



Standards Committee

Notice of a meeting, to be held in the Council Chamber, Civic Centre, Tannery Lane,
Ashford, Kent TN23 1PL on Monday 29th June 2009 at 7.00 pm

The Members of this Committee are:-

Mrs C Vant (Chairman)
Cllr. Mrs Hawes (Vice-Chairman)
Cllrs. Mrs Blanford, Honey, Mrs Laughton, Wood

Independent Members:-

Mr J Dowsey, Mr M V T Sharpe

Parish Council Representatives:-

Ms J Adams, Mr R Butcher, Mr D Lyward

Please Note the Starting Time

Agenda

- | | Page
Nos. |
|--|----------------------|
| 1. Apologies/Substitutes – To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii) | |
| 2. Declarations of Interest - Declarations of Interest under the Code of Conduct adopted by the Council on the 24 th May 2007 relating to items on this agenda should be made here. The nature as well as the existence of any such interest must also be declared | |
| 3. Minutes – To approve the Minutes of the Meeting of this Committee held on the 22 nd December 2008 | |

Part I – For Decision

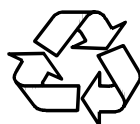
4. Annual Report of the Council's Monitoring Officer – 2008/09

Part II – Monitoring/Information Items

None for this meeting

DS/CB
19th June 2009

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Standards Committee

Minutes of a Meeting of the Standards Committee held in Committee Room 1 (Fougères Room), Civic Centre, Tannery Lane, Ashford on the **22nd December 2008**

Present:

Mrs C Vant (Chairman);

Cllr. Mrs Hawes (Vice-Chairman);

Cllrs. Mrs Blanford, Mrs Laughton

Mr M Sharpe - Independent Member, Ms J Adams, Mr R Butcher and Mr D Lywood – Parish Council representatives.

Apologies:

Cllrs. Honey, Wood
Mr Dowsey

Also Present:

Mr Murray, Monitoring Officer, Mr T Drew – External Investigator, Member Services and Scrutiny Manager.

354 Minutes

Resolved:

That the Minutes of the meeting of this Committee held on the 12th December 2008 be approved and confirmed as a correct record.

355 Local Investigation and Determination Hearing – Reference SBE19763.07 – Councillor Duncan Murray of Rolvenden Parish Council

The Chairman welcomed everyone to the meeting. The Monitoring Officer confirmed that the meeting was quorate after which the Chairman invited the parties to say if they wished the press and public to be excluded from the Hearing. All parties were content for them to remain present and the Chairman then confirmed that the Hearing would be held in public and described the process for the Hearing.

The Monitoring Officer then introduced his report and advised that the case had been referred to him for local investigation by the Standards Board on the 1st October 2007 and he had appointed Mr Tony Drew to undertake the investigation on his behalf. He advised that Mr Barham, the complainant, had alleged that Councillor Duncan Murray had failed to declare a personal interest at and withdraw from a meeting of the Rolvenden Parish Council on the 28th August 2007. He advised that

the allegation centred around discussions and decisions at the Parish Council meeting in relation to a planning application for housing on a site known as Glebe Field. It was alleged that Mr Murray lived close enough to the Glebe Field site to be affected by any development. He drew attention to the Investigating Officer's report findings set out on Page 24 of the Agenda (paragraph 5.1 refers) and indicated that the Investigator had concluded that Councillor Murray had failed to comply with paragraph 9(1) but that he had not failed to comply with paragraphs 12 (1a) and 12 (1c) of the Code of Conduct. The reasons for the findings were set out on pages 22 and 23 of the Investigating Officer's report. The Monitoring Officer referred to Document M27 and in particular to the four photographs included within the Agenda in that section of the document. He advised that regrettably there had been a mistake in assembling the documents and he clarified that only the photograph on page 140 of the Agenda related to Councillor Murray's case. He therefore asked the Committee to ignore the photographs on pages 139, 141 and 142 of the Agenda. The Monitoring Officer distributed a copy of a further photograph to which he had given the reference M29 which had been omitted from the original bundle of papers and he advised that the photograph had been taken from a location at the edge of the Glebe Field site, looking towards Councillor Murray's house.

In accordance with the Procedure for Local Determination Hearings (paragraph 8(b)) refers, Councillor Murray was asked whether he accepted that there had been a breach of the Code.

Councillor Murray confirmed that the Monitoring Officer's summary of the position was accurate from his point of view and confirmed that he did not consider that he had breached the Code.

The Investigating Officer then introduced his report and highlighted the background to the complaint. He summarised the history of the proposed development of the Glebe Field site and advised that a key fact was that prior to becoming a Councillor in May 2007, Mr Murray had been aware of issues regarding the Glebe Field site in 2004 and had campaigned against that particular development. The Investigating Officer referred to the interview notes with Mr Murray on page 54 and advised that Mr Murray had expressed concerns in terms of the residents of Monypenny's fears. The Investigating Officer also commented that Councillor Murray's view was the Glebe Field site was unsuitable for the development because it was a special corner of the village and the development would change the existing character of the area. The Investigating Officer also referred to extracts from the Minutes of the Rolvenden Parish Council meeting on the 28th August 2007 when the complainant, Mr Barham, had spoken from the floor and he advised that the Chairman at the meeting had invited declarations of interest. However, Councillor Murray had said he had no interest to declare and he voted on the motion. The Investigating Officer agreed that the distance between the boundary of Councillor Murray's house and the Glebe Field development site was 80 yards. He referred to plans on page 134 of the Agenda and advised that Plot 10 shown on the drawing would be the nearest property and would in part be visible from Councillor Murray's home. He advised that he agreed with Councillor Murray's comment that the property shown as Plot 10 was the most relevant but he did disagree with his view that the others were not relevant. He advised that the copy of Mr Barham's original plan was included within the Agenda papers as it had formed part of his original complaint, but he confirmed he had not

used this sketch in reaching his conclusions or assessing the impact, as this had been done using more accurate available materials. He then concluded by summarising the findings of his report set out in Section 4.

Councillor Murray advised that the summary given by the Monitoring Officer and the Investigating Officer was fair but he wished to clarify that he was not against the development at Glebe Field but was more concerned about the proposed access via Monypenny. He advised that he was pleased that the issue about the incorrect photographs included within the documents had been clarified and he said that the black canvass in Photograph M29 were new barriers. He confirmed that it would not be possible to view the site from his living room. Councillor Murray advised that he was a new Parish Councillor in May 2007 and at the time of the issue being raised at the Parish Council, he had been unaware that he could have sought advice from Ashford Borough Council as to his position in terms of the Code. Councillor Murray advised that he had examined cases on the Standards Board website and explained that in the previous year a complaint involving a similar case, had been dismissed where the person's property was 150 metres from the relevant site. He referred to the photograph on page 159 of the Agenda and drew attention to the fact that the property Monypenny could be seen from his property. In terms of the new development at Glebe Field he indicated that all he would be able to view from his property would be the upper elevation of a property which had a small bathroom window. He said that this issue had no significance to him. He believed on four separate occasions at Parish Council meetings he had made clear the reasons why he did not consider he had a personal or prejudicial interest. In conclusion he referred to a recent case involving Councillor Hindley of Rolvenden Parish Council who had a property the same distance from the Glebe Field site and he advised that that complaint had been dismissed.

The Chairman then offered Members of the Committee an opportunity to ask questions. A Member commented that at the particular Council meeting in August 2007 the Council was only in effect considering an issue relating to access to the site as the principle of the development had already been determined on appeal by the Secretary of State.

In response to a question, Mr Drew explained that he had not been provided with a copy of the actual Agenda for the meeting of the Parish Council on the 28th August 2007 as part of the documents that he had requested. He had also not investigated the ownership of the field lying between Councillor Murray's property and the Glebe Fields site. Mr Murray confirmed that he had not attended training in terms of the Code of Conduct but he had asked to view a video which was available. In terms of the alternative sites for affordable housing in Rolvenden, Councillor Murray also confirmed that he had sent a copy of that document to the Parish Council.

The Committee retired to consider the alleged breach and returned with the verdict that there had been no failure to comply with the relevant Code of Conduct.

Resolved:

That the Ashford Borough Council Standards Committee, having considered the Investigating Officer's report and the representation of the Investigator and

STD
221208

of Councillor Murray, concluded that there had been no failure to comply with the relevant Code of Conduct at or in relation to the Parish Council meeting on the 28th August 2007 in relation to paragraphs 9 or 12 of the Code of Conduct. The reason for the decision was that there was no personal interest in the matter under consideration at that meeting as the matter was effectively in relation to access only (not the principle of the development as a whole) and the issue of access was not something which could be reasonably regarded as affecting Councillor Murray's personal wellbeing or interest.

(KRF/AEH)

MINS:STD0852

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**Standards Committee
29 June 2009**

**Council
9 July 2009**

**Annual Report Of The Council's
Monitoring Officer - 2008-09**

Introduction

1. This is the fourth 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 the Municipal year from May 2008 to May 2009. This allows the full year to be assessed since introduction of the new local assessment system on 8 May 2008.
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 second 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 received several referred cases in previous years under these new procedures.
4. With effect from May 2008 the Local Government and Public Involvement in Health Act 2007 introduced further substantial changes whereby complaints (against both borough and parish councillors) are no longer be made to or investigated by the national body but are made locally and "filtered" by local Assessment and Review Panels (which are Sub-Committees of the Borough Council's Standards Committee) rather than the Board and referred for local investigations where appropriate. In July 2008 I presented a detailed report to the Standards Committee and the Selection and Constitutional Review Committee and members approved entirely new administrative and legal arrangements for local initial assessment, and review and hearings for complaints. This included a comprehensive set of assessment criteria to guide decision-making.
5. The Standards Board has retained 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.

6. 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.
7. Although I delivered additional training during 2007 to parish councillors and clerks and arranged externally facilitated training for parish and borough councillors on the new local assessment regime during 2008, I have continued to respond to specific requests for further training by individual parish councils. I have delivered such training to all councillors at Biddenden and arrangements are in hand for a similar event at Rolvenden. In addition code of conduct advice continues to be routinely sought and given on an almost daily basis in relation to borough and parish council issues..
8. 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 2008/09 data for Ombudsman complaints as well.
9. 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.
10. 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 2008 to March 31st 2009.
11. 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
12. 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

13. The attached **Appendix 1** gives brief details of all formal allegations/complaints made to the Monitoring Officer in the municipal year 2008/09 regarding borough councillors and parish councillors within the borough.

14. During this period sixteen new formal complaints were made. Of these complaints, fourteen related to parish councillors and two related to borough councillors. A breakdown of the 16 complaints in terms of outcome is as follows:-
- 4 of the complaints (3 parish and 1 borough) were not taken to Assessment Panels because they did not relate to or fall within the remit of the code of conduct.
 - 8 of the complaints related to the same two parish councillors and arose from events at the same parish council meetings. The complaints were from three different members of the public. All were referred to Assessment Panels and resulted in 'No Further Action' or a direction for further code of conduct training.
 - 1 complaint (parish) was referred to the Assessment Panel and resulted in 'No Further Action' on account of a satisfactory apology having been offered and accepted.
 - 1 complaint (borough) was referred to the Assessment Panel and resulted in 'No Further Action' on account of there being no apparent breach of the code.
 - 2 recent complaints (parish) remain undetermined at the time of writing this report.

At the time of preparation of this report the time limit for requesting a review of some of the above cases has not yet expired.

15. At one level the figures for 2008/09 compare rather unfavourably with the figures for 2007/08 when a total of 13 new formal complaints were made (12 parish, 1 borough councillor) of which 7 were investigated. However of the 16 complaints for 2008/09, 5 were not valid at all, whilst 8 of the remaining 11 related to just two parish councillors and one series of events which revolved around one controversial planning proposal in the parish.

To date no complaints under the local "filtering" system have been referred for investigation. Whilst one cannot draw firm conclusions on long term trends from the statistics available, the incidence of complaints has remained at reasonably moderate levels. However the cost in terms of member and senior officer time in handling even the current level of complaints locally is very significant. By way of example during the period covering April and May 2009 when a spate of complaints was received (10 of the 16 referred to above) the Monitoring Officer and his Deputy recorded some 150 hours of time to Monitoring Officer duties. This equates to approximately 50% of the "chargeable time" of each of them or one full time equivalent for the period. Most of this related to the handling and reporting of the complaints. This clearly represents a significant cost to the Council.

I will continue to explore with parish councils the possibility of agreeing a scheme for a sensible sharing of some of the cost involved, at least where complaints are referred for investigation.

16. 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.

17. 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 a higher than necessary level of complaints about possible code breaches. I am hopeful that more individual parish training events will help reduce the incidence of such complaints.

Analysis of Ombudsman Complaints

18. The Ombudsman resolved **21** complaints against Ashford Borough Council within the period 1st April 2008 to 31st March 2009, 5 more than last year. However no complaints were ruled as maladministration by this Council. The outcomes of those complaints resolved by the Ombudsman are detailed below.

- 3 = Local Settlement.
- 9 = No, or insufficient, evidence of maladministration.
- 6 = 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).
- 3 = Outside jurisdiction.

19. A change in the way the LGO operates means that some statistics about complaints received in 2008/09 are not directly comparable with those from previous years. For example the figure (above) of 21 complaints resolved in 2008/09 does not include any premature complaints whereas the figure for 2007/08 (also 21) included 5 premature complaints.

The LGO has changed the way Premature complaints (i.e. those complaints the Council should be given a chance to resolve first) are dealt with and now has two categories – 'Formal' – where the complaint is referred back to the Council to resolve, and 'Informal' – where advice is given to the complainant that their complaint is premature. As Councils are not notified of 'Informal' cases, it will not be possible for them to reconcile the total figure for premature complaints, so the LGO are not including a printout of premature decisions any more.

20. Where the Ombudsman determines a complaint as "Local Settlement", an agreement will have been negotiated between the Council and the complainant. Further details relating to these complaints are contained in **appendix A**.

There is one complaint outstanding from this period, and at the time of preparing this report, we are waiting to hear the Ombudsman's decision. There is also one complaint in the Ombudsman's figures which the Council had not received as at the 31 March 2009.

21. Two charts are attached at **appendices B and C** for the Committee's information:
- Ombudsman Complaints by Service
 - Decisions made on Ombudsman Complaints
22. I have attached the Ombudsman's Annual Letter 2008/09 (**appendix D**) but unfortunately comparative data from other Kent authorities for the period 2008 – 2009 has not yet been published by the Ombudsman.
- There was a decrease in the time taken to respond to first enquiries from the Ombudsman, from 30 days to 24.7 days. This is particularly pleasing bearing in mind the fact that the volume of work had actually increased slightly, and the Ombudsman has commented favourably on this in the Annual letter.**
23. Overall, I am pleased that the Council's record in relation to Ombudsman case outcomes - including the absence of a single finding of maladministration - remains good. The Council's internal corporate complaints system is undergoing a thorough review at the time of preparation of this report and this may enable an even higher percentage of complaints to be resolved locally.

TERRY MORTIMER
MONITORING OFFICER

June 2009

Appendix 1.

CODE OF CONDUCT COMPLAINTS MUNICIPAL YEAR MAY 2008 - 2009			
PART A - CASES INVESTIGATED OR REFERRED FOR INVESTIGATION OR OTHER ACTION			
COUNCIL/ CASE REF	ALLEGATION	DECISION	COMMENTS
ABC/09/03B (ROLVENDEN)	Using position to improperly influence matter in which councilor had a prejudicial interest.	Refer to Monitoring Officer with direction to undertake further code training for parish council.	Arrangements for training being made
ABC/09/07B (ROLVENDEN)	Using position to improperly influence matter in which councilor had a prejudicial interest	Refer to Monitoring Officer with direction to undertake further code training for parish council	Arrangements for training being made
ABC/09/08B (ROLVENDEN)	Using position to improperly influence matter in which councilor had a prejudicial interest	Refer to Monitoring Officer with direction to undertake further code training for parish council	Arrangements for training being made

PART B - CASES WHERE ASSESSMENT OR REVIEW PANEL DETERMINED NO FURTHER ACTION

COUNCIL/ CASE REF	ALLEGATION	DECISION	COMMENTS
ABC/08/01 (TENTERDEN)	Treating member of public with disrespect	No Further Action	Satisfactory apology given
ABC/09/05 (ASHFORD BOROUGH COUNCIL)	Bringing office or Council into disrepute and/or using position to improperly confer advantage or disadvantage.	No Further Action	No code breach apparent
ABC/09/03 (ROLVENDEN)	Failure to declare prejudicial interest/leave room during consideration.	No Further Action	No apparent breach of code
ABC/09/04 (ROLVENDEN)	Failure to declare prejudicial interest/leave room during consideration	No Further Action	No apparent breach of code
ABC/09/06 (ROLVENDEN)	Failure to declare prejudicial interest/leave room during consideration	No Further Action	No apparent breach of code
ABC/09/07 (ROLVENDEN)	Failure to declare prejudicial interest/leave room during consideration	No Further Action	No apparent breach of code
ABC/09/08 (ROLVENDEN)	Failure to declare prejudicial interest/leave room during consideration	No Further Action	No apparent breach of code

PART C - COMPLAINTS NOT REFERRED FOR ASSESSMENT			
COUNCIL	ALLEGATION	DECISION	COMMENTS
PARISH	Related to actions when not acting in official capacity.	Not referred to Assessment Panel	Position explained to complainant by letter.
PARISH	Related to actions when not acting in official capacity	Not referred to Assessment Panel	Position explained to complainant by letter.
PARISH	Related to actions when not acting in official capacity	Not referred to Assessment Panel	Position explained to complainant by letter.
ASHFORD BOROUGH COUNCIL	That a councillor had no right to attend or speak or influence a particular committee.	Not referred to Assessment Panel	Position explained to complainant by letter. Based on misunderstanding of rights of councillor to attend meetings.
<p>NOTE: There are TWO outstanding parish councilor complaints not included in the above tables because no Assessment Panel decision has yet been made upon them.</p>			

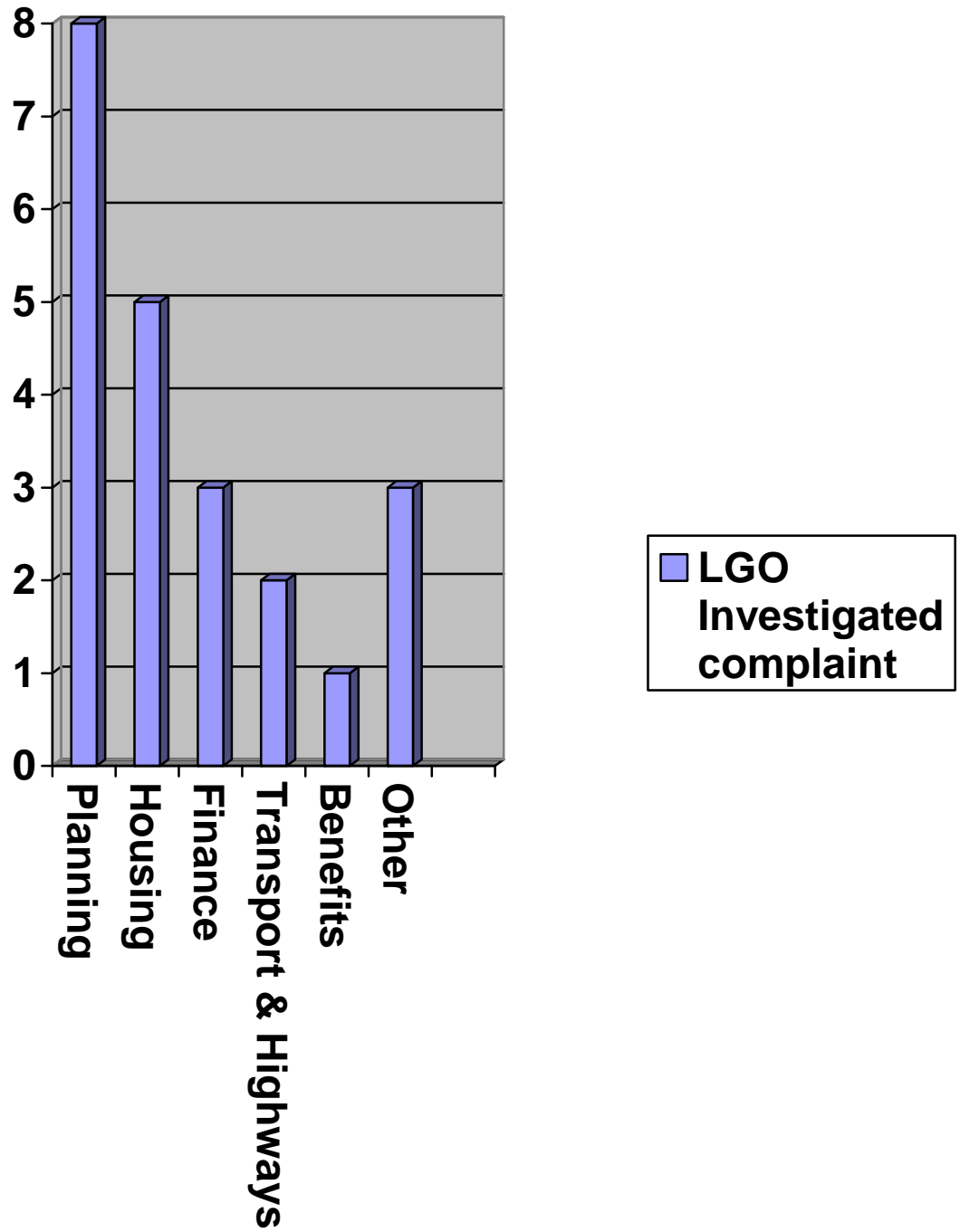
Appendix A – Local Government Complaints 1st April 2008 – 31st March 2009

Basis of Complaint	Ombudsman's Ruling	Outcome/Comment	Probity Issues Raised
<p>Planning and Building Control</p> <p>The complaint was in relation to the way the Council handled a planning application on land adjoining the complainant's home.</p>	<p>Local settlement (no report)</p>	<p>The LGO considered that the only injustice suffered by the complainant was the cost incurred in submitting a solicitor's letter. The Council agreed to reimburse £588 (half the legal costs) to the complainant.</p>	<p>None</p>
<p>Public Finance</p> <p>Complainant received misleading advice about possible exemption from Council Tax resulting in financial loss.</p>	<p>Local settlement (no report)</p>	<p>The LGO suggested £100 compensation to complainant. This was agreed by Council.</p>	<p>None</p>
<p>Housing</p> <p>Complaint that Council :- failed to supply suitable accommodation, failed to contact complainant, delayed in making offer of accommodation and that the complainant's bids were unsuccessful</p>	<p>Local settlement (no report)</p>	<p>The Council made an offer of accommodation that was accepted by the complainant. The LGO could see no grounds for pursuing any remaining aspects of the complaint.</p>	<p>None</p>

Appendix B

Ombudsman Complaints by Service

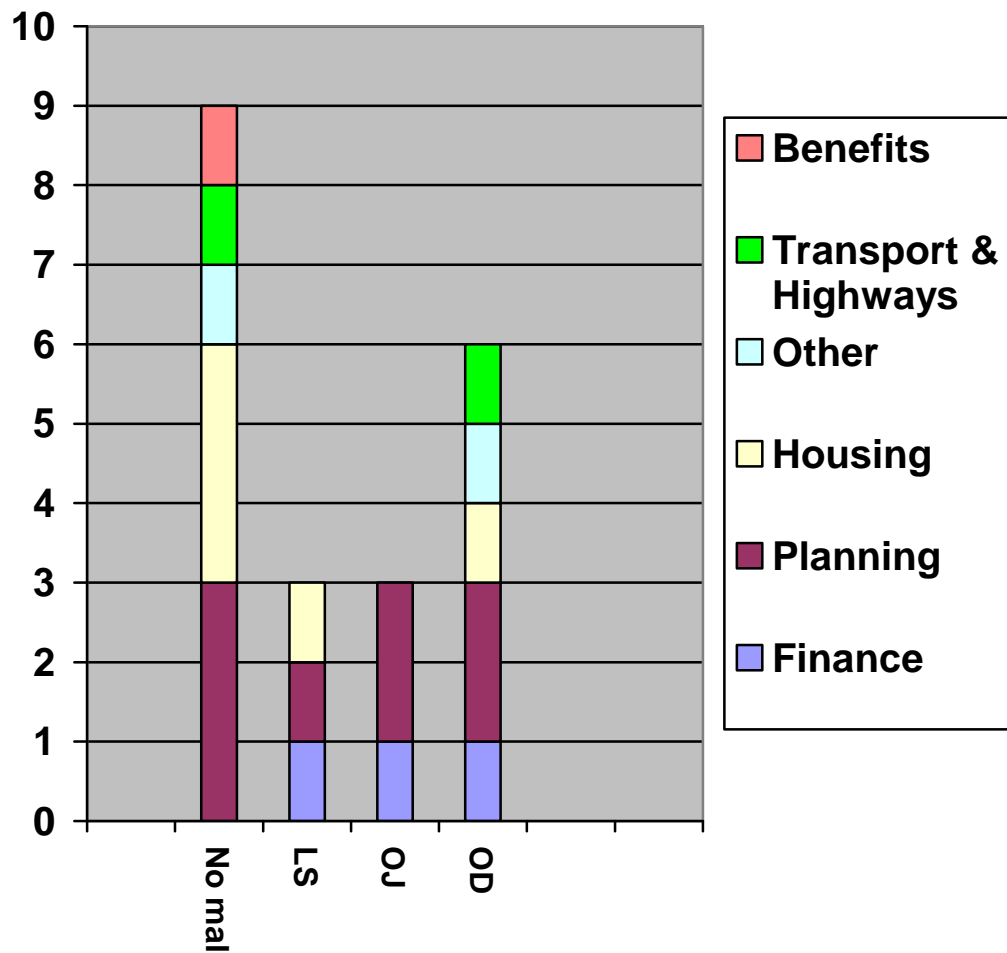
Received between 1st April 2008 – 31st March 2009



Appendix C

Decisions Made on Ombudsman Complaints

1st April 2008 – 31st March 2009



Key

LS Local settlement

OJ Outside Jurisdiction

OD Ombudsman's discretion

No mal No, or insufficient, evidence of maladministration

Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Review
Ashford Borough Council
for the year ended
31 March 2009**

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 reviews.

Contents of Annual Review

Section 1: Complaints about Ashford Borough Council 2008/09	3
Introduction	3
Enquiries and complaints received	3
Complaint outcomes	3
Liaison with the Local Government Ombudsman	4
Training in complaint handling	4
Conclusions	4
Section 2: LGO developments	5
Introduction	5
Council First	5
Statement of reasons: consultation	5
Making Experiences Count (MEC)	5
Training in complaint handling	5
Adult Social Care Self-funding	6
Internal schools management	6
Further developments	6
Appendix 1: Notes to assist interpretation of the statistics 2008/09	7
Appendix 2: Local authority report 2008/09	

Section 1: Complaints about Ashford Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with 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 review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

A total of 35 enquiries and complaints were received about your Council in 2008/09. Planning and building control generated the majority of these contacts (11), with eight of these being forwarded for investigation. We received eight housing related enquiries and complaints, with four of these going forward for investigation. The remaining queries and complaints were about issues such as benefits, public finance, transport and highways (which includes parking), anti-social behaviour and environmental health.

Complaint outcomes

Reports and Local Settlements

A "local settlement" is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2008/09 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the 18 complaints I decided against your authority, which were within my jurisdiction, three (16.6%) were local settlements. I asked you to pay compensation totalling £688 as part of these settlements.

In one case the complainant was unhappy with the Council's handling of disrepair in her privately rented accommodation and a subsequent homelessness application. Our investigation did not reveal any significant delays by the Council but, as a result of our enquiries, the Council offered new accommodation which the complainant accepted.

In a second case, the Council gave the complainant misleading advice about council tax exemption following the death of his father. Although the Council offered £25 compensation for this, it agreed to increase the amount to £100.

The third case was about a planning application. The Council failed to consider whether the application site constituted open space in accordance with Planning Policy Guidance (issued by the Government) until the complainant provided legal advice about this on the day of the Planning Committee meeting. Consideration of the planning application was deferred. Officers subsequently agreed that the application site was open space and the applicant was then required to demonstrate why there was no other suitable site available for the development. In this case, the Council agreed to pay the complainant £588, representing half the cost of commissioning the legal advice.

Other decisions

Of the complaints decided, there were nine where I found no or insufficient evidence of fault by the Council to justify further investigation. There were also three complaints that fell outside my jurisdiction. I used my discretion not to pursue six other cases.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 24.7 days. This is a significant improvement on last year's response times, and is well within the target time of 28 days. I welcome this improvement in the Council's performance.

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. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

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

Conclusions

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 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a 'statement of reasons' for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council's own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

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June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: 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 back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. 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.

Table 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.

Table 4. Average local authority response times 2008/09

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

Appendix 2: Local Authority Report - Ashford BC

For the period ending - 31/03/2009

LGO Advice Team

Enquiries and complaints received	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	2	1	1	1	0	2	7
Advice given	2	1	0	2	0	1	6
Forwarded to investigative team (resubmitted prematures)	2	0	1	3	0	1	7
Forwarded to investigative team (new)	3	1	2	5	2	2	15
Total	9	3	4	11	2	6	35

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	3	0	0	9	6	3	21

Average local authority resp times 01/04/2008 to 31/03/2009

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	11	24.7
2007 / 2008	2	30.0
2006 / 2007	4	27.3

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	60	20	20
Unitary Authorities	56	35	9
Metropolitan Authorities	67	19	14
County Councils	62	32	6
London Boroughs	58	27	15
National Parks Authorities	100	0	0