

**Standards Committee
30 September 2008**

**Council
9 October 2008**

**Annual Report of The Council's
Monitoring Officer - 2007-08**

Introduction

1. This is the third annual report I have presented to the Standards Committee and the Council. The principal purpose of the annual report is to focus on and assess activity in probity matters, especially formal complaints about 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 2007 to 7 May 2008. I have extended the year to 7 May 2008 as this allows the full period to be assessed up to the introduction of the new local assessment system on 8 May 2008. Next year's annual report will deal with the period from that date to the end of March 2009.
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 therefore the first to be based on the new code.
3. Whilst the ethical framework, including compliance with codes of conduct, is overseen by the national Standards Board for England, regulations have for some time allowed 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 several cases in the past three years under these new procedures. Furthermore the Local Government and Public Involvement in Health Act 2007 has now introduced further substantial changes with effect from 8 May 2008 whereby complaints (against both borough and parish councillors) will 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 and referred for local investigations where appropriate. 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 councils - are significant although no increased resources have been provided to local government to cover this.
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 Standards Committee. The protocol does not apply to Parish Councils.

5. Following additional training which I delivered in 2007 to parish councillors and parish clerks, a further externally facilitated event for parish and borough councillors was held at Ashford on 12 February 2008. This was an event attended by councillors from other Kent districts and focussed on the new local assessment provisions which came into effect in May 2008.
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 2007/08 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 1st April 2007 to March 31st 2008.
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 been made anonymous, in line with the Local Government Ombudsman's standards, 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 2007/08 regarding borough councillors and parish councillors within the borough.
12. During this period thirteen new formal complaints were made to the Board. Of the thirteen new complaints, twelve related to parish councils and one related to a former borough councillor. Seven of these new complaints were referred for investigation, six parish cases and the former borough councillor matter, the first borough councillor to be the subject of an investigation since 2002. The other 6 complaints were not deemed worthy of investigation by the Board.
13. The figures for 2007/08 compare rather unfavourably with the figures for 2005/06 when a total of eleven formal complaints were made (8 parish, 3 borough) of which 7 were investigated and 2006/07 when only 6 complaints in total were made and only one the subject of an investigation. However of the

13 cases for 2007/08, 9 of them related to just two parish councils and revolved around one controversial planning proposal in each of these parishes. It is also fair to say that some of these complaints may not have arisen under the new 2007 Code which now allows councillors with personal and prejudicial interests in matters to speak (but not vote) at meetings in many cases. Whilst one cannot draw firm conclusions on long term trends from the statistics available, the incidence of complaints has remained at reasonably low levels.

14. 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. On the basis of all the above matters, I am satisfied - as I was in previous years - that the Borough Council's Code of Conduct (and good practice protocol) are widely understood and observed, although controversial proposals within parishes continue to generate complaints and occasional breaches of the code.

Analysis of Ombudsman Complaints

16. The Ombudsman resolved 21 complaints against Ashford Borough Council within the period 1st April '07 to 31st March '08, a decrease of 6 from the previous year's total of 27.
17. No complaints were ruled as maladministration by this Council and none were settled locally in the above period. This means there were no formal findings against the Council in the whole period. The outcomes of those complaints resolved by the Ombudsman are detailed below.
 - 7 = No evidence of maladministration
 - 2 = Ombudsman's discretion (The Ombudsman has exercised his right not to pursue the complaint, i.e. there is no or insufficient injustice to warrant pursuing the matter further).
 - 7 = Outside jurisdiction
 - 5 = Premature complaints (i.e. The Council should be given a chance to resolve the complaint first)
18. There are two complaints outstanding from this period, one of which was determined as premature at the beginning of April 2008, the other we are waiting to hear further from the Ombudsman.
19. Two charts are attached at appendices 2 and 3 for the Committee's information:
 - Ombudsman Complaints by Service
 - Decisions made on Ombudsman Complaints

I have also attached some comparative data from other Kent authorities for the period 2007 – 2008 (appendix 4) and the Ombudsman's Annual Letter 2007/08 (appendix 5).

The Ombudsman's Annual letter highlights the relatively low numbers of complaints received against Ashford Borough Council in this period, a substantial decrease on last year.

There was a slight increase in the time taken to respond to first enquiries from the Ombudsman, the figure of 30 days is still reasonable but does reflect the increasingly complex nature of Ombudsman complaints.

TERRY MORTIMER
MONITORING OFFICER

Appendix 1.

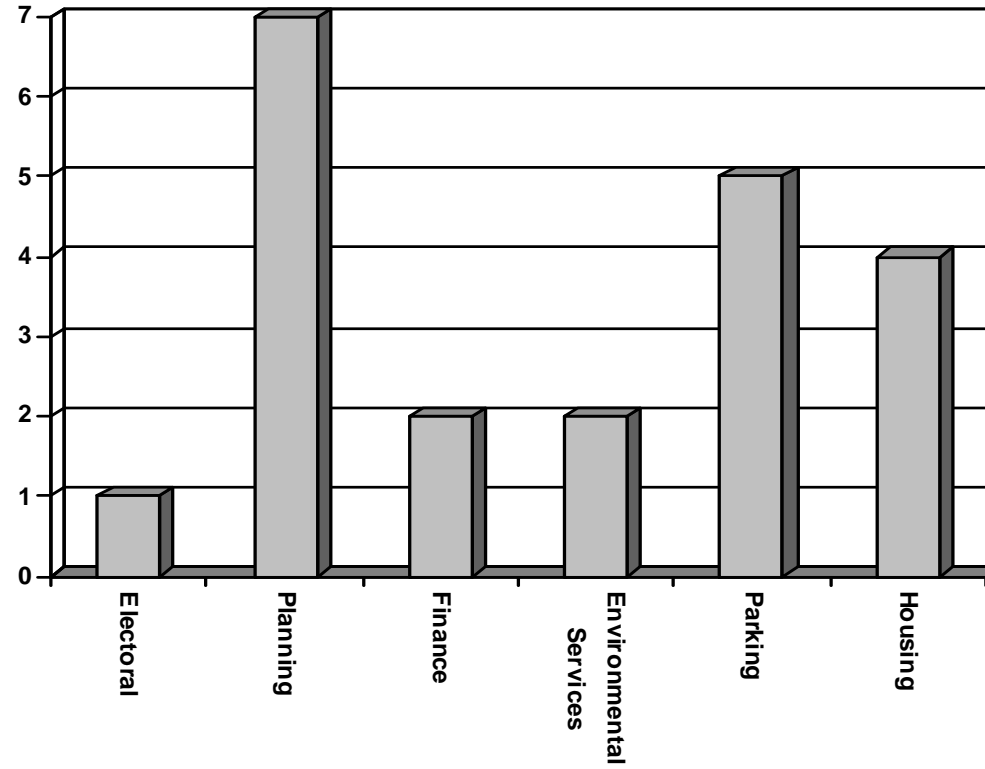
CODE OF CONDUCT COMPLAINTS 2007 - 08			
PART A - CASES INVESTIGATED OR REFERRED FOR INVESTIGATION			
COUNCIL/ REF	ALLEGATION	DECISION	COMMENTS
1. ROLVENDEN PARISH SBE 17755.07	Failure to declare personal and prejudicial interests at meetings considering development proposals	Referred to Monitoring Officer for investigation	Hearing to be arranged
2. RUCKINGE PARISH SBE 18927.07	Failure to treat with respect / bullying of fellow councillor	Referred to Monitoring Officer for investigation	Final report to be considered by Standards Committee
3. ROLVENDEN PARISH SBE 19762.07	Failure to declare personal and prejudicial interests at meetings considering development proposals	Referred to Monitoring Officer for investigation	Final report to be considered by Standards Committee
4. ROLVENDEN PARISH SBE 19763.07	Failure to declare personal and prejudicial interests at meetings considering development proposals	Referred to Monitoring Officer for investigation	Hearing to be arranged.
5. CHILHAM PARISH SBE 17811.07	Failure to declare personal and prejudicial interests in a matter before the parish council relating to a grant.	Investigation undertaken by SBE	Finding of no breach.
6. ASHFORD BOROUGH SBE 17757.07	Seeking to improperly influence a planning decision in which Councillor had a personal and prejudicial interest	Investigation undertaken by SBE	Breach of code - no further action necessary as no longer a councillor.
7. KENARDINGTON PARISH SBE 18587.07	Using position as a councillor to improperly secure a personal advantage	Investigation undertaken by SBE	Finding of no breach.

PART B - CASES WHERE STANDARDS BOARD DECIDED NO INVESTIGATION JUSTIFIED

COUNCIL/ REF	ALLEGATION	DECISION	COMMENTS
1. ROLVENDEN PARISH SBE 17756.07	Failure to declare a personal and prejudicial interest.	No sufficient evidence that a breach of the code took place.	
2. WITTERSHAM PARISH SBE 19656.07	Failure to declare a personal and prejudicial interest.	No potential breach of code disclosed.	
3. WITTERSHAM PARISH SBE 19657.07	Failure to declare a personal and prejudicial interest.	No potential breach of code disclosed.	
4. WITTERSHAM PARISH SBE 19658.07	Failure to declare a personal and prejudicial interest.	No potential breach of code disclosed.	
5. WITTERSHAM PARISH SBE 20089.07	Failure to declare a personal and prejudicial interest.	Alleged conduct not serious enough to warrant an investigation even if it occurred.	
6. WITTERSHAM PARISH SBE 20427.07	Failure to declare a personal and prejudicial interest.	No potential breach of code disclosed.	

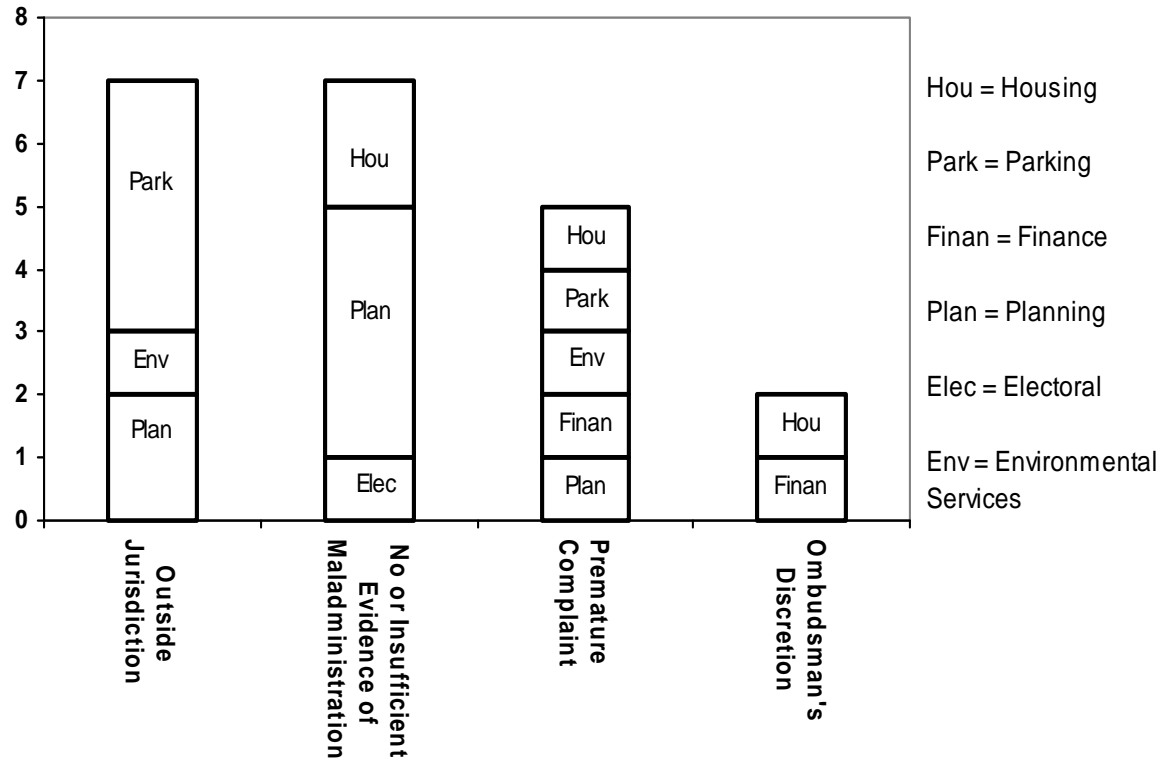
Appendix 2 – Ombudsman Complaints by Service

Decision between April '07 and March '08



Appendix 3 – Decisions Made on Ombudsman Complaints

April '07 - March '08



Appendix 4 - Comparative data from other Kent authorities: 2007/08

	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	2007/08	2006/07	2007/08	2007/08	2007/08	2007/08	2007/08	2007/08	2007/08
Ashford BC	16	24	0	0	0	0	7	2	7
Canterbury City C	45	37	1	12	0	0	11	12	9
Dartford BC	11	13	0	1	0	0	9	1	0
Dover DC	24	17	0	1	0	0	7	13	3
Gravesham BC	15	11	0	1	0	0	8	3	3
Maidstone BC	29	24	0	7	0	0	11	9	2
Medway C	61	57	0	21	0	0	10	20	10
Sevenoaks DC	14	24	0	4	0	0	1	4	5
Shepway DC	15	25	0	6	0	0	3	6	0
Swale BC	14	14	0	5	0	0	5	1	3
Thanet DC	59	42	0	12	0	0	32	10	5
Tonbridge & Malling BC	7	8	0	0	0	0	5	2	0
Tunbridge Wells RB	11	10	0	1	0	0	7	0	3

Notes to assist interpretation of the LGO's local authority statistics 2007/08

1. 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 send to the council to consider first. The figures may include some complaints that we have received but where we have not yet contacted the council.

2. 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 for 2007/08 complaints.

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 the authority has agreed to take some action which is considered 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 back to the council as 'premature'.

3. 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.

4. Average local authority response times 2007/08

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

Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Letter**

Ashford Borough Council

**for the year ended
31 March 2008**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. 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.

Annual Letter 2007/08 -Introduction

This annual letter provides a summary of the complaints we have received about Ashford Borough Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your 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.

Two attachments 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 2007/2008 I received 18 complaints against your Council. This is a decrease of ten compared to last year. As in previous years, complaints about planning and building control were the largest group but numbers across the board remained small.

Decisions on complaints

During the year we made decisions on 21 complaints against your authority. We found no maladministration in seven complaints and we exercised discretion to close a further two without requiring any action by the Council. We found that seven complaints were outside my jurisdiction. My office referred five complaints back to the Council as we did not think you had had sufficient opportunity to deal with them through your own procedures.

Reports and local settlements

A 'local settlement' is a complaint where, during the course of our investigation, the Council has agreed to take some action which we consider is a satisfactory response to the complaint. The investigation is then discontinued. In 2007/08 the Local Government Ombudsmen determined 27% of complaints by local settlement (excluding 'premature' complaints - where councils have not had a proper chance to deal with them - and those outside our jurisdiction).

None of the complaints we investigated this year justified the issue of a report and there were no complaints that required a local settlement.

Liaison with the Local Government Ombudsman

We ask councils to respond to our enquiries within 28 days. We made enquiries of the Council on two complaints received this year and the Council's average response time was 30 days, slightly up from the previous year.

Training In complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. This year we carried out a detailed evaluation of the training with councils that have been trained over the past three years. The results are very positive.

The range of courses is expanding in response to demand. In addition to the generic Good Complaint Handling (identifying **and** processing complaints) **and** Effective Complaint Handling (investigation and resolution) we now offer these courses specifically for social services staff and a course on reviewing complaints for social care review panel members.

We can run open courses for groups of staff from different 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.

LGO developments

We launched the LGO Advice Team in April, providing a first contact service for all enquirers and new complainants. Demand for the service has been high. Our team of advisers, trained to provide comprehensive information and advice, has dealt with many thousands of calls since the service started.

The team handles complaints submitted by telephone, email or text, as well as in writing. This new power to accept complaints other than in writing was one of the provisions of the Local Government and Public Involvement in Health Act, which also came into force in April. Our experience of implementing other provisions in the Act, such as complaints about service failure and apparent maladministration, is being kept under review and will be subject to further discussion. Any feedback from your Council would be welcome.

Last year we published two special reports providing advice and guidance on 'applications for prior approval of telecommunications masts' and 'citizen redress in local partnerships'. Again I would appreciate your feedback on these, particularly on any complaints protocols put in place as part of the overall governance arrangements for partnerships your Council has set up.

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
10th Floor
Millbank Tower
Millbank
London
SW1P 4QP

June 2008

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
01/04/2007 - 31/03/2008	0	3	3	8	1	3	18
2006 / 2007	3	2	6	9	2	6	28
2005 / 2006	7	1	7	10	3	2	30

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
01/04/2007 - 31/03/2008	0	0	0	0	7	2	7	5	16	21
2006 / 2007	0	3	0	0	8	8	5	3	24	27
2005 / 2006	0	5	0	0	3	8	6	9	22	31

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2007 - 31/03/2008	2	30.0
2006 / 2007	4	27.3
2005 / 2006	10	21.9

Average local authority response times 01/04/2007 to 31/03/2008

Types of authority	≤ 28 days %	29 - 35 days %	> = 36 days %
District Councils	56.4	24.6	19.1
Unitary Authorities	41.3	50.0	8.7
Metropolitan Authorities	58.3	30.6	11.1
County Councils	47.1	38.2	14.7
London Boroughs	45.5	27.3	27.3
National Park Authorities	71.4	28.6	0.0