

**STANDARDS COMMITTEE  
12 JULY 2007**

**COUNCIL  
26 JULY 2007**

**ANNUAL REPORT OF THE COUNCIL'S  
MONITORING OFFICER - 2006-07**

**BACKGROUND**

1. Last year I presented to the Council my first annual report. The principal purpose of the annual report is to focus on and assess activity in probity matters, especially formal complaints albeit alleged breaches of approved protocols and codes of conduct by parish and borough councillors. The Standards Committee has received similar interim reports since 2003. The annual report provides an opportunity to review the effectiveness of current procedures based on real data. The year on which the current report is based is April 2006 to March 2007.
2. So far as the Council's Code of Conduct is concerned, a revised model code was issued by central government in early 2007 and this was the subject of a separate report to the Council and adopted in May 2007. This annual report is of course based on the 'old' code of conduct adopted by the Council in May 2002 and which applied throughout the year 2006/07.
3. Whilst the ethical framework, including compliance with codes of conduct, is overseen by the national Standards Board for England, regulations now enable the Board to refer matters back to me as Monitoring Officer to arrange for local determination or local investigation through our own Standards Committee. I have received referred cases in the past two years under these new procedures. Furthermore the Local Government and Public Involvement in Health Bill proposes further substantial changes whereby complaints (against both borough and parish councillors) will generally no longer be made to or investigated by the national body but will be made locally and "filtered" by local Standards Committees rather than the Board. The Board will retain responsibility only for investigation of the most serious cases and as a "strategic regulator." The resource implications of this for local authorities - especially those with large numbers of parish councillors - are likely to be significant but at present the government has not recognised this with any increased resources to local government.
4. In October 2004 the Council adopted a 'Good Practice Protocol for Councillors when Dealing with Planning Matters'. This protocol sets out detailed best practice rules for this specialist and sensitive area of the Council's work and which go well beyond the general rules set out in the Council's adopted Code of Conduct. The protocol is not part of the Council's Code of Conduct but is overseen by the Council's own Standards Committee. The protocol does not apply to Parish Councils although discussions about this are ongoing through the Kent Association's local area Committee.
5. During 2006-07 I personally delivered additional code of conduct training to parish councillors and parish clerks. The event was held in the Council Chamber in February 2007 and was attended by 35 people.

6. In April 2006 administration of the Overview & Scrutiny function was transferred to the Head of Legal and Democratic Services and Monitoring Officer along with the handling of all Ombudsman complaints. I have included with this annual report the relevant 2006/07 data for Ombudsman complaints as well.
7. The Local Government Ombudsmen investigate complaints by members of the public who consider that they have been caused injustice through maladministration by local authorities and other bodies within their jurisdiction.
8. Under the Terms of Reference of the Council's Standards Committee, regular reports are required to be submitted to that Committee on Local Government Ombudsman complaints and outcomes, as the Standards Committee is responsible for the monitoring of any issues of probity raised in Ombudsman investigations. This report covers the period from 1<sup>st</sup> April 2006 to March 31<sup>st</sup> 2007.
9. This report details those complaints where the Ombudsman has made a finding against the Council, either with an official report, or under the terms of 'local settlement'. The categories by which the Ombudsman can find against the Council are:
  - Maladministration (with or without injustice)
  - Local Settlement
10. The information in this report has, in line with the Local Government Ombudsman's standards, been made anonymous, so that neither complainants nor sites can be identified. This is also in line with the Council's own recommended good practice on customer care.

### **ANALYSIS OF CODE OF CONDUCT COMPLAINTS**

11. The attached Appendix 1 gives brief details of all formal complaints made to the Standards Board for England in 2006/07 regarding borough councillors and parish councillors within the borough.
12. During 2006/07 only six new formal complaints were made to the Board. In addition, a decision was made in 06/07 in relation to two complaints made in the preceding year (the Biddenden parish cases in the table). Of the six new complaints, two related to parish councils and four related to borough councillors. However, only one of the six new complaints has been referred for investigation (the Orlestone complaint in the table). No complaints made against borough councillors were regarded as worthy of investigation by the Standards Board. This statistic continues the Borough Council's excellent record of not having had a single complaint against a borough councillor referred for investigation since adoption of the Code in 2002.
13. The figures for 2006/07 compare favourably with the figures for 2005/06 when a total of eleven formal complaints were made (8 parish, 3 borough) of which 7 were investigated. Having said that, already during the first month of 2007/08 I have already been notified of three parish council complaint cases which are to be referred to me for investigation. Whilst one cannot draw firm conclusions on long term trends from the statistics available, the incidence of complaints has remained extremely low.

14. It is also worth noting that no complaints have been made regarding breaches of the Council's approved planning protocol. No complaints to the Local Government Ombudsman have involved alleged code breaches by councillors. All meeting agendas include a first item (after apologies) seeking declaration of interests. Declarations of personal interests are made and minuted and where appropriate checked against councillors' registered interest forms. Ad hoc advice on interests is regularly sought from the Monitoring Officer and his staff by borough councillors (and on occasions 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.
15. I have been able to obtain some comparative data from a few other Kent authorities. These are as follows:

Ashford: (total 39 parishes)	6 complaints - 2 against parish councillors 1 of which referred for investigation (ongoing), 4 against borough councillors but none referred for investigation
Tunbridge Wells: (total 17 parishes)	22 complaints against parish/town councillors none of which investigated (several were "repeat" complaints on a single issue). 1 complaint made and investigated against a borough councillor and breach found.
Maidstone: (total 35 parishes)	3 complaints against parish councillors two of which were investigated resulting in one finding of breach 5 complaints against borough councillors only one of which was investigated with no finding of breach.
Tonbridge & Malling: (27 parishes)	2 complaints against parish councillors 2 complaints against borough councillors only 1 referred for investigation (ongoing)

16. On the basis of all the above matters, I am satisfied - as I was in 2005/06 - that the Council's Code of Conduct (and good practice protocol) are widely understood and observed.

### **ANALYSIS OF OMBUDSMAN COMPLAINTS**

17. The Ombudsman resolved 27 complaints against Ashford Borough Council within the period 1<sup>st</sup> April 2006 to 31<sup>st</sup> March 2007, a decrease of 4 from the previous year's total of 31.
18. No complaints were ruled as maladministration by this Council in the above period. The outcomes of those complaints resolved by the Ombudsman are detailed below.
- 3 = Local settlement
  - 8 = No evidence of maladministration

- 8 = Ombudsman's discretion (Ombudsman has exercised his right not to pursue the complaint, i.e. there is no or insufficient injustice to warrant pursuing the matter further).
- 5 = Outside jurisdiction
- 3 = Premature complaints (i.e. Council should be given a chance to resolve the complaint first)

19. Where the Ombudsman determines a complaint as a local settlement an agreement will have been negotiated between the council and the complainant. Further details relating to these 3 complaints ruled as local settlement are contained in appendix 2.

20. There are no complaints outstanding for this period, although the Ombudsman's statistics show four parking related complaints which we have not yet received from the Ombudsman.

21. Two charts are attached at appendix 3 for the Committee's information:

- Ombudsman complaints by service
- Outcome of Ombudsman Complaints

22. I have also attached the Ombudsman's Annual Letter 2006/07 for information.

23. The Ombudsman has a target response time of 28 days for the Council to respond to a complaint. A table showing the number of first enquiries received by this Council, and the average number of days to respond, is shown below. This has increased since last year, but Members should be aware that Ombudsman complaints are, at Ashford, dealt with by the Scrutiny section of the authority and April 2006 saw the merger of the Scrutiny and Member Services section and the loss of the Scrutiny Managers' post. However it is particularly pleasing that the Council has maintained its position within the 49.4% of district councils who have a response time of less than 28 days, 23.4% of districts responded in 29 – 35 days, and 27.2% of districts took over 36 days to respond.

Response Times	First Enquiries	
	Number of First Enquiries	Average Number of Days to Respond
<b>01/04/2006 – 31/03/2007</b>	4	27.3
<b>2005 / 2006</b>	10	21.9
<b>2004 / 2005</b>	10	26.7

24. I have also included in appendix 4, some comparative data from other Kent authorities for the period 2005 – 2006, as this year's data is not produced in time for this annual report.

## Appendix 1.

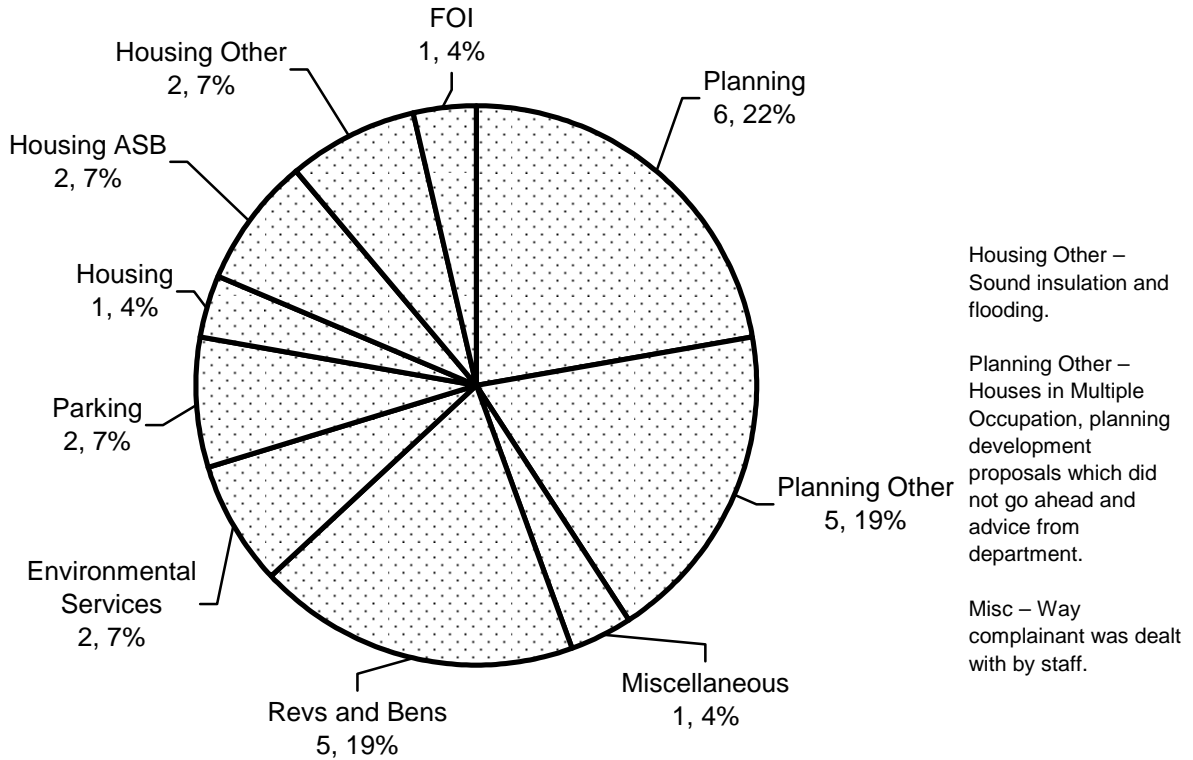
<b>CODE OF CONDUCT COMPLAINTS 2006-07</b>			
<b>PART A - CASES INVESTIGATED OR REFERRED FOR INVESTIGATION</b>			
<b>COUNCIL/ REF</b>	<b>ALLEGATION</b>	<b>DECISION</b>	<b>COMMENTS</b>
1. ORLESTONE PARISH SBE 17220.07	Failure to declare an interest at one or more meetings and reportedly intimidatory behaviour at such meeting(s). Allegations by a member of the public.	Referred to Monitoring Officer for Investigation - Not Concluded	
2. BIDDENDEN PARISH SBE 13761.06 & 13808.06	Failure to declare personal interest, failure to withdraw from meetings when matter involving prejudicial interest was discussed and improperly seeking to influence a decision on such a matter. Allegations by members of public and parish councillors	Breach of Code by failure to declare personal interest (proximity of home) but no prejudicial interest and no improper influence	The Standards Board's Ethical Standards Officer found that in the circumstances of the case no action needed to be taken in relation to the breach.
<b>PART B - CASES WHERE STANDARDS BOARD DECIDED NO INVESTIGATION JUSTIFIED</b>			
<b>COUNCIL/ REF</b>	<b>ALLEGATION</b>	<b>DECISION</b>	<b>COMMENTS</b>
1. ASHFORD BOROUGH SBE 14746.06	Councillor breached his authority, acted ultra vires and committed the Council to an unauthorised course of action by signing certain documents. Allegation by a borough councillor	The alleged conduct even if it were found to have occurred would not have involved any breach of code of conduct	
2. ASHFORD BOROUGH SBE 15210.06	Councillor failed to deal with community issues fairly and colluded in intimidation of a witness in a criminal case. Allegation by a member of the public	No evidence of improper conduct or breach of code of conduct	
3. BROOK PARISH SBE 17420.07	Misuse of parish council resources by employment of uninsured contractor resulting in damage to third party property and subsequent denial of information or redress to complainant all of which brought the parish councillor's office and council into disrepute. Allegation by member of the public	Evidence provided did not disclose a potential breach of the code of conduct	
4. ASHFORD BOROUGH SBE 17563.07	Collusion to falsify minutes of a meeting and failure to treat with respect at a committee meeting. Allegation made by a borough councillor	Information provided did not support the allegation of collusion to falsify minutes and alleged conduct at meeting not likely to disclose a potential failure to comply with the Code of Conduct	
5. ASHFORD BOROUGH SBE 17757.07	Collusion to falsify minutes of a meeting. Allegation by a borough councillor	Information provided did not support the allegation of collusion to falsify minutes.	

**Appendix 2 - Local Government Ombudsman Complaints: April 2006 to March 2007.**

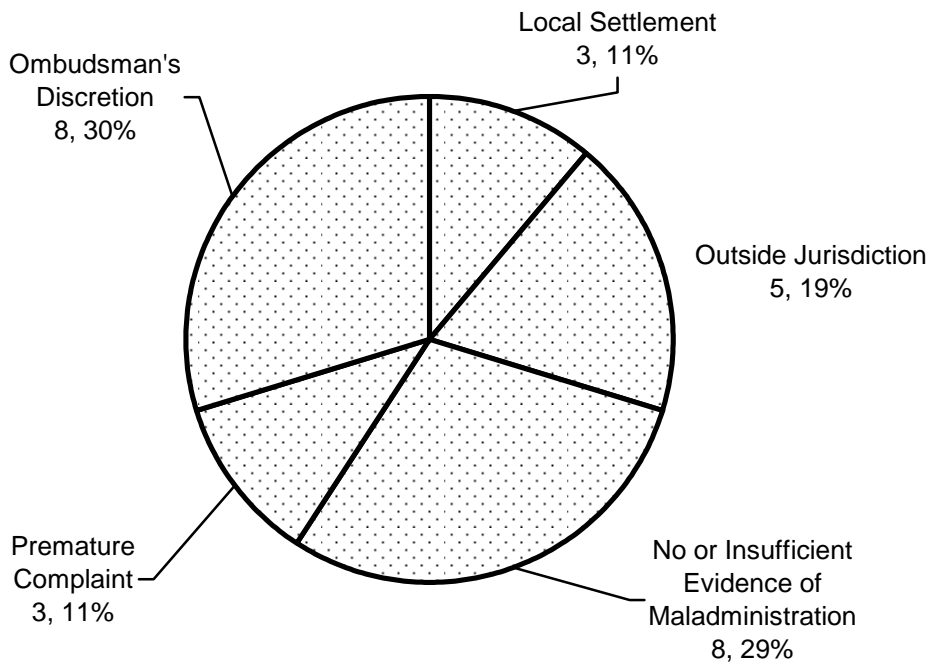
<b>Basis of complaint</b>	<b>Ombudsman's Ruling</b>	<b>Outcome/Comment</b>	<b>Probity Issues Raised</b>
<p>Environmental Services</p> <p>That the Council failed to deal properly with the disposal of allotment land</p>	<p>Local Settlement (No Report)</p>	<p>Council provided ample evidence of the promotion of allotments by the Council; however, some of the information was missing from the website. This omission was corrected and a section on allotments has been reinstated.</p>	<p>None</p>
<p>Planning</p> <p>The complaint was that the Council allowed the development of a barn opposite the complainant's house and a full planning application should have been required rather than allowing the barn to be built under 'permitted development'</p>	<p>Local Settlement (No Report)</p>	<p>The Ombudsman requested local settlement on this complaint and the complainant was offered £3,000 in full and final settlement following approval of the suggested amount by the Council's Executive.</p>	<p>None</p>
<p>Housing - ASB</p> <p>That the Council failed to deal properly with complaints of neighbour nuisance.</p>	<p>Local Settlement (No Report)</p>	<p>The Council paid the complainant £200 and apologised for the problems experienced.</p>	<p>None</p>

**Appendix 3 – Ombudsman Complaints by Service and Decisions made**

**Ombudsman Complaints by Service  
Decision between April 2006 and March 2007**



**Decisions Made on Ombudsman Complaints**





#### Appendix 4 - Comparative data from other Kent authorities: 2005/06

	Total complaints determined (excluding premature complaints)	Maladministration and injustice reports	Local settlements	Maladministration reports	No maladministration reports	No maladministration without report	Ombudsman's discretion	Outside jurisdiction
Authority	2005/06	2005/06	2005/06	2005/06	2005/06	2005/06	2005/06	2005/06
Ashford BC	22	0	5	0	0	3	8	6
Canterbury City C	30	0	4	0	0	15	3	8
Dartford BC	15	0	2	0	0	1	7	5
Dover DC	12	0	0	0	0	4	5	3
Gravesham BC	11	0	3	0	0	4	1	3
Maidstone BC	20	0	5	0	0	5	6	4
Medway C	74	0	16	0	0	32	14	12
Sevenoaks DC	10	0	2	0	0	5	1	2
Shepway DC	22	0	3	0	0	3	10	6
Swale BC	12	0	3	0	0	5	1	3
Thanet DC	38	0	5	0	0	22	7	4
Tonbridge & Malling BC	9	0	1	0	0	2	5	1
Tunbridge Wells RB	11	0	0	0	0	3	4	4

Members are invited to consider this annual report of the Monitoring Officer.



The Commission for  
Local Administration in England

**The Local Government Ombudsman's  
Annual Letter  
Ashford Borough Council  
for the year ended  
31 March 2007**

The Local Government Ombudsman (LGO) investigates complaints by members of the public who consider that they have been caused injustice through administrative fault by local authorities and certain other bodies. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual letters.

RECEIVED  
22 JUN 2007

## **Annual Letter 2006/07 - Introduction**

The aim of the annual letter is to provide a summary of information on the complaints about your authority that we have received and try to draw any lessons learned about the authority's performance and complaint-handling arrangements. These might then be fed back into service improvement.

I hope that the letter will be a useful addition to other information your authority holds on how people experience or perceive your services.

There are two attachments which form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

## **Complaints received**

In 2006/07 I received 28 complaints against your authority, a decrease of 2 on the previous year.

Complaints about planning and building control remain the largest group and the distribution of other complaints is broadly similar to last year. The numbers remain small and do not seem to indicate any particular trends in service delivery.

## **Decisions on complaints**

During the year my office made decisions on 27 complaints against your authority. We found no maladministration in eight complaints and we exercised discretion to close a further eight without requiring any action by the Council. Five were outside my jurisdiction.

## **Reports and local settlements**

We use the term 'local settlement' to describe the outcome of a complaint where, during the course of our investigation, the Council takes, or agrees to take, some action which we consider is a satisfactory response to the complaint and the investigation does not need to be completed. These form a significant proportion of the complaints we determine. When we complete an investigation we must issue a report.

I issued no reports against your authority this year. We settled three complaints resulting in compensation totalling £3200.

One complaint concerned the way the Council decided that the erection of a barn to house livestock within 400 metres of the complainant's home was permitted development. I was concerned that the Council had denied the complainant the opportunity to object to the development and that there had been considerable delay in resolving his subsequent complaint. I concluded, however, that even if the Council had dealt differently with matters it was likely the barn would still have been erected. On this basis I agreed to settle the complaint on payment of compensation to the complainant of £3000.

A second complaint was about anti social behaviour. I considered that the Council had failed to keep the complainant informed of what it was doing to address the reported nuisance. The Council apologised and paid compensation of £200. The Council also agreed to review its anti social behaviour procedure in the light of recent government guidance.

A third complaint concerned the publicity that the Council gives to vacant allotments. The Council settled the complaint by agreeing to re-instate a page on allotments on its website.

## **You: Council's complaints procedure and handling of complaints**

My office referred three 'premature complaints' to your authority for consideration, as we did not think you had had sufficient opportunity to deal with them through your own procedures. At 11% of all decisions this is well below the national average.

Two premature complaints were resubmitted to me during the period, neither of which I pursued.

## **Training in complaint handling**

As you know part of our role in providing advice on good administrative practice involves offering training courses for all levels of local authority staff in complaints handling and investigation. Your staff have received training in the past and the feedback from courses that have been delivered over the past two and a half years is very positive.

The range of courses is expanding in response to demand and in addition to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution). We can run open courses for groups of staff from smaller authorities and also customise courses to meet your Council's specific requirements.

All courses are presented by an experienced investigator so participants benefit from their knowledge and expertise of complaint handling.

I have enclosed some information on the full range of courses available together with contact details for enquiries and any further bookings.

## **Liaison with the Local Government Ombudsman**

The target time for councils to respond when we make enquiries is 28 days. Your Council's average response time was 27 days. This is an increase on last year's average of 21 days despite there being fewer enquiries made but nevertheless still within my target. The quality of your Council's responses is good and your staff helpful.

As I reported in last year's annual letter my Deputy and an Investigator visited your Council in June 2006. I reiterate my thanks for the opportunity this provided for our respective organisations to exchange information and views.

## **LGO developments**

I thought it would be helpful to update you on a project we are implementing to improve the first contact that people have with us as part of our customer focus initiative. We are developing a new Access and Advice Service that will provide a gateway to our services for all complainants and enquirers. It will be mainly telephone-based but will also deal with email, text and letter correspondence. As the project progresses we will keep you informed about developments and expected timescales.

Changes brought about by the Local Government Bill are also expected to impact on the way that we work and again we will keep you informed as relevant.

## **Conclusions and general observations**

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**Tony Redmond**  
**Local Government Ombudsman**  
**10<sup>th</sup> Floor**  
**Millbank Tower**  
**Millbank**  
**LONDON SW1P 4QP**

**June 2007**

Enc: Statistical data  
Note on interpretation of statistics  
Leaflet on training courses (with posted copy only)

Complaints received by subject area	Benefits	Housing	Other	Planning & building control	Public finance	Transport and highways	Total
01/04/2006 - 31/03/2007	3	2	6	9	2	6	28
2005 / 2006	7	1	7	10	3	2	30
2004 / 2005	2	12	4	5	4	0	27

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2006 - 31/03/2007	0	3	0	0	8	8	5	3	24	27
2005 / 2006	0	5	0	0	3	8	6	9	22	31
2004 / 2005	0	5	0	0	11	3	2	7	21	28

See attached notes for an explanation of the headings in this table.

**Average local authority response times 01/04/2006 to 31/03/2007**

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2006 - 31/03/2007	4	27.3
2005 / 2006	10	21.9
2004 / 2005	10	26.7

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	48.9	23.4	27.7
Unitary Authorities	30.4	37.0	32.6
Metropolitan Authorities	38.9	41.7	19.4
County Councils	47.1	32.3	20.6
London Boroughs	39.4	33.3	27.3
National Park Authorities	66.7	33.3	0.0

# Notes to assist interpretation of the LGO's local authority statistics

## 1. Local authority report

This information forms an integral part of the Annual Letter to your council. Again this year, the Annual Letter will be published on our website, at [www.lgo.org.uk](http://www.lgo.org.uk)

The detailed information in the printouts is confidential.

## 2. Complaints received

This information shows the number of complaints received by the LGO, broken down by service area and in total within the periods given. These figures include complaints that are made prematurely to the LGO (see below for more explanation) and that we refer back to the council for consideration. The figures may include some complaints that we have received but where we have not yet contacted the council.

## 3. Decisions

This information records the number of decisions made by the LGO, broken down by outcome, within the periods given. **This number will not be the same as the number of complaints received**, because some complaints are made in one year and decided in the next. Below we set out a key explaining the outcome categories.

**MI reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

**LS (local settlements):** decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

**M reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

**NM reps:** where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

**No mal:** decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

**Omb disc:** decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

**Outside jurisdiction:** these are cases which were outside the Ombudsman's jurisdiction.

/...

**Premature complaints:** decisions that the complaint is premature. The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it to the council as a 'premature complaint' to see if the council can itself resolve the matter.

**Total excl premature:** all decisions excluding those where we referred the complaint to the council as 'premature'.

#### **4. Response times**

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

#### **5. Average local authority response times 2006/07**

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

#### **6. Categories of complaint**

From 1 April 2007 we have amended our complaint category system, and you may notice some changes in the descriptions used in our decision letters and on the printouts attached.

The major change is that we now split social services cases between 'adult care services' and 'children and family services', in order that complaints relating to children and young people can be easily identified.

#### **7. Complaints about personnel matters (employment and pensions)**

We receive some complaints from members of council staff about personnel matters. These are usually outside our jurisdiction, and our practice is now to advise you that we have received the complaint without informing you of who made it.

For that reason, any such complaints on the attached printouts will show a blank space for the complainant's name.