heard, and I am very pleased to report that there was a dramatic decline in the number of petty allegations of misconduct made against members of community councils in 2006-7, as the table below shows:

Breakdown of allegations received by type of local authority

	2006/07	2005/06
Community Council	81	155
County/County Borough Council	136	125
National Park	5	1
Police Authority	3	1
Total	**225**	**282**

As far as the outcomes of the allegations that I considered are concerned, a summary of these is set out below:

Summary of Allegation Outcomes

Decision not to investigate allegation	157
Discontinued	4
Discontinued, referred to Monitoring Officer	3
No evidence of breach	19
No action necessary	16
Refer to Standards Committee	12
Refer to Adjudication Panel	7
Total Outcomes – Allegations	**218**

As in previous years the proportion of allegations which merited investigation was low. Only a small number merited formal action following investigation - a total of 19 allegations were referred to a standards committee or to the Adjudication Panel, the same total as in 2005/06.

8 Making the Ombudsman accessible

I aim to make the Ombudsman's service as accessible to members of the public as possible. A number of activities were undertaken during the year to increase awareness of the service and to encourage take-up, especially amongst vulnerable and disadvantaged groups.

At the beginning of April 2006, revised 'How to complain about a public body' leaflets, which reflected the changes that were introduced with the Public Services Ombudsman (Wales) Act 2005, were produced and distributed to all bodies in jurisdiction, public libraries and voluntary organisations throughout Wales. Furthermore, at the end of the year this leaflet was also made available in Arabic, Bengali, Cantonese and Urdu; it was also produced on tape and CD, which will be of particular assistance to those people with a visual impairment.

In March 2007, posters were also produced and distributed widely for a whole host of organisations, including public libraries, to place in receptions/public areas.

The website was also further improved with complainants now being able to make their complaint to me via an on-line complaint form. The homepage of my website has also been made available in the relevant ethnic minority languages from where the 'how to complain' leaflet can be downloaded.

The Public Services Ombudsman (Wales) Act, also created a new duty upon all the bodies within my jurisdiction to make members of the public aware of the right to complain to the Ombudsman. In particular they are required to include information about how to do so in, or with any information they publish about the authority's services to the public; any information they publish about the body's complaints procedure; and any response to a complaint. This new requirement is, therefore, of particular assistance in raising people's awareness of my service 'at their point of need'.

I also undertook a programme of events where I have been meeting with the chairs/leaders and chief executives of the public bodies within my jurisdiction, with voluntary/advocacy organisations and with members of the media. These meetings have been held over the course of two days and to date, a session has been held in Llandudno, north Wales, and Carmarthen in south west Wales. I will be holding a similar set of meetings in May 2007 in south east Wales.

In addition to this, my staff and I have been taking opportunities to address a wide variety of voluntary, community and professional organisations. These have ranged from Citizens' Advice Cymru regional seminars to local Mothers' Union meetings.

The development of a media contacts database within our complaints handling administration system, now means that I can specifically target my public reports (via e-mail rather than the previous distribution of hard copies) to members of the media, who might have a particular local or special subject interest. Also, in an endeavour to heighten attention in respect of those cases that I deem to be of particular public interest, I have also been issuing special press releases. This year has seen a noticeable increase in the number of calls and contacts from both television and press and I believe there is increasing media awareness of the role of the Ombudsman.

Governance

Governance

The Public Services Ombudsman (Wales) Act 2005 establishes the office of the Ombudsman as a 'corporation sole'. I am of course accountable to the National Assembly, both through the mechanism of this annual report, and because I am the Accounting Officer for the public funds with which the National Assembly entrusts me to undertake my functions.

The use which I make of those resources is subject to the scrutiny of the Wales Audit Office, which audits my accounts. To advise me in discharging my duties as Accounting Officer I have established an Audit Committee with an independent Chairman. I was delighted that Mr Laurie Pavelin FCA agreed to take on this role. The inaugural meeting of the Committee was held at the end of March 2006 and it has subsequently met four times.

I have appointed through a process of competitive tender Messrs Bentley Jennison to act as my internal auditors, and their programme of work is guided and overseen by my Audit Committee.

I also welcomed the opportunity to appear before the National Assembly for Wales's Local Government & Public Services Committee in September 2006, where I was able to report on the successful transition from the four previous jurisdictions to the new office of Public Services Ombudsman for Wales, and to report on the progress that had been made during the first six months.

Complaints procedure

During the year I set up a formal complaints mechanism for members of the public to complain about the service offered by my office. The complaint procedure is available on my website.

Customer satisfaction survey

I commissioned ORS to undertake a "customer satisfaction survey" amongst complainants. ORS asked complainants to put out of their mind the outcome of their complaint when evaluating aspects of the service such as courtesy of staff, the ease of understanding my complaint forms and other correspondence from my office, and whether my office had done what it had promised to do. This was a difficult thing to ask of complainants, and it turned out that those whose complaints had been upheld tended to have a markedly more favourable view of all aspects of the service than those whose complaints had not. Nonetheless, the results of the survey were valuable and for the most part encouraging. There was a very positive response indeed in relation to courtesy of staff and the use of plain English. I intend to continue such surveys in future years, and to use this year's results as a baseline against which to measure progress.

Annex A

PUBLIC INTEREST REPORTS – CASE SUMMARIES

Note: Case summaries of Public Interest Reports relating to anti-social behaviour are to be found in section 5 of this Report

Roads - Disabled Parking Bay: Rhondda Cynon Taf County Borough Council (Public Interest Report B2004/0897 issued May 2006)

The complainant, Ms L, had for decades sought to have a designated disabled parking bay outside her house. She had been informed that she was well placed on a list of applicants, yet when the Council conducted a pilot scheme for disabled parking bays in 2004 she was not invited to apply nor was she selected for inclusion in the scheme.

The Council approved a pilot scheme based on assumptions which it was known were unrealistic. Applications for inclusion in the scheme greatly exceeded the estimated number. The scheme approved by the Council specified a three stage selection process: initial screening to ensure that the individual complied with basic disability criteria, then assessment by highways officers to ensure that the applicant's property complied with location criteria, then if necessary assessment by an occupational therapist to assess relative severity of disability so that priority could be given to the applicants with the greatest disability need. Officers felt that the methodology approved by the Council Cabinet could not be adhered to because of the large number of applications which had been foreseen by officers but not provided for in the approved scheme or the budget. A different methodology was implemented by officers without consultation or approval: one community care officer, working alone, rejected some 90% of eligible applications, on the basis of unspecified criteria, and selected 40 for forwarding to highways officers for further selection. The complainant was one of the applicants rejected by the community care officer.

I found that there was maladministration in the Council's failure to implement a policy it had adopted some years previously; and that there had been maladministration in the design and operation of the initial scheme to provide disabled parking spaces.

I found that the complainant had suffered the injustice that she had been wrongly excluded from the selection process for unexplained reasons during an exercise which should not have formed part of the process, and that there was no justification for considering her to have any lesser claim for a parking space than other applicants including successful applicants.

I recommended that the Council provide the complainant with a parking space. The Council has indicated that it will now comply with this recommendation. I also recommended that the Council implement its policy by adopting a workable, fair and transparent way of allocating a reasonable number of disabled parking spaces annually.

The Council accepted my recommendations. At time of writing these have been partly implemented and I am keeping the position under review.

Housing: Carmarthenshire County Borough Council (Public Interest Report 200502286 issued March 2007)

Mrs P lived with her husband in a two bedroom caravan which she owned. The caravan was located on a Council managed site. Mrs P made a housing application in September 2004 because she felt that the conditions of her caravan were unsuitable in view of her medical difficulties. She had bowel problems, heart disease, diabetes and depression. The caravan had no indoor bathroom, toilet or running water. Mrs P's eight year old grandson moved in with them in March 2005. Mrs P complained that the Council had not given her application sufficient priority and as a result the family had lived in unsuitable accommodation for longer than should have been the case.

The Council re-housed the family in the summer of 2006 having made an offer soon after her complaint was submitted to the Ombudsman.

I found that there had been maladministration in the handling of Mrs P's housing application. I concluded that the Council had failed to apply the relevant law and statutory guidance, including my own guidance. This meant that Mrs P's housing application was mishandled. Specifically I concluded that the Council should have carried out homelessness enquiries in view of the information given about living conditions in Mrs P's housing application. Had the Council made those enquiries, it should have concluded that it was not reasonable to expect Mrs P to go on living in those conditions, and made an immediate offer of temporary accommodation. I also found that the Travellers Officer had been inappropriately asked to perform a role that housing officers should have carried out and for which he was not qualified.

I concluded that Mrs P and her husband had to go on living in grossly unsatisfactory conditions for some 20 months longer than should have been the case had her housing application been dealt with fairly and properly.

I recommended that the Council apologise to Mrs P and make a compensatory payment to her of £3300. I also made the recommendations referred to at the end of the case below.

(Public Interest Report 200502299 issued March 2007)

Mrs S complained to me that she had made housing applications to the Council and had been on its housing waiting list for some years but had yet to be offered any property. Mrs S lived with her family in a caravan which she owned on a site operated by the Council. The maximum sleeping capacity of the caravan, including the living area as well as the two bedrooms, was four people. Living in the caravan with Mrs S at the time she made her applications to the Council for housing were her husband and three children: a teenage daughter, a teenage son and a younger son.

The investigation showed that the Council had failed to deal properly with Mrs S's applications (including a renewal application made when the Council's housing allocations policy and scheme changed in January 2006). It had not sent her, as its written procedures required, any information on how her application was progressed or any points awarded to her and neither had it ever contacted Mrs S for any additional information which might have assisted in determining her application. Further, the Council had failed to consider Mrs S's application in order to determine whether the conditions which she complained about satisfied the definition of "homelessness" on the grounds of it being unreasonable to continue occupying the caravan. The caravan was simply far too small for the family, such that the younger son had to share a bed with his parents.

The investigation uncovered that there were serious deficiencies in the standard of record-keeping within the Council's Housing Department.

I found that serious systemic maladministration had caused personal injustice to the complainant. She and her family had gone on living in grossly unsuitable housing conditions for at least two years after the Council should reasonably have helped her find more suitable accommodation.

I was pleased to note that Mrs S had been offered and accepted the tenancy of a council house by the time the investigation concluded. I recommended, however, that the Council apologise to her for its maladministration and offer her £5000 to compensate for the period the family had unfairly had to spend in unacceptable living conditions.

In addition to the monetary compensation recommendations that I made in respect of the above two cases, I also made a number of recommendations for urgent action by the Council to remedy the systemic maladministration I had found. These were that the Council should within three calendar months of the date of this report deliver a programme of training for all staff in the Housing

Department, with appropriately qualified external assistance, covering the following areas:

(a) homelessness issues, in particular the definition and identification of when homelessness might arise.

(b) the Council's written policies and procedures and the importance of recording information adequately.

(c) how to deal fairly and properly under the Council's existing policies and procedures with any applications for permanent housing from:

- Gypsies and travellers
- Existing Council tenants

I further recommended that:

(d) within nine months of the date of this report, the Council should review its housing allocations policy to satisfy itself that it fully complies with the law and that its Monitoring Officer certifies to me that it has done so. (In setting this timescale for implementation I have been mindful that the Council will need to consult its RSL partners about any proposed changes to the joint allocation policy)

(e) also within nine months of the date of this report, the Council should, as it intended, publish its Gypsies and Travellers Strategy.

(f) within three months of completing the review of its housing allocations policy referred to at recommendation (d) above, the Council should complete a sample review of housing applications on the Housing Choice Register to satisfy itself that applications are in practice pointed in accordance with its revised policy. Ahead of that general review, the Council should immediately review the status of any further applications for housing which may currently exist from caravan-dwellers, whether or not resident at the Council's site, as well as those from Council tenants seeking a transfer to ensure that they are fairly assessed.

I was pleased to be able to state in both of the above reports that Carmarthenshire County Council had agreed to accept all of my recommendations.

Housing: Vale of Glamorgan
(Public Interest Report 200501724 issued February 2007)

Mr and Mrs W (aged 72 and 62) were, at the time of their complaint to me, owner occupiers. They purchased their accommodation (a holiday chalet) on a holiday park in June 2000. Under its terms of occupation, they were required to vacate the chalet for two months of the year in January and February. Mr and Mrs W had to arrange their own accommodation during this period.

The holiday park is relatively isolated. An unpaved, relatively narrow lane, approximately a mile and half long, is the only way into the park from the main road. Public transport runs from the main road. Local shops can be reached a mile and a half along the main road.

When Mr and Mrs W bought the property they were in relatively good health. Mr W was working. Mrs W wore glasses but had no other problems with her vision. During the months they had to vacate the property they went to Spain. However, since 2003 in particular, Mr and Mrs W's health has deteriorated significantly. In Mrs W's case, deteriorating eyesight has resulted in her having substantial visual impairment to the extent that she is now registered blind. Mr W has severely reduced mobility.

In 2004, Mr and Mrs W applied to go on the Council's housing register. They were placed in the bronze category (the lowest priority group) as the Council considered Mr and Mrs W adequately housed. Mr and Mrs W then made a series of applications for medical priority. Medical priority if awarded by the Council would place Mr and Mrs W in gold banding (the top of the priority grouping), so significantly improving their prospects of being rehoused. On her forms, Mrs W highlighted the range of health problems she faced and explained that the isolated location of their chalet meant she was not eligible for mobility training or a guide dog. This Mrs W explained, severely restricted her ability to gain some form of independence. Mr W on his forms explained he had very limited mobility following surgery and so could not walk or sit without severe pain. He was reliant on a high dosage of painkillers to alleviate the pain. However, taking his medication meant he was unable to drive. Both highlighted that their health problems meant they now required permanent accommodation. However, Mr and Mrs W were unsuccessful in their applications for medical priority and so remained in the bronze banding.

I found that there had been maladministration in the Council's handling of Mr and Mrs W's housing application and in particular their applications for medical priority. Contrary to statutory guidance, I found that there had been a failure by the Council to carry out any form of enquiries.

This meant the Council was not in a position to undertake a proper and considered assessment of Mr and Mrs W's needs. I also identified a failure by the Council to give sufficient consideration to whether homelessness was an issue.

I identified administrative weaknesses in the way the Council's Panel which decided medical priority operated, and considered its decision making process flawed. Finally, I identified a number of failings in the way the Council considered and dealt with Mr and Mrs W's appeal against the Council's decision not to award medical priority.

I concluded that the Council's maladministration had caused Mr and Mrs W personal injustice. A proper assessment of Mr and Mrs W's case I concluded, would have led to them being deemed to be statutorily homeless no later than the end of September 2005 (when the Panel met to consider additional medical grounds put forward by Mr and Mrs W) and being offered assistance accordingly to find more suitable temporary accommodation. It would also have led to their application for permanent housing being given greater priority.

I was pleased to learn that in December 2006, as my report on the investigation was being finalised, the Council reassessed Mr and Mrs W's circumstances, and as a result they were upgraded to gold status and rehoused later that month.

I recommended that the Council:

- should pay Mr and Mrs W compensation of £2,500 for over 15 months unfairly and avoidably spent in unacceptable housing conditions.
- should comprehensively overhaul its arrangements for assessing medical priority for housing recommendations and give its staff additional training on homelessness issues.

I was pleased to be able to state in my report that the Council had agreed to accept all of my recommendations.

Housing: Gwynedd Council (Public Interest Report B2004/0277 issued April 2006)

Mr & Mrs N complained that the Council had failed to carry out certain repairs to their council-owned property within a reasonable time. The Council had also, they claimed, failed to return their telephone calls or respond to their letters of complaint. Further workmen did not keep to the agreed dates and times resulting in further delay in completing works.

Mr & Mrs N had been council tenants for many years. They claimed that they had made several telephone calls over a long period to complain about a number of issues at their home including damp and damage to the garden wall following a lorry hitting it. Their calls were not returned and neither was a letter listing the complaints acknowledged. Mrs N subsequently wrote a formal complaint to the Council about the manner in which they had been dealt with.

The Council investigated the complaint and a report was compiled after inspecting Mr & Mrs N's home. It put in place arrangements to undertake some of the works. Further delay was caused by workmen failing to keep to agreed appointments but ultimately, many of the works were completed. The Council however claimed there was no evidence of damp and that the affected areas were a result of condensation caused by the tenant's lifestyle. Further, it claimed, the damaged garden boundary wall did not pose a danger particularly as the hedge had grown around the damaged section. The hedge, it acknowledged, had been maintained by Mr & Mrs N.

The Council had set itself certain timescales within which to undertake repairs which were set out in its Tenant's Handbook and a leaflet available to tenants. It acknowledged that it was in difficulty in reaching the targets. It was also likely, following a review of its stock condition, to be in difficulty in achieving the required standard laid down by the Welsh Assembly Government for all Welsh housing by 2012.

Mr & Mrs N complained that they were frustrated with the manner in which they had been treated by the Council. Consequently they had lost all faith in it as a landlord. As a result they did not trust the Council in its diagnosis of condensation.

I pointed out that the Council had a legal obligation under s11 Landlord & Tenant Act 1985 to carry out certain repairs extending to the structure and exterior of the dwelling. It included repair to the garden wall and, if the affected areas were suffering from damp, to also remedying that problem.

I found that the Council had failed to properly record complaints made (both by telephone and by letter) and that it had failed to effect reported repairs, for which it had responsibility, within a reasonable time. It had additionally failed in this regard contrary to its own set time targets by which it had already assessed the urgency or priority of necessary work. Contractors employed by the Council had failed to keep to the agreed dates/times compounding the delay.

I commented :

"(The Council)... appears in some instances to have set itself time targets beyond those set out in

legislation, which it has found impossible to achieve for a number of reasons....it would appear the Council is in difficulty in complying with the targets set down by legislation, as a result, it says, of a lack of resources to do so....Whilst I can accept that the Council has budgetary problems in fulfilling its repairing obligations, and that this is in some instances an inherited problem...this is not a matter that I can take account of in deciding Mr & Mrs N's complaint. It is the same problem for many councils countrywide. Others are nevertheless able to keep to their statutory repairing obligations and the timescales set down".

I was satisfied that the Council had failed to properly carry out repairs to Mr & Mrs N's home within a reasonable time. This had affected Mr & Mrs N's enjoyment of their home. They had been inconvenienced in the time taken to repeatedly report their complaints to the Council and been left with a sense of frustration when their calls and letters to the Council went unanswered.

I was pleased to be able to state in my report that the Council had agreed to accept all of my recommendations. In particular, the Council agreed it should immediately engage an independent expert to inspect the affected areas to assess whether the problems were caused by damp or condensation. The Council also agreed to undertake the repair of the boundary wall.

It also agreed to my recommendation that it reviews its procedures to ensure safeguards are built into its new process for logging reported complaints (whether by telephone or letter). The Council should also review information on its appointment letters. A senior officer should remind Council staff about keeping appointments and monitor appointment keeping for a 3 month period.

The Council agreed it should apologise to Mr & Mrs N and pay them the sum of £350 in recognition of the inconvenience caused to them by the shortcomings identified.

These recommendations have now been implemented.

Social Services: Wrexham County Borough Council (Public Interest Report B2003/0845 issued June 2006)

One of Mr J's daughters from his previous marriage first made an allegation that he had abused her in 1997. At that time she was 13 years old and was seriously ill in hospital with a psychiatric disorder. Mr and Mrs J were both working with children and had a young child of their own. Despite this, no action was taken by the Social Services Department to investigate under s.47 of the Children Act

1989, as the Department took the view that it could not investigate the allegation without Miss J's consent. Mr J was not informed of the allegation.

Miss J made further serious allegations against her father in 1998, and again in 1999. She implicated Mrs J and other relatives in some of these. On each occasion Social Services decided not to investigate the allegations as Miss J would not give her consent.

Four years after her original allegation against her father, Miss J alleged that he had recently raped her. The Council then initiated a s.47 investigation, which was undertaken by the NSPCC. The police informed Mr J of his daughter's latest allegations against him. Miss J subsequently withdrew her allegations and the police took no further action. The NSPCC compiled two reports before a child protection case conference was convened a year later. By this time Mr and Mrs J had a second child.

The case conference recommended that Mr and Mrs J's sons be placed on the Child Protection Register. Mr and Mrs J appealed this decision, as they claimed the investigation of Miss J's allegations had been inadequate and the allegations against them were false. The decision to register was upheld at appeal.

The Council appointed an independent social worker to conduct an assessment of Mr and Mrs J's sons. He subsequently recommended that their names be removed from the Child Protection Register, as there was no evidence that they had ever been at risk from their parents and no evidence to substantiate the allegations against Mr and Mrs J. The boys' names were on the Register for fourteen months. The independent social worker was critical of the fact that an investigation was not instigated after Miss J's first allegation, which may have prevented the subsequent course of events.

Mr and Mrs J complained via Stage Two and Stage Three of the Council's statutory Social Services complaints procedure, where their complaints were substantially upheld, but no redress was offered.

Mr J had a serious nervous breakdown in early 2002 and had to leave work. In mid 2006 he remained in receipt of Incapacity Benefit, and was re-training for a different career, as he did not feel confident ever to work with children again.

I found there had been repeated, prolonged and serious maladministration by the Council in its

failure to adequately investigate Miss J's allegations against her father. Guided by the advice of my professional adviser on child protection issues, I was particularly critical of the Council's decision in 1997 – subsequently repeated - that it could not investigate potential child abuse without the consent of the child making the allegation.

I found, on the balance of probabilities, that had the Council investigated Miss J's initial allegation promptly and effectively in 1997 the allegation would not have been substantiated and the subsequent course of events would have been very different. I judged that the Council's maladministration had caused severe stress to Mr and Mrs J and was the major causal factor in Mr J's severe nervous breakdown and consequent loss of livelihood.

I recommended that the Council made a full apology to Mr and Mrs J. I recommended it paid Mr J the sum of £84,000 in compensation for his loss of income plus a further £5,000 each to Mr and Mrs J in recognition of the needless distress which they had been caused by the Council's maladministration. The Council should also reimburse certain legal costs incurred by Mr and Mrs J.

I recommended that the Council's Social Services Department should recognise in future that investigations into possible child abuse may need to be undertaken without the consent of the child concerned in the interests of child safety.

The Council accepted all of my recommendations. These have now been implemented.

Social Services: The City and County of Swansea Council (Public Interest Report B2004/0707 issued February 2007)

Mr H was the main carer for his ten year old son who is autistic. He complained that the Council failed to carry out an appropriate assessment of R's needs and to provide respite for R. He also complained that the Council had delayed in assessing his own needs as a carer and in offering him support. There was also delay in making direct payments available to him. Mr H also considered that the Council had not dealt properly with his complaints about these issues.

I noted that R had been on a waiting list for respite services for a number of years, a number of referrals had been made but no revised core assessment had been carried out. Furthermore, R's case was closed pending respite becoming available. Whilst I did not consider this to be ideal, after taking advice from his social services adviser, I accepted that this was a way of handling the heavy volume of referrals received in Children's Services. In the circumstances I hesitated to classify the omission of a follow-up core assessment of R's needs as maladministration.

I was critical of the Council for not providing R with respite, particularly after an undertaking to do so at a placement meeting on 19th March 2004. The Council had also failed to give Mr H any explanation. I considered that this case illustrated that the Council had not done enough to meet the severe shortage of respite facilities, particularly for children with autistic spectrum disorders, which had been identified in a joint review some years before. The Council was failing in its duty to those children in need in the Council's area.

The Council was found to have delayed in assessing Mr H's needs as a carer. This had not been done under the 'framework' assessment as the Council said in its formal response on the complaint. When Mr H's needs were first assessed I considered the approach to be flawed. I did not consider that the social worker concerned had taken proper account of Mr H's needs as a carer and had disregarded R's mother's reservations about providing care for R, which Mr H needed to complete his university course. R's mother confirmed that she had felt pressurised into offering support. The Council had also omitted to take into account its own guidance at that time which advocated that the Council could provide services to carers, such as Mr H, where the continuation of their education or training could be at risk. A second assessment of Mr H's needs in December 2005 resulted in a successful outcome for him. I was not convinced that circumstances had changed sufficiently to have justified a different outcome in 2004. I took the view that had Mr H's needs been assessed properly and objectively in the first place that a successful outcome would have been achieved earlier.

I concluded that there was confusion amongst social services staff, including senior officers about the direct payments framework. Mr H was told by social workers that direct payments were not applicable to Children's Services prior to legislative changes which became effective in November 2004. I took the view that in taking this line the Council had fettered its discretion and applied a blanket approach to requests for direct payments in respect of children. Also Council officers, as late as October 2005 were also maintaining that direct payments were not available for childcare purposes to enable Mr H to attend university. I said that this advice was clearly wrong and failed to take account of the Council's obligation to consider Mr H's wishes regarding further education, so that he should not be disadvantaged as a carer any more than other parents.

The Council was also at fault for failing to deal effectively with Mr H's complaints at stage 1 of the complaints process. Despite their recurring nature Mr H's complaints were not referred to the independent investigation stage at stage 2 as they should have been.

Following Mr H's complaint to me and the completion of a second carer's assessment, direct payments were made available to Mr H. My view was that this could have been done sooner enabling the appropriate respite for R.

I upheld all of Mr H's complaints and recommended that the Council should pay compensation of £3,475 to Mr H and ensure that staff, including senior officers, receive training in the areas of carers assessments and direct payments. The Council was also required to review the provision of respite in relation to the demand for children such as R.

I was pleased to be able to state in my report that the Council had agreed to accept all of my recommendations. The majority of these have been implemented; I will continue to monitor compliance with the outstanding issue of the review.

Social Services: Cardiff County Council (Public Interest Report: B2002/0944 issued August 2006)

Mr Y was asked by the Council's Social Services Department to take charge of five children who were removed from the care of his estranged wife following allegations of abuse. He agreed to do so although he had no parental responsibility for two of the children. Had he not done so, these two children would have had to be taken into care by the Council.

I found that the Department failed over the ensuing several years to ensure that he had adequate practical and financial support in caring for the children. Its officers showed unacceptable bias and unfairness in their attitude to Mr Y. They made unsubstantiated assertions about him and their treatment of him was at times humiliating. Social workers failed to respond to referrals from other agencies and failed to carry out any assessments of the children or of Mr Y. They had no strategy for providing continuity of support to the family over the years until the youngest child reached sixteen, several times closed the case without justification, failed to respond to requests for support and failed to intervene to prevent foreseeable crisis and family breakdown. They placed the family in conditions of statutory overcrowding on a number of occasions. They also at various times failed to ensure the safety of the children, failed to follow child protection procedures and Looked After Children procedures and Social Services complaints procedures, failed to keep adequate records and failed to make available to Mr Y its records appertaining to his children, for whom he retained parental responsibility.

When Mr Y complained to the Council, its consideration of his complaints was flawed and inadequate. The complaint procedure was not properly applied; the complaint file was closed before the complaints had been investigated; Mr Y was repeatedly asked to put his complaints in writing but offered no assistance in doing so and the investigation report when the complaint was eventually considered at Stage 2 was grossly inadequate.

To make redress to Mr Y for the injustices he had suffered in consequence of the Council's maladministration, I recommended that the Council should pay Mr Y £20,000 and make him a full and unreserved written apology, and should ensure that its files on his family were put in proper order and that a copy of my report be placed to each file. I also took the exceptional step of recommending that one social worker in particular be removed from having any further part to play in any matter concerning Mr Y and his family. However, I did not make any specific recommendations for systemic improvement in view of the fact that events described in my report had taken place at a time when the Council's Social Services Department was experiencing great difficulties, subsequent to which inspection reports had identified that improvements had been made.

The Council accepted all of my recommendations. These have now been implemented.

Social Services: Caerphilly County Borough Council (Public Interest Report 200500642 issued August 2006)

Mr K is a disabled older man, with a range of medical and mobility problems. He is unable to drive but has a car and relies on his wife to drive him. He wanted to have a disabled persons parking place (DPPP) provided by the Council and made an application.

The Council operates a two stage procedure whereby the eligibility of the applicant is firstly confirmed and then a traffic assessment and consultation are carried out prior to the creation of a Road Traffic Order allowing a DPPP to be installed. The Council has a budget allocation for six to be provided every year.

Following his application, Mr K was told that he was not eligible as he was not the driver of the vehicle. His wife then applied and was also turned down as the circumstances were unchanged and was advised that she could double park while disembarking Mr K from the vehicle. Mrs K felt that this was not an option in the location of their home and that Mr K was too vulnerable to be left alone for any period of time.

When they made the application Mr and Mrs K had not been supplied with a copy of the criteria used by the Council to establish eligibility and had not received a full response outlining which criteria the Council felt they did not meet. They felt that there was inconsistency in the Council's approach to these applications as a neighbour had been granted a DPPP when his mobility appeared to be greater than that of Mr K.

The official response of the Council confirmed that the application from the family had been rejected on the grounds that Mr K did not meet the criteria required by the Council. On being provided with a copy of these, Mrs K submitted to me a full rebuttal of the grounds given; she also supplied a letter from the family GP to confirm the situation, as he had not been consulted by the Council.

In the earlier stages of the investigation, the Council was repeatedly prompted by my office to reconsider its decision on the case and having done so it reconfirmed its decision. However at interview, and in reconsideration of the layout of the site and the specific needs of Mr and Mrs K, the responsible officer agreed that the family were eligible for consideration for a DPPP and that the second stage, the traffic assessment, would be put in train.

I found that both the criteria applied by the Council and the method by which these criteria were applied to be unsatisfactory and to constitute systemic maladministration. The criteria had not been applied consistently as it was confirmed that the neighbour had been granted a DPPP without going through the same process.

I was pleased that the Council finally accepted that Mr K was eligible to be considered for a DPPP; but this could have been established at a far earlier stage and spared the complainants considerable delay and distress. I recommended that the Council give urgent and sympathetic consideration to providing Mr K with a DPPP; and make a payment of £750 to Mr and Mrs K in recognition of the distress they were caused by the Council's mishandling of their application and of their time and trouble in bringing the complaint.

I further recommended that the Council introduce improved procedures for handling these applications; and having discovered that officers were considering putting to the Council's Cabinet the option of ceasing the provision of DPPPs altogether, I cautioned that in my view this would not be lawful.

The Council accepted all of my recommendations. However, I have been concerned that these have not as yet been properly implemented and at the time of writing am keeping the position under review.

Social Services: Merthyr Tydfil County Borough Council (Public Interest Report B2004/0827 issued May 2006)

Mr & Mrs G complained that the Council did not deal adequately with their application to it for direct payments in lieu of services which their son Steven (who is autistic) required. In addition they complained that there had been a failure to conduct an appropriate assessment of Steven's needs.

Mr & Mrs G verbally requested information concerning direct payments which they understood the Council had the power to provide in place of services for their son. An initial assessment of their son undertaken in March 2003 identified that he required speech therapy and OT services. It also stated that Mr & Mrs G were providing for all of their son's needs and spending money addressing his education needs not currently being met. In December 2003 Mrs G made a written request for direct payments but on receiving no formal response, wrote again in April 2004 pointing out that their son's needs could have changed since March 2003 as had their needs as a family. Mrs G did not receive the written response the Council claimed it sent in June 2004. The Council could not produce a copy of it subsequently. Consequently Mrs G formally complained to the Council in August 2004.

The Council responded claiming that it would need to develop a direct payments policy as it would not be mandatory for the Council to provide such to parents as carers of disabled children until the law changed in November 2004. It would now, however, undertake a core assessment of the son's needs. The assessment was commenced in October 2004 and completed in January 2005.

Thereafter Mrs G pursued her complaint through both Stages 2 and 3 of the Council's statutory Social Services complaints procedure culminating in an Appeal Panel in January 2005. The independent Panel found that the Council had not explored the use of its discretion properly and recommended that an independent assessment of their son's needs should be undertaken within 28 days of the Panel.

Mr & Mrs G complained to me that the Council had failed to consider the use of its discretion and had

failed to carry out the assessment recommended by the Panel. The assessment was still outstanding in August 2005.

I pointed out that the Council had a duty in law, when it was given discretion by legislation, to consider it in each individual case. If it elected not to exercise its discretion in favour of an applicant, it must give legitimate and clear reasons for not doing so. This was particularly the case when such discretion was supplemented by guidance issued under the provisions of the Local Authority Social Services Act 1970 (LASSA). Courts had decided that guidance issued under LASSA was directive and it was intended authorities follow it unless there were good reasons for not doing so.

The law in relation to direct payments had, in Wales, conferred discretion upon the Council to provide such to parents of a disabled child in lieu of eligible services the Council would normally provide, since 1 July 2001. This enabled parents to purchase or supply their own services to meet assessed needs. It was a pre-requisite of any direct payments decision that an assessment of needs was conducted. In respect of children such an assessment would be conducted under the provisions of the Children Act 1989.

The Welsh Assembly Government had issued guidance under LASSA in respect of direct payments specifying that authorities should not fetter their discretion. It had also issued guidance under the Children Act setting out target timescales for the conducting of assessments in particular core assessments which should be completed within 35 working days.

I pointed out that the Council should have considered the guidance issued by the Welsh Assembly Government and, that if it was unclear how it should consider the exercise of discretion conferred upon it by law under new legislative provisions, advice should have been sought, preferably from the Council's legal department, on what it entailed.

I found that the Council had failed to properly consider its discretion in relation to direct payments by failing to have due regard to guidance, issued under LASSA, by the Welsh Assembly Government. It had failed to provide services to Steven that were assessed as needed – speech therapy and OT. It had failed to complete a core assessment within the timescales laid down in government guidance and it had subsequently failed, without good reason, to carry out the independent assessment recommended by the Appeal Panel. In addition, the investigation revealed that the recognised procedures for maintaining social services files and records was not always adhered to.

I commented:

"...it was (the Council's) view that having discretion in this instance meant a discretion whether to introduce the direct payments scheme at all before the November 2004 mandatory date... That is not a view I share, and indeed it cannot be correct, otherwise the Council would be free to never introduce or do anything legislation gave it the discretion to do. The discretion given to the Council was to make direct payments to the new groups, if in the particular circumstances and merits of the individual case, it felt appropriate to do so. It is my finding that the Council did not consider its discretion in Mrs G's case but, rather, fettered its discretion in applying an inflexible policy of not considering any request for direct payments before the mandatory date for implementation".

I was satisfied that had the Council properly considered its discretion, conducted the assessments in a timely way and provided services that were assessed as needed, that Mr & Mrs G may not have paid for certain services out of their own pocket. The actual costs would, however, be difficult in the circumstances to quantify. The delays and failures may also have precipitated Mr G giving up his employment to become the son's full time carer far earlier than it was accepted he would have done in any event.

I recommended that:

- The Council should make its staff aware of the importance of ensuring that relevant documents are kept within files in accordance with recognised procedures.
- The Council request an appropriate senior officer to carry out a formal review to ensure that it has procedures in place to keep abreast of legislative changes. The review should also ensure mechanisms are put in place to effect any changes to the necessary policies and procedures in order to implement changes in the law in a timely way.
- The Council should apologise to Mr & Mrs G and pay them the sum of £2,000 for the unnecessary stress and inconvenience suffered by the shortcomings identified.

I was pleased to be able to state in my report that the Council had agreed to accept all of my recommendations. These have now been implemented.

Planning: Caerphilly County Borough Council (Public Interest Report B2004/0893 issued September 2006)

Ms S complained on behalf of herself and the owners of seven neighbouring properties that the Council failed to consider properly the effect of a proposed development on their amenity. She alleged, in particular, that the Council failed to seek information about proposed ground levels of the development site before determining the planning application and so the height of the new houses close to their homes is considerably higher than had been envisaged. They also complained that the Council failed to carry out its enforcement responsibilities in relation to the new development

I found that the Council failed to acknowledge the effect potential changes in ground levels would have on a sloping site and that this meant that it missed the opportunity to put conditions in place to control any potential adverse effects of overlooking or overshadowing that increasing ground levels would have. I found that the Council's failure to consider and specify the finished slab levels of the proposed development was maladministration. Accordingly the complaint was upheld.

I recommended that:

- the Council should commission an independent valuation of the complainants' properties and compensate them for any loss of value which arises from the new properties having been built at a higher level than previously existing ground levels.
- the Council formally reminded its staff of the importance of ensuring that when they identify that a planning application for a proposed development may result in changes to ground/slab level any relevant further information should be obtained from the applicant and/or appropriate conditions attached to any permission granted.

In addition, I recommended the Council should pay Ms S £250 in acknowledgement of the time and trouble to which she has been put in pursuing the complaint.

The Council accepted all of my recommendations. These have now been implemented.

Planning: Rhondda Cynon Taf County Borough Council (Public Interest Report 200500255 issued February 2007)

Miss H complained that the Council unreasonably granted planning permission for a dwelling house at the rear of her home. She said in particular that the decision was contrary to the advice of planning officers and that an earlier application had been refused. She considered that her objections about the effect on her amenities were not taken seriously. She also considered that the Council had failed to take appropriate enforcement action and that unauthorised building went unchecked for longer than it should have done.

I found that the Council's decision to grant consent at outline stage was maladministrative and based on irrelevant considerations. Members decided to grant consent to deal with the problem of fly tipping on the site which was not a material planning consideration. Their decision was contrary to officer advice based on the overbearing impact on neighbours and the development plan. Members had not been advised at the time of that decision that the application site had been earmarked for playground provision in the local plan. This amounted to a departure from the plan which should have been given further publicity but the Council omitted to do so.

There were also shortcomings in the enforcement of unauthorised development on the site. I was critical of the time taken to serve a breach of condition notice to deal with the applicant's excessive working hours. I also took the view that liaison between the building control officer and planning/enforcement officers might have prevented unauthorised development proceeding to the stage it did.

I recommended that the Council should:

- commission the District Valuer to undertake a valuation of Miss H's property to establish any loss of value to her property arising from the development of the application site. The Council should compensate Miss H for any loss in value identified. If the applicant is successful at appeal and develops the site in accordance with the fourth application a further valuation should be carried out and Miss H should be compensated for any further loss in value
- apologise to Miss H and make a payment of £250 for her time and trouble in making the complaint

- confirm when members have received training to remind them of their responsibilities and in particular raise their awareness of what constitutes material planning considerations
- ensure that reasons are recorded at the time when decisions are taken contrary to officer advice and policy.

I was pleased to be able to state in my report that the Council had agreed to accept all of my recommendations. These have now been implemented, with the exception of the first recommendation, where the District Valuer has yet to produce his/her report. I will continue to monitor compliance with this outstanding issue.

Planning: Pembrokeshire County Council (Public Interest Report B2004/0668 issued April 2006)

The complainant lives in number 39 of a Georgian terrace, Glen View, on the contour lines of a hill in a conservation area. The rear gardens of Glen View slope steeply upwards and abut another street. Numbers 2 to 22 Glen View are roughly parallel to that street but after no 22 the gardens of the Glen View houses shorten progressively until the two streets converge at no 54. The complainant's next door neighbour at number 38 applied for planning permission to build a two-storey dwelling at the rear of his garden.

Although the local planning authority had historically resisted applications to build at the rear of properties in Glen View, in 1990 an application for a dwelling at the rear of number 17 had been granted planning permission by a Planning Inspector, overturning a refusal by the authority. In light of the Inspector's unexpected decision the authority had drawn up a Development Brief for the conservation area. The brief was not adopted as supplementary planning guidance.

The officers' report to the planning committee, which included several newly elected Council members, quoted extensively from the Inspector's 1990 decision letter. The Inspector's evaluation of the site at number 17 was, in salient respects, inapplicable to number 38. The "evaluation" section of the report consisted of identifying the application as lying within the development brief area, which was questionable, and as meeting the criteria of the brief, which it did not. There was no specific evaluation of the application site and the impact upon neighbours was not considered. Following a site visit the planning committee voted 15 to 8 in favour of granting planning permission.

I found that there had been maladministration in the way in which the Council had dealt with the planning application. However, there was no clear evidence that, had it not been for the maladministration, members would have reached a different decision on the application. I did not therefore find that the complainant had suffered injustice in consequence of maladministration although he had suffered the less tangible injustice of distress and anxiety caused by the Council's failure to deal properly with a planning application which directly affected him.

I recommended to the Council that it remedy the lesser injustice to Mr J which I have identified above by making him a modest consolatory payment to him of £200. I also recommend that the Council consider putting in place measures to review its practices in respect of planning guidance and reports to the planning committee to ensure that the shortcomings identified above are not repeated.

The Council accepted all my recommendations. These have now been implemented.

Planning and building control: Caerphilly County Borough Council (Public Interest Report 200500815 issued May 2006)

Mr Y complained that the Council had granted planning permission for a residential development of 4 houses next to his petrol station business without taking into account the safety implications. Mr Y said that the petrol storage tanks were situated near to the boundary of the proposed development site and this created a safety risk particularly in respect of the nearest house. The Council said that its normal procedure was to consider the siting of such tanks when they were actually on the site to be developed, not on neighbouring sites. They have subsequently amended this policy. They also said that Mr Y had been notified of the development in accordance with planning legislation and he should have raised his concerns at this point. Mr Y complained to the Council when he noticed that work had started on the site in close proximity to his petrol storage tanks and he contacted the Council. Subsequently a fire-resistant wall has been erected to separate the residential development from the petrol station.

My view was that the Council should have considered the safety implications of the position of the petrol storage tank. This constituted a material consideration for planning purposes. The Council should not have relied on Mr Y raising such safety issues. However, I felt that the subsequent action of the Council, once it became aware of the problem, was adequate.

Mr Y had been caused unnecessary anxiety about a safety risk to his business which could have been avoided if the location of the petrol storage tanks had been considered at the planning stage. He had also taken considerable time and trouble in making his complaint to the Council and then to me.

I welcomed the change in the Council's policy on considering such planning applications. I recommended that the Council pay Mr Y a sum of £1,000 in recognition of the anxiety caused to him about the future viability of his business.

The Council accepted my recommendation.

Planning: Monmouthshire County Council (Public Interest Report B2004/0455 issued May 2006)

Mr B complained that the Council had failed to notify him of a proposal for development by a neighbouring property thereby denying him an opportunity to object to the development. He also complained that the Council has similarly failed to notify him of a subsequent application to amend the application and failed to reply to his correspondence in a timely way.

Mr B was the tenant of a public house and his neighbour applied to the Council for permission to build a two storey flat roof rear extension to the existing building. Subsequently the application was amended to a three storey extension with a pitched roof. Mr B claimed he was not notified of either application and had he been, he would have objected on the grounds that the building would overlook his beer garden and be overbearing. The Council claimed it had written to Mr B and other neighbouring occupiers in relation to the first application and no objections were received. It had erected a site notice and placed and advertisement in the local newspaper (neither of which Mr B claimed to have seen). However the Council agreed it had not done so in relation to the second application. As no objections had been received to the application the Council approved the proposal through its Head of Development Control and the Delegation Panel to whom consideration of certain planning applications (including where there were no objections) had been formally delegated.

Sometime later, when work was well underway, noticing the increasing size of the extension next-door, Mr B was told of the nature of the development. He complained to the Council that he had not been made aware of the proposed works which, he claimed, would be overbearing and affect what was his home and business. He was told that planning consent had been granted and that he had been sent a letter of consultation.

Further letters from Mr B resulted in the Council formally investigating his complaint. As a result of the investigation the Council accepted that the site notice was placed in a poor position and that Mr B and other neighbouring occupiers had not been consulted on the second application when they should have been. This was contrary to legislative requirements and the Council's own development control procedures. None of the other neighbouring occupiers (seven in number) could recall receiving the consultation letter on the original application either. Internal recording failures were also highlighted.

The Town and Country Planning (General Development Procedure) Order 1995 sets out the requirements for publicity to be given to all planning applications and further advice on interpretation and good practice is given by government circular. The relevant circular suggests that neighbour notification is appropriate where interested parties are limited to those in the near vicinity of the proposed development and that site notices should be visible to anyone passing and where a site is bounded by several roads or more than one frontage, more than one notice is required. Further publicity should be considered where any proposed changes to an earlier application are significant.

I pointed out that there was little evidence that the Council had in fact sent out any consultation letters in relation to the proposed development and, on the balance of probability, concluded that they were not sent.

I was satisfied that he had been consulted on the development at all that Mr B would have objected. Consequently the application could not have been approved by the Delegation Panel and would have required consideration by the Council's Planning Committee. Mr B had lost that opportunity. There was evidence to suggest that, on the balance of probability, had the Committee considered the proposal it would likely have been limited to the original two storey proposal.

I recommended that the Council should pay Mr B compensation to reflect the extent to which the public house with the three storey development in place is worth less than it would have been as compared with a two storey development. To that end I recommended that the Council send instructions to the District Valuer for assessment whose valuation should be regarded as final. In addition to any compensation assessed as due following the valuation, I recommended that the Council pay £500 to Mr B in recognition of the distress and trouble which he had been caused by the Council's maladministration.

In order to avoid further similar failings in future, I recommended that a senior officer ensures staff in the planning section are made aware of the importance of recording significant information on case

files. Other improvements were to be implemented resulting from a review of its systems in line with the internal investigation recommendations.

The Council accepted my recommendations. These have now been implemented.

Environment and Environmental Health: Caerphilly County Borough Council (Public Interest Report 200500032 issued September 2006)

Mr and Mrs R, who are owner occupiers, complained that the Council failed to take effective action to deal with their complaints of nuisance from their neighbour who is a Council tenant. They complained primarily of harassment and un-neighbourly behaviour.

Mr and Mrs R made a number of complaints about anti-social behaviour by the tenant's family and her partner from September 2000. The allegations included abuse, threatening behaviour and rubbish being thrown into their property. In July 2001 the tenant's partner damaged Mr and Mrs R's property and was subsequently convicted in the courts. There was no evidence of a proper investigation of this incident by housing officers. Following an earlier complaint to this office in 2003 the Council wrote belatedly to the tenant in August 2003 warning her that the conviction amounted to a breach of her tenancy conditions and further breaches could result in legal action. The tenant's parents had also assaulted Mr R and been issued with a police caution in November 2001. Housing officers had advised Mr and Mrs R that they could take no action because the tenant or her partner were not involved. This was clearly wrong and took no account of the conditions of tenancy. There was further delay in advising the tenant that there had been a breach of her tenancy conditions following her partner's conviction for criminal damage and assault on a visitor to Mr and Mrs R's property in July 2005. Court actions for assault and harassment brought by the tenant against Mr and Mrs R respectively were unsuccessful.

I found that these shortcomings were maladministration. There was evidence that the Council had not complied with its own procedures in dealing with Mr and Mrs R's complaint. Also housing officers had not reached their operational decisions fairly and objectively based on the evidence on the Council's files. There was a reluctance to take action against the tenant on the part of officers. I was particularly concerned by the lack of proper record-keeping in this case, which had given weight to Mr and Mrs R's complaints that their concerns were not properly investigated.

I could not say with any certainty whether the tenancy would have been repossessed had the Council acted in accordance with its policy. But I considered that had the Council acted appropriately and dealt

promptly and firmly with its tenant relations between the neighbours would not have deteriorated to the extent they had.

I recommended that the Council should take prompt and effective action should the neighbour nuisance recur. I also recommended that the Council should apologise to Mr and Mrs R and make them a compensatory payment of £2,000.

The Council accepted my recommendations. These have now been implemented.

Environment and Environmental Health: Conwy County Borough Council (Public Interest Report 200600636 issued March 2007)

In mid 2003, Mr and Mrs P made complaints to the Council about noise nuisance from the house next door, caused by their neighbours' son, who I shall refer to as D. D had recognised learning disabilities and was receiving services from the Council's Social Services Department, including educational and respite care. D's behaviour was recognised by his family and Social Services as being challenging. D's family were tenants of the Council.

Having investigated the complaints, the Council's Pollution Control Officer referred the matter back to Housing and Social Services to consider. Soundproofing was suggested as a possible option. However, no action was taken by the Council. Mr and Mrs P renewed their complaint in 2005 due to the ongoing nuisance and engaged a solicitor to represent them. They said that they were not able to move house as they felt that they could not sell their home with the ongoing nuisance. They said that they felt effectively trapped. In September 2006, the Council began to undertake noise insulation measures at the property to minimise the transmission of sound to Mr and Mrs P's property. This work was completed in November 2006.

I upheld Mr and Mrs P's complaint. I recognised that the Council had duties to D and his family. The Council's decisions not to take possession or enforcement action against D and his family were in my view entirely reasonable. However, for far too long the Council had failed to take any effective action at all in respect of Mr and Mrs P's reasonable complaints about the unbearable level of noise coming through the party wall, which was disrupting their peaceful enjoyment of the home they had lived in for many years. There was no evidence that the Council had paid due regard to Mr and Mrs P's right to respect for their private and family life.

The obvious solution to balancing Mr and Mrs P's human rights with the rights and needs of D and his family, which was to soundproof the party wall, had been staring the Council in the face from the outset. However it took over 3 years from the submission of the original complaint before the Council took this action. I recommended that the Council should apologise to Mr and Mrs P and pay them £2000 in recognition of the distress and suffering they had had to endure before the Council took action. The Council should promptly investigate the need for further soundproofing of the party wall. The Council should also reimburse Mr and Mrs P's solicitor's fees.

At time of writing, I was waiting to hear if the Council had accepted my recommendations.

Annex B

SUMMARIES OF OTHER SELECTED CASES

Note: Some reports produced during the past year have been issued under the legislation of the previous ombudsmen schemes, since the complaints concerned matters where the problems occurred prior to 1 April 2006. This has particularly been the case in respect of complaints about NHS bodies and the Welsh Assembly Government and Assembly sponsored public bodies. Summaries of some of these cases follow, as do some sample cases of section 21 reports issued in respect of housing associations.

Health Services Commissioner for Wales Report: Wrexham Local Health Board and Powys Local Health Board (Report W0087_005 & W0087_05/2 issued April 2006)

In 1998 Mr P's sister-in-law, Miss R, who is now 82 years old, underwent surgery for a growth in her bladder. She suffered complications after surgery, including several heart attacks, but on 30 September, after a rehabilitation programme at Trevalyn Hospital, she was discharged to Emral House Care Home. Since that time Miss R had paid her own nursing home fees but from 3 December 2001 became entitled to receive a weekly contribution of £100 from the NHS towards her Registered Nursing care. She continued to receive that assistance. On 13 October 2004 a Special Review Panel (convened by Powys LHB) considered whether Miss R was entitled to receive continuing NHS Health Care Funding (which if awarded would have met all of her care costs). The Review Panel determined that Miss R did not meet the relevant criteria and was therefore not entitled to receive further help with her care costs.

Mr P did not accept that decision and remained concerned that the eligibility criteria were incorrectly applied in Miss R's case. He believed that the assessment was based primarily on Miss R's condition on her admission to Emral House and that it did not give proper regard to the progressive deterioration in her condition since that time. Mr P felt that insufficient regard was given to Miss R's complex needs, her previous medical history and the interventions she required and that her condition had been judged on one short visit rather than on an overall assessment of her needs on a day to day basis by someone who was familiar with her case.

I commented on the reasonableness of Wrexham LHB and Powys LHB's decision concerning eligibility, and on the adequacy of the process by which they reached that decision. I found a number of failures in Miss R's case, and that those were compounded by inadequate or inappropriate application of the local policy. I found that Wrexham LHB had not taken adequate action to consider Miss R's ongoing continuing care needs and that in preparing the case for submission to the all-Wales process, Wrexham LHB did not obtain GP records or seek any social worker assessment. I found that Miss R's case had not been adequately or robustly considered by the Special Review Panel.

I found that the actions of Wrexham Local Health Board and Powys Local Health Board had amounted to maladministration.

Wrexham Local Health Board agreed to have Miss R's current entitlement to continuing NHS health care reviewed by an appropriately constituted multi disciplinary team who will consider all aspect of her needs against the eligibility criteria. Powys Local Health Board agreed to constitute a further panel to rehear Mr P's claim for arrears.

I was pleased to be able to state in each of my reports that the Local Health Board had agreed to accept all of my recommendations. These have now been implemented.

Health Services Commissioner for Wales Report: North West Wales NHS Trust (Report WO123/124/125 issued April 2006)

On 29 April 2003 three patients (Patients A, B and C) underwent nasal surgery at Ysbyty Gwynedd. Each of the procedures were described as routine minor operations and all three patients expected to leave hospital that same day. All three patients, in preparation for the operation were administered a drug preparation which included cocaine and was known as Moffett's Solution. Immediately after her operation the first patient experienced severe respiratory and cardiac problems. The second patient also suffered similar problems which required his transfer to intensive care. The third patient also experienced similar albeit less severe problems. A number of other patients who also underwent surgery on the same day in the same theatre using the same anaesthetic parameters but without being administered Moffett's solution; these patients did not experience any adverse reactions.

The Trust made arrangements to analyse the consituents of Moffett's solution, however samples of the Moffett administered to the three patients were not retained and it was not therefore possible to analyse the preparation administered to each patient.

The three patients who experienced the adverse reactions complained to the Trust about the incidents, however the Trust did not provide the patients with a formal response until November 2003. In providing their response the Trust was not able indicate to the complainants what had caused their adverse reactions. The Trust did confirm however that Moffett's Solution was no longer in use at the Trust. Despite further representations from two of the patients, the Trust remained unable to provide them with an explanation for their reactions. Due to the complainant's continuing dissatisfaction, all three complaints were forwarded to me.

I found that while Moffett's solution was an unlicensed preparation it was routinely used in a number of trusts throughout the UK. Its use was however considered to be controversial. In the case of the three patients however, I concluded that Moffett's solution had been responsible for bringing about their adverse reactions. Based upon my clinical advice I also concluded that whilst it would not be possible to determine with certainty, the component of Moffett's solution which led to the reactions it appeared likely, on the balance of probability, that it was adrenaline and not cocaine which led to the reactions. I also concluded that Moffett's solution had been made up incorrectly and that the manner in which Moffett's solution was prepared was highly unsatisfactory. I determined that there was no formal protocol for making up the solution, and that medical staff were making the solution up inappropriately. I also found failings in the manner in which the Trust investigated and responded to this matter as well as a failure to respond to an incident four weeks earlier involving the incorrect administration of Moffett's solution. I upheld all three complaints.

I also found that the Trust's response to Patient B's complaint was dilatory in the extreme and was one of the worst examples of poor complaint handling by a Trust I had seen. I was also critical of the manner in which the Trust handled Patient A and Patient C's complaints. I upheld all three complaints in relation to complaint handling by the Trust.

I recommended that if Moffett's solution (and any other unlicensed mixture) were to be used at the Trust in future, a number of measures would need to be implemented. These included the preparation of separate vials of the constituents by pharmacy staff before administrating the mixture and that the Trust introduces and implements a policy which requires that any unlicensed drug that is made up by Trust staff is done so according to a strict protocol, approved, ratified and regularly reviewed by the Trust.

I also recommended that the Trust introduces a protocol on how staff should investigate adverse clinical events and in particular to remind staff undertaking this role of the importance of ensuring that statements are obtained from all staff involved in the incident as soon as possible. I also recommended that a formal system was set for disseminating learning from adverse incidents throughout the Trust so that clinical teams can be aware of any adverse occurrences.

In light of the failing I identified, I recommended that the Trust provide Patients A B and C with redress for the amounts of £2000, £4,000 and £1,000 respectively for the hardship and distress which they and their families had suffered. I also recommended that the Trust provide Patient B with further redress of £500 for the dilatory manner in which it had handled his complaint.

The Trust accepted all of my recommendations. These have now been implemented.

Health Services Commissioner for Wales Report: North West Wales NHS Trust (Report W0058_05 issued August 2006)

Mr A had undergone a hip replacement operation in Ysbyty Gwynedd in October 2000. Due to dislocation, he required a second corrective operation in November 2000. Following this operation, he acquired MRSA in the wound. He complained that he had not noticed that any particular infection control procedures had been taken by the nursing staff such as wearing gloves, handwashing or use of alcohol gel or wipes. He was unhappy with the treatment that he was offered to try to combat the infection. He was subsequently referred to a second consultant at another hospital for treatment in September 2001. Mr A complained about the lack of treatment he had received, the general standard of infection control and hygiene procedures at the hospital, the dismissive attitude of the consultant who treated him and the manner in which his complaint was dealt with by the Trust.

I found that the treatment offered to Mr A was substandard. My advisers stated that the consequences

of infection in replaced joints are extremely serious and therefore early aggressive anti-biotic therapy is necessary to treat MRSA in deep wounds. This did not happen in Mr A's case and there appeared to be no attempt by the consultant to commence this type of treatment. Whilst the consultant did refer Mr A for a second opinion, this was not made as an urgent referral and it was some 5 months before Mr A was seen. The infection control procedures at the Trust at that time were not being effectively implemented. The poor standard of the initial treatment which had been offered to Mr A had effectively denied him any chance of eradicating the infection from his hip at an early stage. I upheld his complaint. I also criticised the manner in which the Trust had dealt with Mr A's complaint to them.

Mr A was not offered the treatment which could have eradicated the infection at an appropriate time. The result of this was that, over the next 4 years, Mr A had more surgery and aggressive therapy to attempt to stop the infection. Whilst Mr A is finally free of the MRSA infection, the aggressive nature of the treatment necessary has left him with a permanent disability.

The Trust has, since 2000, already taken considerable steps to improve its infection control procedures. I made a variety of recommendations to further improve infection control at the Trust including the ring-fencing of elective orthopaedic surgical beds. I also recommended that the Trust should pay Mr A £10,000 in recognition of the hardship he had suffered through its failure of service to him.

The Trust accepted my recommendations. At the time of writing the majority of these had been implemented; I am keeping the outstanding recommendation under review.

Health Services Commissioner for Wales Report: Powys Local Health Board (Report 200500107 issued August 2006)

Mrs J cared for her husband Mr J who had numerous medical complaints and suffered from Alzheimer's disease, at home until October 2003 when because of the difficulty she experienced in coping with him he was admitted to a residential nursing home. Mr J was assessed for NHS funded continuing care in January and February 2004 but the Local Health Board's continuing care panel decided in March 2004 that he was ineligible for continuing care funding. After a reassessment this decision was reaffirmed by the Panel and Mrs J appealed the decision. An Independent Review Panel was convened to hear her appeal in August 2004. The Independent Panel whilst deciding to uphold the continuing care Panel's decision that Mr J was ineligible for continuing care funding, did recommend that Mr J should be assessed by members of a multidisciplinary team. The Panel in informing Mrs J of their decision did not seek to explain the rationale behind it. Following an assessment by members of the multidisciplinary team, the LHB's continuing care panel determined that Mr J was ineligible for continuing care funding. The chairman of the Independent Panel decided not to reconvene the Panel in light of Mrs J's ongoing concerns.

My Adviser concluded that there were flaws in the process of considering Mrs J's application and expressed concerned that processes had not changed since Mr J's original assessments in order to ensure that there was a more robust continuing care assessment and decision making process in place in this LHB. The Adviser was concerned Mr J's case was yet to receive due consideration in relation to the Coughlan tests and in particular with regard to the intensity of Mr J's overall care needs. The Adviser expressed his own view that the care needs presented by Mr J are at or around the "line" of eligibility. However the Adviser accepted that the decision is one of professional judgement, and as such accepted, if Mrs J was given an appropriate explanation and rationale, a decision that Mr J was ineligible as clearly there is some degree of interpretation required over this judgement. Although as matters stand the Adviser could not accept that the decision was a robust one. I upheld Mrs J's complaint and recommended that the Local Health Board take action to remedy the failings identified.

The Local Health Board accepted my recommendations. It agreed to undertake a full multidisciplinary assessment of Mr J's healthcare needs as soon as possible. Furthermore the Local Health Board agreed that any further assessments and reviews be fully documented should have regard to the intensity of any needs identified. Finally the Local Health Board agreed to make a record of future Independent Panel proceedings for the sake of robustness and transparency.

These recommendations have now been implemented.

Welsh Administration Ombudsman Report: Welsh Assembly Government Rural Payments Division (Report 200600630 issued February 2007)

Mr & Mrs S complained that the Welsh Assembly Government's Rural Payments Division (the Division) incorrectly failed to exclude the year 2000 when calculating their entitlement under the new Single Payment Scheme. Mr & Mrs S argued that the Division and subsequent Appeal Panel should have excluded that year on the grounds that they had received a formal offer to enter the Tir Gofal agri-environmental scheme in December 1999 and due to the requirements of this scheme were unable to maintain previous stock levels.

The Single Payment Scheme (SPS) (formerly known as the Single Farm Payment) is a Europe-wide farm subsidy scheme which from January 2005 replaced a number of previous schemes including the Sheep Annual Premium Scheme (SAPS). Under the rules of the SPS, each member state of the European Union is given a set amount of money from which to make payments. In the UK, this is further divided between the four constituent nations. To assess each farmer's entitlement under the SPS prior to the introduction of the scheme, a reference amount was calculated on the basis of the three-year average of total subsidy payments made in the period 2000-2002. Where agricultural production was adversely affected in one or more of the years in the reference period due to participation in a specified agri-environmental scheme (such as Tir Gofal), the farmer concerned could apply to have that year or years disregarded.

Mr & Mrs S applied to join Tir Gofal in summer 1999. A Tir Gofal Management Plan was prepared for the farm, and this is dated 17 July 2000. Mr and Mrs S signed the Tir Gofal agreement on 3 November 2000.

Mr & Mrs S contended that although they did not formally sign the Tir Gofal agreement until November 2000, they were obliged by CCW to manage their land in accordance with the scheme from the time they received the formal offer of acceptance in December 1999. Consequently, they argued, they were unable to maintain the number of sheep they had previously kept on the holding.

The Division on the other hand contended that Mr & Mrs S were not committed to the Tir Gofal scheme until they had signed the formal agreement in November 2000, and could not therefore be considered to be members of an agri-environmental scheme at the time the 2000 SAPS scheme was open. The Division also argued that in any event, Mr & Mrs S did not provide any evidence to show that they were required by CCW to change the way they farmed before signing the formal agreement.

The letter from Countryside Commission for Wales (CCW) which Mr & Mrs S said showed they were committed to the Tir Gofal scheme from 22 December 1999, clearly stated that it was a "formal offer", and that a management plan would be forwarded to them later in the year for their signature. The letter went on to state that there was no need for them to do anything more. This was echoed by the CCW's guidance to applicants which also stated that no work should be carried out until the formal agreement had been signed. On the basis of this evidence, the Division's conclusion that Mr & Mrs S were not committed to the provisions of the Tir Gofal until after the 2000 SAPS period had closed was not a perverse decision and as such was not one that I as Ombudsman could criticise.

Even leaving aside the letter of 22 December 1999, it was clear from the information submitted by Mr & Mrs S to the Division and the panel that they did not provide any explicit evidence to show they were obliged to farm in accordance with the Tir Gofal management plan before signing the formal agreement in November 2000. The Division and panel can only make decisions on the basis of the evidence which is submitted to them and I could not therefore conclude that their decisions to reject the appeals were perverse or that there was maladministration in the way the decisions were reached.

I did have a slight concern, however, that the notes of the panel appear to record that the panel concluded that the letter of 22 December 1999 could be considered in lieu of a contract when that was clearly not the case. Whether the panel actually concluded this or whether there was an error in summarising what was said is not clear. In any event, I did not feel this disadvantaged Mr & Mrs S in view of the fact that the reason given by the panel for disallowing the appeal (i.e. that there was no evidence they were obliged to farm in that way until autumn 2000) would still stand.

While I could appreciate that Mr & Mrs S were disappointed with the Division's decision not to exclude

2000 SAPS payments from the calculation of their SPS entitlement, I could not find evidence that there was maladministration in the way that the matter was considered by the Division. Nor, generally, was there evidence to suggest that the panel considered the appeal incorrectly, albeit there did appear to be an incorrect interpretation of the letter of 22 December 1999 recorded in the panel notes. This did not appear to have caused any detriment to Mr & Mrs S, however, as the basis for not allowing the appeal was reasonable. I therefore did not uphold the complaint.

Welsh Administration Ombudsman Report: Children and Family Court Advisory and Support Service Cymru (Report 200600066 issued January 2007)

Mr R complained about the way the Children and Family Court Advisory and Support Service (CAFCASS) dealt with his complaint about the actions of one of its officers. He also complained about the way a further complaint, about the delay in completing the first complaint investigation, was handled.

In addition, Mr R complained about the conduct of a CAFCASS officer in preparing welfare reports for the court. However I was unable to consider this aspect of Mr R's complaint due the restriction on my jurisdiction which relates to matters which have been, or can be, considered by the courts.

Having considered the documentary evidence and what Mr R and CAFCASS Cymru had to say, it was apparent that the complaints procedure in place at that time was essentially complied with. The investigation carried out by a Regional Manager was thorough, and it was clear that she was careful to obtain and consider relevant evidence. I accept that the outcome was not one Mr R agreed with, but that does not in itself mean that the investigation was flawed.

Mr R also complained, in January 2005, about the amount of time taken to investigate his initial complaint. This was considered by a second Regional Manager and she found that there had been an unreasonable delay between Mr R's meeting with the Service Manager, and the first Regional Manager being appointed to investigate his concerns. In its comments to this office, CAFCASS Cymru explained that the delay was due to two factors. The first of these related to the need to establish whether Mr R's complaint could be dealt with by an officer outside Wales. It is clear from the correspondence which I have seen that there was initially some uncertainty about whether this would happen. Given that the then CAFCASS complaints policy made clear that in exceptional circumstances an officer from outside the region concerned could be asked to investigate the complaint, I do feel that Mr R could have been told at an earlier stage that this would happen.

The second factor cited by CAFCASS Cymru as a cause of the delay was that Mr R did not provide comments on the note of his meeting with the Service Manager until June 2004. Mr R pointed out,

however, that the CAFCASS complaints procedure did not require the person making the complaint to do this. Mr R was correct on this point, and I was disappointed that he was told that he had to comment on the notes before his complaint could progress any further. If there were matters on which CAFCASS required clarification before the matter could be progressed to the next stage (and it seems there were), it should have been possible for its staff to have asked Mr R about these specific points either in writing or over the telephone.

I accepted that CAFCASS did send a number of letters to Mr R during this period, and it was clear that the matter was not ignored. However, for the reasons set out above I would agree with the findings of the second Regional Manager that the delay between December 2003 and July 2004 was unreasonable. As a result of this maladministration, it is apparent that there was a delay in the investigation of Mr R's complaint, and the resulting correspondence has inevitably caused Mr R time and trouble. I therefore upheld the complaint to the extent that the delay Mr R experienced in pursuing his complaint was unreasonable.

I was pleased to note that CAFCASS Cymru had already apologised to Mr R, and had offered to pay him an ex gratia sum of £250 in recognition of the inconvenience caused. I noted that Mr R had suggested that he should receive approximately £30,000 in compensation as a result of the delay in handling his complaint. However, I did not believe Mr R's claim to be reasonable. In particular, he had claimed costs for all of his correspondence, not just that produced during the period of delay; he claimed an hourly rate of £8.00 per hour without explaining how this rate was arrived at; and no evidence was supplied to substantiate his claims for injury and damage, and loss of opportunity. The amount offered by CAFCASS Cymru was entirely appropriate, and in line with the figure I would otherwise have recommended. In view of the actions already taken by CAFCASS Cymru, I did not therefore make any additional recommendations.

Social Housing: Clwyd Alyn Housing Association (Report 200600384 issued February 2007)

Miss E complained that Clwyd Alyn Housing Association had not attached the correct points to her housing application after she requested that the award be reviewed when she took up residence in a tent. The initial result was that her points award was reduced despite what she saw as a more difficult housing situation. She subsequently had to spend much time trying to secure a logical and fair points award and lost confidence in the Association. She expressed much frustration with the way in which her points awards have been handled and felt that the Association should have re-housed her soon after she had presented her challenging new circumstances.

The awarding of points to Miss E's housing application by the Association since she contacted it in May 2006 had been characterised by arbitrary decision making, inconsistency, mistakes in interpretation of policy and administrative error.

To address the specific injustice to Miss E it was recommended that the Association should provide a written apology to Miss E and pay her a sum of £250 to compensate for the way in which it had dealt with her housing application from May 2006. Furthermore if Miss E remained on the waiting list of the Association after my final report in this case had been issued, I recommended that a senior officer should review the aspect of her current award that involved environmental need and explain their conclusions in this regard to Miss E at a face to face meeting.

Clwyd Alyn Housing Association agreed to implement the recommendations below:

- that the Association carried out its review of the points scheme and guidance as it has already said that it would do; and
- that a senior officer of the Association carried out a brief audit of the points awards of 50 applicants at random on its open waiting list to search for obvious errors and takes any appropriate specific or general action that is indicated.

Social Housing: United Welsh Housing Association (Report 200502045 issued August 2006)

Ms Y complained that she had difficulties contacting the relevant officer in the Housing Association to report disrepair in the property caused by damp; and that the Housing Association had failed to deal with the damp present in 2 rooms in her property.

Ms Y's property was located in an area where the Association's tenants had ongoing problems with damp. Ms Y said she wrote to the Association 2 years ago to complain about the damp and got no response. Ms Y complained that she repeatedly tried to speak to the Association's Officer but was told that that officer was unavailable. In August 2005, a survey on Ms Y's property, which had been commissioned by the Association, confirmed the presence of rising damp and other disrepair issues. In considering Ms Y's complaint it was difficult for me to comment on the contact that Ms Y said she made to the Association. The Association in its response to me said it found no evidence of a letter that Ms Y sent 2 years previously, neither was there recollection of taking a call from Ms Y. However, what was clear is that there was a note of a call from Ms Y on 2 December 2005 and that this was passed to the relevant officer. However, that officer did not attend at the property until 9 January 2006 – over 4 weeks later. This call was not pre-arranged and Ms Y was not available when the officer called. Ms Y subsequently attended at the Association's office where the situation concerning the

survey was explained to her. On the basis of the evidence available to me, I considered that the delay in the Association attending at Ms Y's property did amount to maladministration and the Association has accepted that this was a failing on its part.

Having considered the Association's service standards it suggested that appointments should be pre-arranged where possible. This did not appear to have happened in Ms Y's case. As a consequence there was a further delay in carrying out the damp inspection at Ms Y's property.

The Association acknowledged that its communication of information concerning the property surveys could have been better and has now taken steps to rectify the situation and letters concerning the damp rectification programme have now been sent to the affected tenants.

In conclusion, it was considered that there was maladministration by the Association in not following its service standards for the inspection of Ms Y's property. As a result of this failing there was considerable delay in the Association attending at Ms Y's property to inspect the damp. The view was also taken that the Association should have communicated more effectively with its tenants the outcome of the survey carried out on the affected properties. Ms Y's complaint was therefore upheld.

The Housing Association agreed to implement the following recommendations:

(a) that the Association should apologise to Ms Y for the inconvenience caused by the Association's shortcomings in its service; and

(b) that the Association should make a time and trouble payment to Ms Y of £100.00 to reflect the personal injustice caused to Ms Y as a result of the Association's maladministration.

Annex C

BREAKDOWN BY LISTED AUTHORITY OF THE OUTCOMES OF COMPLAINTS INVESTIGATED

OUTCOMES OF COMPLAINTS CONCERNING LOCAL AUTHORITIES

County/County Borough Council	Out of Jurisdiction	Premature	Rejected other reasons	Discontinued	Quick Fix	Section 21 – Not upheld	Section 21 – Upheld	Section 16 – Upheld	Withdrawn	Total Cases Closed 2006/07
Blaenau Gwent	1	3	7	1		5	3	1		**21**
Bridgend	5	9	10	2		4	2		2	**34**
Caerphilly	1	10	19	1	2	13	5	4	1	**56**
Cardiff	5	16	23	6	1	12	8	4		**75**
Carmarthenshire	6	8	22	4	1	12	5	2	1	**61**
Conwy	5	13	15		1	13	4	1		**52**
Ceredigion	1	5	9	3		4	4			**26**
Denbighshire	2	1	14	4		4	1			**26**
Flintshire	4	11	8	3	1	7	4		1	**39**
Gwynedd		7	12	1	2	5	8	1	1	**37**
Isle of Anglesey	3	7	9	2	1	17	2			**41**
Merthyr Tydfil	1	6	7	1		5	4	1		**25**
Monmouthshire	3	3	8	4		4	6	1	1	**30**
Neath Port Talbot	4	5	15	2	1	6	3			**36**
Newport	4	9	15	2	1	4	5			**40**
Pembrokeshire	8	12	16	4	3	6	3	1	1	**54**
Powys	2	7	14	5	2	2	2		1	**35**
Rhondda Cynon Taf	6	7	22	5	1	12	1	2		**56**
The City and County of Swansea	6	10	17	3	1	5	5	1	1	**49**
The Vale of Glamorgan	6	6	5	1	2	4	5	1		**30**
Torfaen	3	4	13	1		6	2			**29**
Wrexham	4	11	4	1	1	5	4	1	1	**32**
Total	**80**	**170**	**284**	**56**	**21**	**155**	**86**	**21**	**11**	**884**

In addition to the above, I also closed cases as follows:

- 19 complaints against National Park Authorities: 16 not upheld; 3 upheld (Section 21) in respect of Brecon Beacons National Park
- 9 complaints against Schools Appeals Panels: 7 not upheld; 1 Quick Fix in respect of Admissions Appeal Panel - Bishopston School; 1 Upheld (Section 21) in respect of Appeal Panel of Cwrt Rawlin Primary School)
- 15 complaints against Community Councils: none upheld;
- 4 complaints against Police Authorities: none upheld.

OUTCOMES OF COMPLAINTS CONCERNING NHS BODIES

Local Health Boards

Local Health Board	Out of Jurisdiction	Premature	Rejected other reasons	Discontinued	Quick Fix	Section 21 – Not upheld	Section 21 – Upheld	Section 16 – Upheld	HSCW Report - Upheld	HSCW Report - Not Upheld	Withdrawn	Total Cases Closed 2006/07
Bridgend						1						**1**
Caerphilly		1										**1**
Cardiff	1	2	3		1							**7**
Carmarthen			1									**1**
Denbighshire			2				1					**3**
Flintshire			1			1						**2**
Gwynedd		1				1			1			**3**
Neath Port Talbot						1						**1**
Newport		1				1			1			**3**
Pembrokeshire						1						**1**
Powys *	1	5	3	1		6	3		3			**22**
Rhondda Cynon Taff			1									**1**
Swansea	1	1	1									**3**
Torfaen			1									**1**
Wrexham									1			**1**
TOTAL	**3**	**11**	**13**	**1**	**1**	**12**	**4**		**6**			**51**

* Powys Local Health Board is also responsible for an all-Wales continuing care review panel.

NHS Trusts

NHS Trust	Out of Jurisdiction	Premature	Rejected other reasons	Discontinued	Quick Fix	Section 21 – Not upheld	Section 21 – Upheld	Section 16 – Upheld	HSCW Report - Upheld	HSCW Report - Not Upheld	Withdrawn	Total Cases Closed 2006/07
Bro Morgannwg	1	3					2					**6**
Cardiff & Vale	1	10	2	1		4					1	**19**
Carmarthenshire			1			2	2					**5**
Ceredigion & Mid Wales			1	1								**2**
Conwy & Denbighshire		1	3			1			2			**7**
Gwent Healthcare	1	13	1		1	1	3			1		**21**
North East Wales	5	4				2	2		2			**15**
North Glamorgan	1	3				1						**5**
North West Wales		1	2	2		1			4			**10**
Pembrokeshire & Derwen	1	4	1			1					1	**8**
Pontypridd & Rhondda		1	1				1					**3**
Swansea	1	4	4	1		2			1			**13**
Velindre		1										**1**
Welsh Ambulance Services		1	2									**3**
TOTAL	**11**	**46**	**18**	**5**	**1**	**15**	**10**		**9**	**1**	**2**	**118**

Other Health Bodies

Health Body	Out of Jurisdiction	Premature	Rejected other reasons	Discontinued	Quick Fix	Section 21 – Not upheld	Section 21 – Upheld	Section 16 – Upheld	HSCW Report - Upheld	HSCW Report - Not Upheld	Withdrawn	Total Cases Closed 2006/07
Dentist	1	3		1	1	1				1	1	**9**
GP	3	4	6	1		9	2		2			**27**
Optician										1		**1**
TOTAL	**4**	**7**	**6**	**2**	**1**	**10**	**2**		**2**	**2**	**1**	**37**

OUTCOMES OF COMPLAINTS CONCERNING THE NATIONAL ASSEMBLY FOR WALES AND ASSEMBLY SPONSORED PUBLIC BODIES

Welsh Administration Body	Out of Jurisdiction	Premature	Rejected other reasons	Discontinued	Quick Fix	Section 21 – Not upheld	Section 21 – Upheld	Section 16 – Upheld	WAO Report Issued – Not upheld	WAO Report Issued – Upheld	Withdrawn	Total Cases Closed 2006/07
Assembly Sponsored Public Body												
Countryside Council for Wales		1	1									**2**
Environment Agency	2	1	2			2						**7**
National Assembly for Wales												
CAFCASS	1											**1**
Health Commission Wales			2									**2**
Healthcare Inspectorate Wales			1									**1**
National Assembly for Wales	3	3	9	4	1	7	6		2	3	1	**39**
IRS			1									**1**
Estyn	1											**1**
Planning Inspectorate	3		3									**6**
TOTAL	**10**	**5**	**19**	**4**	**1**	**9**	**6**		**2**	**3**	**1**	**60**

OUTCOMES OF COMPLAINTS AGAINST REGISTERED SOCIAL LANDLORDS (HOUSING ASSOCIATIONS)

Requested Social Landlord	Out of Jurisdiction	Premature	Rejected other reasons	Discontinued	Quick Fix	Section 21 – Not upheld	Section 21 – Upheld	Section 16 – Upheld	Withdrawn	Total Cases Closed 2006/07
Cardiff Community			1							**1**
Charter Housing		1	1			1				**3**
Clwyd Alyn						2	1			**3**
Cymdeithas Tai Clwyd		1								**1**
Cymdeithas Tai Cymru		1								**1**
Family Housing Association (Wales)		1								**1**
Grwp Gwalia		1				1				**2**
Gwerin (Cymru)			1							**1**
Hafod		1								**1**
Newport		1			1	1				**3**
Newydd 1974			1							**1**
North Wales		1								**1**
Pembrokeshire		1	1							**2**
Pennaf						1				**1**
Rhondda	1		2							**3**
Taff	1									**1**
United Welsh			1			1	1			**3**
Valleys to Coast	1	1	1	1						**4**
Wales and West		2	7	1		6			1	**17**
TOTAL	**3**	**12**	**16**	**2**	**1**	**13**	**2**		**1**	**50**

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