

**Standards Committee
25 January 2016**

**Council
18 February 2016**

**Annual Report Of The Council's
Monitoring Officer - 2015**

Introduction

1. The principal purpose of my Annual Report is to assess activity in probity matters, in particular in relation to formal complaints about alleged breaches of protocols and codes of conduct by borough and parish councillors. The report provides an opportunity to review the effectiveness of current procedures based on real data. This report deals with the calendar year 2015 in relation to these matters.
2. The Council's current code of conduct for councillors was adopted on 20 July 2012 and has since been the subject of minor amendments. This code is based on Localism Act principles and was developed as a collaborative project by Kent Monitoring Officers in consultation with task groups of councillors within individual councils. The vast majority of district and parish councils in Kent have adopted this "Kent Model Code of Conduct".
3. When it adopted the Code of Conduct in 2012, the Council also adopted new procedural "Arrangements" for handling code of conduct complaints. Again this was developed on a Kent-wide basis with the objective of simplifying procedures and removing unnecessary bureaucracy which had beset the previous standards regime.
4. The Council has also adopted a "Good Practice Protocol for Councillors Dealing with Planning Matters". This sets out detailed best practice rules for this specialist and sensitive area of the Council's work which go beyond the general rules set out in the code of conduct.
5. My Annual Report also includes data on Ombudsman complaints as these are also handled by the Monitoring Officer and his staff. The Standards Committee monitors any issues of probity raised in Ombudsman investigations. In terms of Ombudsman complaints the relevant period relates to the most recent data provided by the Ombudsman namely that for the period 1st April 2014 to 31 March 2015.

Code of Conduct and Related Matters 2015

6. Complaint activity in Ashford has been low since adoption of the new code of conduct in 2012. In terms of numbers of formal complaints submitted during 2015 the attached TABLE 1 provides information on the one new formal complaint made in the year. Cases where complaint forms were

provided to potential complainants, but have not been completed and returned, are not included in these figures. Nor are any cases where complaint forms have been requested and not yet provided or where intended complaints have been resolved prior to submission of a formal complaint.

7. Since the local elections in May 2015 there has been considerable activity in relation to probity matters. Firstly, all borough and parish councillors were required to provide up to date notifications of DPIs (Disclosable Pecuniary Interests) to the Monitoring Officer. All Borough Councillor DPIs have now been registered and uploaded to the Council's website.
 8. Secondly, the considerable task of assembling, checking and uploading all parish councillor DPI details onto the Borough Council website has also been completed although, with frequent changes in parish council membership there can be occasional delays in receiving and registering fully up to date information.
 9. Thirdly, during the course of 2015, the Council's Good Practice Planning Protocol was substantially revised to reflect recent national publications on best practice and new developments in the law. The revised Protocol has been provided to all councillors and is available on the Council's website as part of the Constitution. One aspect of the Planning Protocol worth reminding all members about is the recommendation that borough councillors should notify the Monitoring Officer when they make a formal planning application to the Borough Council. The reason for this is to ensure the Monitoring Officer is aware and can, if necessary, ensure proper internal procedures are followed in such cases.
 10. Fourthly, following the elections in May 2015, I arranged a code of conduct training event for borough and parish Councillors. This was attended by 14 borough and 33 parish councillors. A separate training session on probity in planning (and the Council's new Good Practice Protocol) was given by me on 19 May 2015. This was attended by 21 borough councillors.
 11. All meeting agendas include an early item seeking declarations of interest and this item has been updated to assist members who may need to declare different types of interest. Ad hoc advice on interests is regularly sought from the Monitoring Officer and his staff by borough councillors and parish clerks/councillors particularly in relation to Planning Committee matters. This process continues to demonstrate a good general level of understanding by borough councillors and a desire to comply with the code of conduct.
- . Also during the course of the year the Monitoring Officer has provided detailed written advice to all borough councillors regarding the approach to declaration of interests on the "call for sites" and local plan preparation process currently being undertaken.

12. In terms of other general constitutional matters, it is worth drawing attention to two new provisions introduced in Article 2 of the Constitution at the end of 2014. Firstly a new “key role” for councillors was included to regularly attend meetings of committees, groups etc to which they are appointed. Secondly a clarifying provision was approved relating to when and how councillors can and cannot express views publicly “on behalf of the Council”.
13. Taking all the above matters into account. I am satisfied that the Borough Council’s code of conduct is generally well understood and widely observed.
14. During 2015, the Deputy Monitoring Officer left the Council. I intend to appoint a replacement Deputy or Deputies in the near future.

Ombudsman Complaints 2014/2015

15. Since April 2013, complaints about social housing have been dealt with by the Housing Ombudsman (HO) and not the Local Government Ombudsman (LGO). The LGO’s annual letter and report are attached.
16. For Members’ information the analysis of the complaints resolved by the LGO in 2014/15 are attached (appendix A). The number of cases (10) represents a significant reduction from the previous years total of 16
17. The LGO has changed the way its decisions are described and now uses the term ‘maladministration’ to indicate administrative fault. Only one decision involved such a finding but in that case the LGO did not consider that the complainant had suffered any injustice as a result. In the previous year there were three such cases.

Recommendations

1. That the report of the Monitoring Officer be received and noted.

T W MORTIMER
The Head of L&DS & Monitoring Officer
January 2016

TABLE 1

VALID CODE OF CONDUCT COMPLAINTS MADE OR RESOLVED 2015			
COUNCIL/CASE REFERENCE	ALLEGATION	DECISION	COMMENTS
ABC/15/04 ASHFORD	Bullying/ Disrepute		Still under consideration

Appendix A - Analysis of Ombudsman Complaints

The Ombudsman investigates complaints about Council services to remedy personal injustice caused by maladministration (or “fault”) or service failure.

Between 1st April 2014 and 31st March 2015 the Local Government Ombudsman (LGO) forwarded eight complaints to Ashford Borough Council. The LGO resolved seven of the complaints and one outstanding complaint remains open at present as the LGO has still to issue a decision to the Council. During the same time period the LGO also resolved three complaints submitted to the Council in 2013/14, none of which were upheld. There were no Housing Ombudsman cases in this period.

For comparison, in 2013/14 the LGO resolved 16 complaints and the Housing Ombudsman resolved one complaint about the Council.

In the LGO’s annual report the figures for the number of complaints received by the LGO about this Council may differ from the figures for the number of complaints the Council has received from the LGO – because, for example, the LGO may have received a premature complaint which was referred back to the complainant with the advice that the complaint needed to be taken up with the Council, but the complainant may not have pursued the complaint.

When the LGO has issued a report on a completed investigation, these are generally published in the Complaints outcomes section of the LGO website www.lgo.org.uk

Since 1 April 2013, the LGO has published all its decision statements on its website. The published information does not name the complainant or any individual involved with the complaint. Decision statements are published no earlier than three months after the date of the final decision.

The decision outcomes received by the Council are recorded below and how they relate to the changed LGO decision reasons are indicated where appropriate.

The LGO’s decisions were grouped in accordance with following headings:-

Decision Reasons from 1 April 2013	What changed in February 2014	Annual Letter categorisation
<i>Not in jurisdiction (OJ) and no discretion</i>	<i>No Change</i>	<i>Closed after initial enquiries</i>
<i>Not in jurisdiction (OJ) and discretion not exercised</i>		
<i>Not investigated</i>		<i>Not upheld</i>
<i>To discontinue investigation</i>		<i>Upheld</i>
<i>To discontinue investigation (for those cases where a remedy is agreed with an authority without LGO making a finding of maladministration or fault)</i>		
<i>Investigation complete and satisfied with authority actions or proposed actions and not appropriate to issue report S30(1B)</i>	<i>Investigation complete: Maladministration and Injustice</i>	<i>Upheld</i>
	<i>Investigation complete: Maladministration, No Injustice</i>	
	<i>Investigation complete: No Maladministration</i>	<i>Not Upheld</i>
<i>Investigation complete and appropriate to issue a report S30(1)</i>	<i>Investigation complete and report issued: Maladministration and Injustice</i>	<i>Upheld</i>
	<i>Investigation complete and report issued: Maladministration, No Injustice</i>	
	<i>Investigation complete and report issued: No Maladministration</i>	<i>Not upheld</i>

The outcomes of the 10 complaints to this Council resolved by the LGO in 2014/15 are detailed below:-

Closed after initial enquiries – out of jurisdiction	2
Closed after initial enquiries – no further action	2
Not upheld; no further action	-
Upheld: Maladministration & Injustice	-
Upheld: Maladministration, No Injustice	1
Not upheld: No Maladministration	3
Investigation complete: No Maladministration	2
Report issued: Upheld; maladministration and injustice	-
Report issued: Upheld; maladministration, no injustice	-
Report issued: Not upheld; no maladministration	-
total	10

Further details are provided in Appendix 1.

Attached at Appendix 1 is a table of LGO complaints together with details and outcome.

I have also attached the Ombudsman's Annual Review letter 2014/15 (Appendix 2). This letter raises some general issues on complaints handling and learning by local authorities and I propose to report further to members on these matters in due course.

Appendix 1 – Local Government Complaints 1st April 2014 – 31st March 2015

Ombudsman complaints 2014/15

There are 11 complaints here, 10 of which have been resolved, all from the Local Government Ombudsman.

The decision reasons used by the LGO from 1 April 2013 were changed in February 2014 and changed again on 1 April 2014.

The decisions given on this table are those given in the LGO's decision letter.

The number of complaints has decreased since last year, and there have been no decisions of injustice by this Council.

ABC Ref no	ABC Dept	Complaint Details	LGO decision	Investigated complaints
1178	Environmental services/ Planning	Complaint that Council failed to deal effectively with reports of noise and other nuisance, and breaches of planning and licensing controls by proprietors of pub, in pub garden adjoining complainant's garden.	Investigation complete – No Maladministration	The Council did not cause the complainants any injustice through fault in the way it implemented the powers available to it to prevent planning harm and nuisance arising from the use of the licensed premises at the rear of complainants' home.
1189	Environmental services/ Planning	As above	Investigation complete – No Maladministration	As above
1229	Revenues & Benefits	Complaint that Council unreasonably threatened bankruptcy action for unpaid Council tax despite offers of a	Not upheld: No Maladministration	No evidence of fault

		monthly payment.		
1260	Planning	Complaint that Council wrongly granted permission for the variation of conditions of an existing planning consent.	Closed after initial enquires – no further action	
1289	Environmental services	Complaint that the extraction system at a local takeaway outlet was incorrectly fitted in 2011	Closed after initial enquires – out of jurisdiction	
1302	Housing	Complaint about the advice and assistance given by the Council when dealing with a homelessness application and complaint about delay in processing application to join housing register.	Upheld: Maladministration no injustice	The Ombudsman did not investigate the complaint about homelessness decisions made by the Council as the complainant could reasonably have been expected to request a review of them. There was some delay in processing the housing register application but this did not cause the complainant any injustice.
1353	Housing	Complaint that Council was at fault in its handling of reports of problems to privately rented house.	No upheld: No Maladministration	
1361	Revenues & Benefits	Complaint of the way Council recovered arrears of Council Tax	No upheld: No Maladministration	
1365	Housing		No decision yet	No decision yet
1395	Housing	Complaint that Council unreasonably provided housing	Closed after initial enquires – no further action	

		for ex-tenant despite finding her intentionally homeless		
1467	Revenues & Benefits	Complaint that Council has wrongly decided that housing benefit has been overpaid and is recoverable.	Closed after initial enquires – out of jurisdiction	

Appendix 2

LGO Annual Review Letter and Local Authority Report Ashford BC

1 April 2014 – 31 March 2015

18 June 2015

By email

Mr John Bunnett
Chief Executive
Ashford Borough Council

Dear Mr Bunnett

Annual Review Letter 2015

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2015. This year's statistics can be found in the table attached.

The data we have provided shows the complaints and enquiries we have recorded, along with the decisions we have made. We know that these numbers will not necessarily match the complaints data that your authority holds. For example, our numbers include people who we signpost back to the council but who may never contact you. I hope that this information, set alongside the data sets you hold about local complaints, will help you to assess your authority's performance.

We recognise that the total number of complaints will not, by itself, give a clear picture of how well those complaints are being responded to. Over the coming year we will be gathering more comprehensive information about the way complaints are being remedied so that in the future our annual letter focuses less on the total numbers and more on the outcomes of those complaints.

Supporting local scrutiny

One of the purposes of the annual letter to councils is to help ensure that learning from complaints informs scrutiny at the local level. Supporting local scrutiny is one of our key business plan objectives for this year and we will continue to work with elected members in all councils to help them understand how they can contribute to the complaints process.

We have recently worked in partnership with the Local Government Association to produce a workbook for councillors which explains how they can support local people with their complaints and identifies opportunities for using complaints data as part of their scrutiny tool kit. This can be found [here](#) and I would be grateful if you could encourage your elected members to make use of this helpful resource.

Last year we established a new Councillors Forum. This group, which meets three times a year, brings together councillors from across the political spectrum and from all types of local authorities. The aims of the Forum are to help us to better understand the needs of councillors when scrutinising local services and for members to act as champions for learning from complaints in their scrutiny roles. I value this direct engagement with elected members and believe it will further ensure LGO investigations have wider public value.

Encouraging effective local complaints handling

In November 2014, in partnership with the Parliamentary and Health Service Ombudsman and Healthwatch England, we published *'My Expectations'* a service standards framework document describing what good outcomes for people look like if complaints are handled well. Following extensive research with users of services, front line complaints handlers and other stakeholders, we have been able to articulate more clearly what people need and want when they raise a complaint.

This framework has been adopted by the Care Quality Commission and will be used as part of their inspection regime for both health and social care. Whilst they were written with those two sectors in mind, the principles of *'My Expectations'* are of relevance to all aspects of local authority complaints. We have shared them with link officers at a series of seminars earlier this year and would encourage chief executives and councillors to review their authority's approach to complaints against this user-led vision. A copy of the report can be found [here](#).

Future developments at LGO

My recent annual letters have highlighted the significant levels of change we have experienced at LGO over the last few years. Following the recent general election I expect further change.

Most significantly, the government published a review of public sector ombudsmen in March of this year. A copy of that report can be found [here](#). That review, along with a related consultation document, has proposed that a single ombudsman scheme should be created for all public services in England mirroring the position in the other nations of the United Kingdom. We are supportive of this proposal on the basis that it would provide the public with clearer routes to redress in an increasingly complex public service landscape. We will advise that such a scheme should recognise the unique roles and accountabilities of local authorities and should maintain the expertise and understanding of local government that exists at LGO. We will continue to work with government as they bring forward further proposals and would encourage local government to take a keen and active interest in this important area of reform in support of strong local accountability.

The Government has also recently consulted on a proposal to extend the jurisdiction of the LGO to some town and parish councils. We currently await the outcome of the consultation but we are pleased that the Government has recognised that there are some aspects of local service delivery that do not currently offer the public access to an independent ombudsman. We hope that these proposals will be the start of a wider debate about how we can all work together to ensure clear access to redress in an increasingly varied and complex system of local service delivery.

Yours sincerely

Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

Local authority report – Ashford Borough Council

For the period ending – 31/03/2015

For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/publications/annual-report/note-interpretation-statistics/>

Complaints and enquiries received

Local Authority	Adult Care Services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services and public protection	Highways and transport	Housing	Planning and development	Total
Ashford BC	0	4	1	0	3	0	8	3	19

Decisions made

Local Authority	Detailed investigations carried out		Advice given	Closed after initial enquiries	Incomplete/Invalid	Referred back for local resolution	Total
	Upheld	Not Upheld					
Ashford BC	1	5	1	4	1	10	22

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