



Notice of a meeting, to be held in the Council Chamber, Civic Centre, Tannery Lane,
Ashford, Kent TN23 1PL on Wednesday 30th June 2010 at 7.00 pm*

The Members of this Committee are:-

Cllr. Davidson (Vice-Chairman)
Cllrs. Mrs Blanford, Clarkson, Kemp, Mrs Laughton.

Independent Members:-

Mr J Dowsey, Mr M V T Sharpe, Mrs C Vant

Parish Council Representatives:-

Mrs J Allen, Mr R Butcher, Mr D Lyward

*** Please note that there is a training/briefing session for Committee Members from 5.30 pm in the Council Chamber.**

Agenda

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Nos. |
|--|--------------|
| 1. Apologies/Substitutes – To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii) | |
| 2. Election of Chairman | |
| 3. 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 | |
| 4. Minutes – To approve the Minutes of the Meeting of this Committee held on the 18 th December 2009 | |
| 5. Minutes – To approve the Minutes of the Meeting of the Standards Committee Assessment Panel held on the 5 th February 2010 | |

Part I – For Decision

6. Annual Report of the Council's Monitoring Officer 2009/10
7. Referrals of Matters to Monitoring Officer for Steps Other Than an Investigation

8. Applications for Dispensation – Kenardington Parish Council

Part II – Monitoring/Information Items

None for this meeting

DS/VS
22nd June 2010

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Standards Committee

Minutes of a Meeting of the Standards Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **18th December 2009**

Present:

Mrs C Vant (Chairman);
Cllr. Mrs Hawes (Vice-Chairman);

Mr R Butcher – Parish Council Representative.
Mr M Sharpe – Independent Member.

Apologies:

Cllrs. Mrs Blanford, Honey, Wood.

Ms J Adams, Mr J Dowsey, Mr D Lyward.

Also present:

Monitoring Officer, Deputy Monitoring Officer, Senior Member Services & Scrutiny Support Officer.

368 Minutes

Resolved:

That the Minutes of the meeting of this Committee held on the 29th June 2009 be approved and confirmed as a correct record.

369 Standards Committee Assessment Panel – 7th and 25th August 2009

(a) Standards Committee Assessment Panel 7th August 2009

The Monitoring Officer updated on recommendation (ii) (a) of Minute No.171 and said that the training session referred to had been scheduled to take place on the 14th December but due to an unavoidable clash had been rescheduled for the 29th January 2010.

On the subject of training the Monitoring Officer updated the Committee on Code of Conduct training that had recently been undertaken for both Biddenden and Rolvenden Parish Councils following recent decisions of the Standards Committee Assessment Panel to take other actions short of a formal investigation. Attendance levels at both had been very good and he was pleased to report that there had been no further complaints from either Parish since those sessions had taken place.

An Independent Member sought clarification of how such “other action” should be reported back to the Committee. The Monitoring Officer explained that technically the Regulations did require a written report and that was something he could produce if that was the wish of the Committee, although he was not sure what that would achieve above and beyond this reference that would appear in the Minutes. The Chairman agreed that a very concise note should be prepared for a future meeting detailing the fact that these sessions took place including date, time, venue and if possible a list of attendees.

Resolved:

That the Minutes of the meeting of the Standards Committee Assessment Panel held on the 7th August 2009 be approved and confirmed as a correct record.

(b) Standards Committee Assessment Panel 25th August 2009

The Independent Member who chaired this Panel proposed an amendment to strike out the resolution in Minute No.177 as in his view the Panel did not formally resolve to exclude the public. The Deputy Monitoring Officer said that at the meeting he had agreed that the Local Government Act 1972 did not apply but that the Panel did still have discretion whether to hold the meeting in public or not and should make a decision on the matter. The Chairman of the Panel said that they had not made a resolution as there were no members of the public present. The Committee therefore agreed to amend the wording of the resolution in Minute No.177.

Resolved:

That the Minutes of the meeting of the Standards Committee Assessment Panel held on the 25th August 2009 be approved and confirmed as a correct record subject to the resolution in Minute No.177 being amended to read: - “No decision was made on this matter as no members of the public were present”.

370 Standards Committee Review Panel – 9th September 2009

Resolved:

That the Minutes of the meeting of the Standards Committee Review Panel held on the 9th September 2009 be approved and confirmed as a correct record.

371 Review of Procedures

The Chairman introduced the position paper from Mr Sharpe and the report of the Monitoring Officer. She explained that earlier in the year following his experience of chairing an Assessment Panel Mr Sharpe had drafted a paper and it was discussed at a meeting at the end of September involving the three Independent Members, the Monitoring Officer and Deputy Monitoring Officer and the former Deputy Chair of the

Standards Board for England (Patricia Hughes). Following that meeting it was agreed to discuss the paper at a future Standards Committee alongside a report from the Monitoring Officer.

Mr Sharpe said he was pleased that the papers were in the public domain and that everybody could see the issues. He said Committee Members had received good training initially but there was a need to update that training. He was encouraged that the new system of dealing with Code of Conduct complaints was up and running and his interest was in helping members cope with the process of Panel meetings and to make sure that the Council were holding such meetings in accordance with the law. He made reference to the development of the history of public access to Local Authority meetings and the principles of openness and accountability. As Assessment Panels were different from full Committees, Hearings, Reviews etc. he had wondered if it would be preferable to have a quicker look at complaints at that stage with minimal reports rather than the fuller ones that were being produced on occasions at present.

The Monitoring Officer introduced his report which dealt with the three main points raised by Mr Sharpe. Firstly training which to some extent he hoped would be covered by the showing of the Standards for England DVD. Secondly, with regard to public access, it had been recognised that the Local Government Act 1972 did not apply to Assessment and Review Panel meetings but Standards Board guidance on the matter was unclear. He recommended that as the Panels still had discretion whether to hold the meetings in public or not, they should therefore formally make a decision on the matter at the outset of meetings. Thirdly with regard to suggestions for efficiency, these were always welcomed. There had been comments about the length of reports submitted to Panels, but he was pleased that both Patricia Hughes and a Standards Board Director had been complimentary of the style and thoroughness of the Ashford reports. The danger of only supplying Panels with 'minimal' reports (i.e. just photocopying letters of complaint etc) was that it could lead to weaker and more challengeable decisions being made and ultimately more work in terms of reviews and investigations. The Monitoring Officer did not consider any changes needed to be made to the style of reports. In terms of replacing the Minutes with a written summary, the Monitoring Officer explained that procedures were already in place to produce both which consumed minimal staff resources so there would be no material benefit from changing the system just for these meetings.

The following points were made in discussion: -

- Members were reluctant for the Assessment Panel reports to be shortened. Just providing the minimum amount of information may lead to the loss of material facts and to more challengeable decisions and that would place everybody concerned in a difficult situation. It was agreed preferable to have a more stringent assessment than risk spending more time on future investigations which could have been avoided. The Chairman said she had been happy with the amount of information provided at the assessment stage and felt the Panels had made good decisions.
- There was general agreement that there was a need for some up to date training. The Deputy Monitoring Officer explained that Standards for England

were currently working on a whole new suite of training materials that were up to date and the Committee considered it should wait until that had been produced and then proceed with some training for all Committee Members. Standards for England had confirmed some materials on their website were out of date but the DVD that had been produced was up to date and it was hoped that this would clarify some issues.

- The number of Code of Conduct complaints showed little sign of decreasing. There were a number of cases that would be put before Assessment Panels in the New Year. The allegations were relatively straightforward so the Monitoring Officer said it may be possible to produce shorter reports for these.
- There was no default position in the Council's Constitution about public access to Assessment Panel meetings. The Local Government Act did not apply and the common law position was that each meeting could decide. Discretion rested with the Panel. There was nothing set down in law and the Monitoring Officer's advice would normally be to exclude the public as holding such meetings in public would rarely, if ever, be appropriate. An Independent Member said he considered a default position of excluding the public was wrong and there was only a need to make a resolution if members of the public were actually present. Other members however agreed that a formal decision had to be made at the start of the meetings as members of the public could potentially arrive during the proceedings. The Monitoring Officer further explained that the provision of confidential information was only one reason for excluding the public. Exclusion also allowed for open and frank discussions over the merits of a case and the options available. The wording on Panel Agendas had already been amended to exclude reference to the Local Government Act 1972.

The Committee said that it had hoped to view the Standards for England DVD following this meeting but as there were so few members present it was agreed best to arrange an extra session where a majority of the Committee could attend, view the DVD and discuss its contents. An Independent Member said he was concerned about waiting as Assessment Panels were already happening and complaints were being received regularly. It was agreed that a date would be sought early in the New Year and members would be asked to confirm their availability in advance. In the meantime any members who wished to loan the DVD to watch in their own time could do so.

Resolved:

That the papers of both Mr Sharpe and the Monitoring Officer be received and noted and the discussions above form the basis of the way forward for the Standards Committee and its Panels including: -

- (i) **With regard to training, an opportunity for members to watch the Standards for England DVD be arranged early in the New Year and future events will be arranged when Standards for England have updated their training materials.**

- (ii) **The existing procedure of making decisions on public access at the beginning of each Panel be maintained.**
-

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Standards Committee – Assessment Panel

Minutes of a Meeting of the Standards Committee – Assessment Panel held in Committee Room No.2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford on the **5th February 2010**

Present:

Mrs C Vant (Chairman);

Cllr. Mrs Hawes

Ms J Adams – Parish Council Representative

Also Present:

Monitoring Officer, Deputy Monitoring Officer, Senior Member Services & Scrutiny Support Officer.

429 Declarations of Interest

Councillor Mrs Hawes declared a Code of Conduct Interest (Personal but not Prejudicial) as she had received the “All Councillor e-mail” referred to in case ABC/09/15.

430 Exclusion of the Public

Resolved:

That the public be excluded from the meeting during consideration of the following items, namely Initial Assessments ABC/09/15, ABC/09/16, ABC/09/17 and ABC/09/20.

431 Matter Referred for Initial Assessment – Case ABC/09/15

The Monitoring Officer had submitted his report which included a summary of the allegations. It explained that the complaint was in relation to two events, namely the sending of an email to all Councillors by a Borough Councillor which a small number of Councillors had taken exception to, and a subsequent alleged threat made from one Borough Councillor to another. The Panel considered the complaint and the evidence before it in the context of the adopted Assessment Criteria.

After considerable discussion on this matter it was: -

Resolved:

That the Assessment Panel concludes that whilst the conduct complained of may disclose a possible breach of the Code of Conduct, bearing in mind it occurred between Councillors, it was not sufficiently serious to warrant the cost of a publicly funded investigation. The Panel did however regard the issue of good Councillor relations as important and wished to make it clear to those involved that they encouraged respectful exchanges between Councillors and that they considered there were better ways for the Councillor to have raised the original issue of concern. The Panel referred the matter to the Monitoring Officer with a direction to take steps other than formal investigation, namely to send a letter to the subject Member in those terms.

432 Matters Referred for Initial Assessment – Cases ABC/09/16, ABC/09/17 and ABC/09/20

The Deputy Monitoring Officer had submitted his report which included a summary of the allegations. It explained that three separate complaints had been made by one Parish Councillor about potential breaches of the Code of Conduct by three fellow Parish Councillors. The circumstances surrounding all three complaints were similar and related to the same issue so they had been grouped together in a single report. The Panel considered the complaint and the evidence before it in the context of the adopted Assessment Criteria.

After considerable discussion on these matters it was: -

Resolved:

That with regard to cases ABC/09/16 and ABC/09/17, the Assessment Panel concluded that the conduct complained of may, if it occurred, disclose a possible breach of the Code of Conduct, but, even if it did occur, bearing in mind it occurred between Councillors, it was not sufficiently serious to warrant the cost of a publicly funded investigation. With regard to case ABC/09/20 the Panel concluded that the evidence did not disclose an apparent breach of the Code of Conduct. However, in all cases the Panel referred the matter to the Monitoring Officer with a direction to take steps other than formal investigation, namely to send a letter to the Parish Council expressing concern at the generation of complaints from the particular Parish Council and stating that it was clear there had been a break down in relationships in the Parish over this issue and asking if they considered there was anything the Monitoring Officer could do to assist in this matter. Now that this issue had been dealt with by the Borough Council's Executive the Panel hoped that the Parish Council would move on and work together in the future in the best interests of the village.

**Standards Committee
30 June 2010**

**Council
15 July 2010**

**Annual Report Of The Council's
Monitoring Officer - 2009-10**

Introduction

1. This is the fifth 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 year from 1 June 2009 to 31 May 2010.
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 third to be based on the new code.
3. 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. Cases are referred for local investigations or other action 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.
4. 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.
5. Although the previous Government announced its intention to review the national Model Code of Conduct (on which all local codes are based) this was not completed prior to the General Election. The new Government has stated its intention to "abolish the Standards Board regime" but no further details have been published. It seems likely that the code of conduct and role of local Standards Committees will continue whilst the Standards Board's strategic and monitoring role may be subsumed into an existing regulatory body such as the

Local Government Ombudsman. In the meantime, the existing system remains fully operational.

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, Bethersden and Rolvenden and further requests are being processed. A "Probity in Planning" update was given by the Monitoring Officer to Borough Councillors in November 2009 and refresher training for Standards Committee members is taking place in June. 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 2009/10 data for Ombudsman complaints as well.
9. The Local Government Ombudsman investigates 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 2009 to March 31st 2010.
11. This report would normally include a table setting out details of those complaints where the Ombudsman has made a finding against the Council, either with an official report, or under the terms of 'local settlement'. However since there are no such reports for the year 09/10, no table is appended.

Analysis of Code of Conduct Complaints

12. The attached **Appendix 1** gives brief details of all formal allegations/complaints made to the Monitoring Officer in the year 2009/10 regarding borough councillors and parish councillors within the borough.
13. During this period fourteen new formal complaints were made, of which seven related to the Borough Council and seven related to parish councils. A breakdown of the 14 complaints in terms of outcome is as follows:-

- 4 of the complaints (3 parish and 1 borough) were referred to the Monitoring Officer for action other than investigation.
 - 1 complaint (parish) was referred to the Assessment Panel and resulted in 'No Further Action' on account of the matter not justifying formal investigation.
 - 3 complaints (2 borough and 1 parish) were outside the jurisdiction of the Panel, two on account of the alleged conduct being in the councillor's private life and one because it was the parish clerk, not a councillor, who was the subject of the complaint).
 - 6 recent complaints (5 borough, 1 parish) remain undetermined at the time of writing this report.
14. The figures for 2009/10 show a slightly reduced number of overall complaints compared to the preceding year (when there were 16 complaints) although the proportion of Borough Council complaints is significantly higher this year.

To date no complaints under the local "filtering" system have been referred for investigation although several are still awaiting Assessment Panel decisions at the time of writing. 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 the current level of complaints locally is very significant. The Standards Board (now Standards for England) recently produced detailed draft proposals to simplify the standards regime and provide more efficient ways to dispose of less serious complaints. These proposals have still not been formally considered by Government, but do provide some grounds for optimism should Government decide to adopt the proposals.

15. 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 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.
16. On the basis of all the above matters, I am satisfied 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

17. The Ombudsman resolved **10** complaints against Ashford Borough Council within the period 1st April 2009 to 31st March 2010, 11 less than last year and there was a decrease in the time taken by the Council to respond to first enquiries from the Ombudsman - from 24.7 days to 18 days.

No complaints were ruled as maladministration by this Council. The outcomes of those complaints resolved by the Ombudsman are detailed below.

0 = Local Settlement.

4 = No, or insufficient, evidence of maladministration.

3 = 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.

18. A change in the way the LGO operates means that statistics about complaints received in 2008/09, and later, are not directly comparable with those from previous years. Figures for complaints resolved in 2008/09, and later, do not include any premature complaints whereas the figures for 2007/08, and earlier, included premature complaints.

From 2008/09 the LGO 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.

Where the Ombudsman determines a complaint as "Local Settlement", an agreement will have been negotiated between the Council and the complainant. There were no Local Settlement decisions for 2009/10.

19. There are two decisions relating to this period which were made after the end of the 09/10 period, (these will be included in the LGO statistics for 2010/11) the LGO decision on one of these was 'No, or insufficient, evidence of maladministration' and on the other was 'Outside Jurisdiction'.
20. Two charts are attached at appendices A and B for the Committee's information:
- Ombudsman Complaints by Service
 - Decisions made on Ombudsman Complaints
21. I have attached the Ombudsman's Annual Review 2009/10 (**appendix C**) but unfortunately comparative data from other Kent authorities for the period has not yet been published by the Ombudsman. However it is important to note that the volume of formal complaints made against the Council has halved and this is a positive governance indicator

As has been noted above, there was a significant decrease in the time taken to respond to first enquiries from the Ombudsman, from 24.7 days to 18 days. This is particularly pleasing and is the second consecutive year in which an improvement has been made. The improvement is specifically noted in the Ombudsman's Annual Review letter.

22. Overall, I am pleased to report 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 has been reviewed recently and this may have had some impact on the reduction in volume of complaints, as well as the nature of the outcomes in the complaints which were pursued.

TERRY MORTIMER
MONITORING OFFICER

June 2010

Appendix 1.

CODE OF CONDUCT COMPLAINTS JUNE 2009 - MAY 2010			
PART A - CASES INVESTIGATED OR REFERRED FOR INVESTIGATION OR OTHER ACTION			
COUNCIL/ CASE REF	ALLEGATION	DECISION	COMMENTS
ABC/09/15 (ASHFORD)	Failure to treat others with respect (para 3(1))	Refer to Monitoring Officer to send advisory letter on behalf of Panel.	
ABC/09/16 (KENARDINGTON)	Bullying (para 3(2))	Refer to Monitoring Officer to send advisory letter to clerk and offering Monitoring Officer assistance to help resolve ongoing problems.	Monitoring Officer to attend future parish council meeting.
ABC/09/17 (KENARDINGTON)	Bullying (para 3(2))	Refer to Monitoring Officer to send advisory letter to clerk and offering Monitoring Officer assistance to help resolve ongoing problems.	Monitoring Officer to attend future parish council meeting.
ABC/09/20 (KENARDINGTON)	Bullying (para 3(2)) and failure to treat others with respect (para 3(1))	Refer to Monitoring Officer to send advisory letter to clerk and offering Monitoring Officer assistance to help resolve ongoing problems.	Monitoring Officer to attend future parish council meeting.

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

COUNCIL/ CASE REF	ALLEGATION	DECISION	COMMENTS
ABC/09/01 (PLUCKLEY)	Failure to treat others with respect (para 3(1))	No Further Action - not sufficiently serious to warrant publicly funded investigation.	
ABC/09/12 & 13 (ASHFORD)	Failure to treat others with respect (para 3(1)) and bringing office or Council into disrepute (para 5)	No jurisdiction as conduct not in official capacity as a Councillor	An externally facilitated Equality & Diversity training session for borough councilors was arranged following these complaints.

PART C - COMPLAINTS NOT REFERRED FOR ASSESSMENT

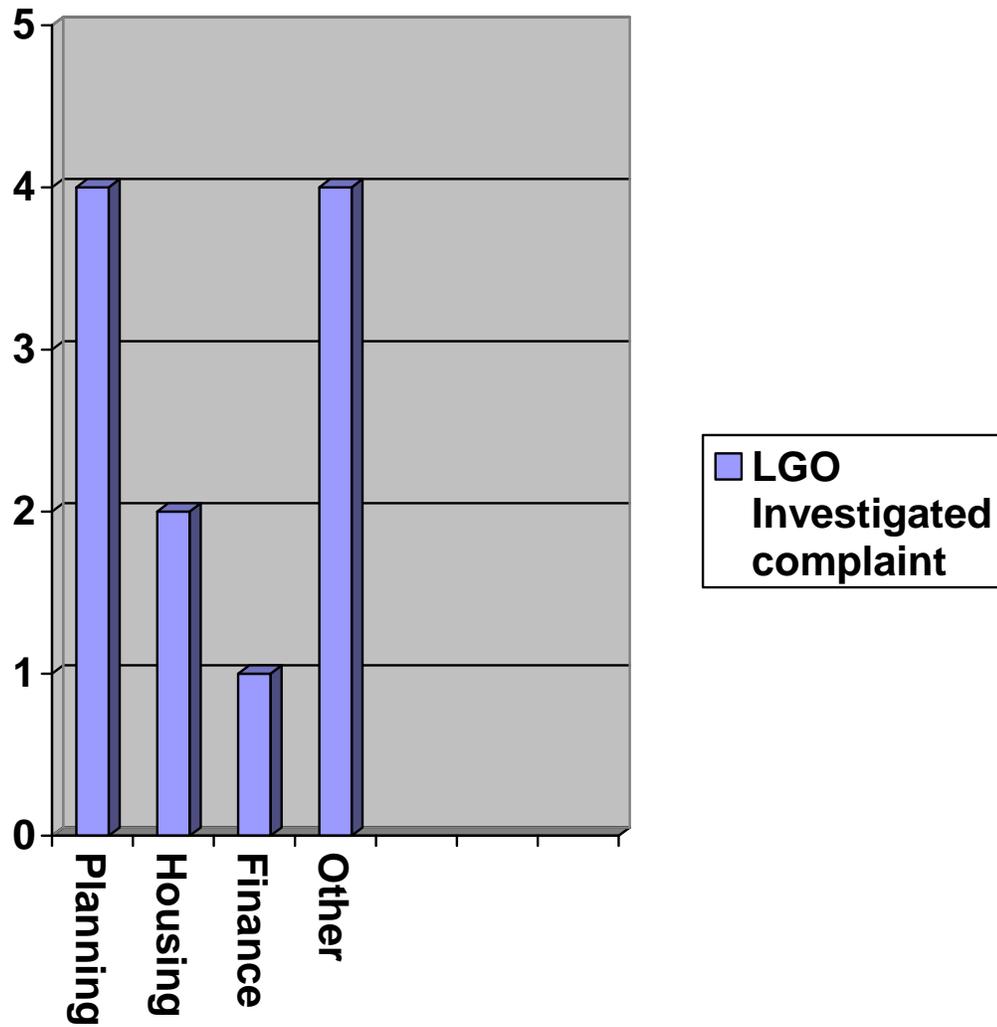
COUNCIL	ALLEGATION	DECISION	COMMENTS
ABC/09/21 (KENARDINGTON)	Bullying of a councillor (para 3(2))	Not referred to Assessment Panel because complaint related to a person who was not a councillor at the relevant time.	

NOTE: There are six outstanding complaints not included in the above tables because no Assessment Panel decisions have yet been made upon them.

Appendix A

Ombudsman Complaints by Service

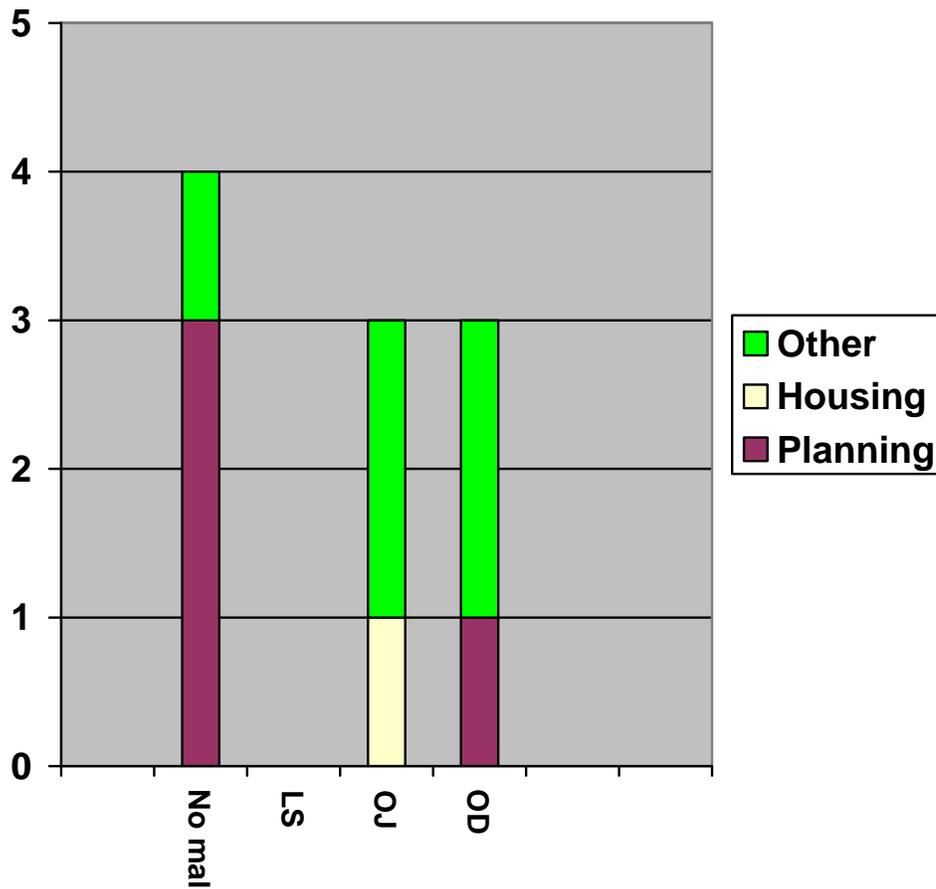
Received between 1st April 2009 – 31st March 2010



Appendix B

Decisions Made on Ombudsman Complaints

1st April 2009 – 31st March 2010



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 2010**

Local Government Ombudsmen (LGOs) provide 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, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about Ashford Borough Council 2009/10

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 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

Last year our Advice Team dealt with 17 enquiries and complaints about your authority. This is less than half the number received in 2008/09 which was 35.

Of these enquiries and complaints received, four related to complaints that were deemed to be premature and so were referred back to your Authority for investigation. We provided advice to two other people who contacted the Advice Centre.

Our Advice Team forwarded 11 complaints to the investigative team, half the number referred in 2008/09. One of the complaints forwarded for investigation was one which had been referred to the Authority as premature but was then resubmitted by the complainant, who was not satisfied with the Council's response. This was a significant improvement on last year's figure when seven complaints were resubmitted. There was a wide spread of complaints among those received; four were about the way your Council had dealt with planning applications.

Complaint outcomes

Reports

When we complete an investigation, we generally issue a report. This year we did not issue any reports against your Council.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, an authority takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. In 2008/9 we closed three complaints as local settlements but this year no complaints were closed in this way.

Other decisions

Four of the complaints which were passed on to investigative staff by the Advice Team were out of our jurisdiction. This was because the complainants had a right of appeal to either a court or to a statutory tribunal and my staff believed it was reasonable for them to have used that right of appeal.

Of the complaints received about planning applications, one was out of jurisdiction because the complainant had a right of appeal and, in addition, because of the length of time that had passed since the events took place. We discontinued our investigation of one because we found that no significant injustice had arisen and found no fault in the way you had dealt with the other two applications.

Liaison with the Local Government Ombudsman

The average time for your Authority to reply to our written enquiries last year was 18 days, an improvement on the average response time last year which was 24.7 days. This is better than our target period of 28 days which 61% of District Councils manage to attain.

Training in complaint handling

I am pleased that during 2009/10 we provided training in Effective Complaint Handling to staff from your Authority.

I would like to take this opportunity to remind the Council that 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.

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 authority's services.

**Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London
SW1P 4QP**

June 2010

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in **Barking and Dagenham, Cambridgeshire, Medway and Sefton**. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at www.lgo.org.uk/schools/

Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at www.lgo.org.uk/guide-for-advisers/council-response

Training in complaint handling

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

Statements of reasons

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

Delivering public value

We 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 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.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London
SW1P 4QP

June 2010

Appendix 1: Notes to assist interpretation of the statistics 2009/10

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.

Premature complaints: 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 either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Forwarded to the investigative team (resubmitted premature and new): These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to 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 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 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 LGO 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 LGO'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 LGO'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 2009/10

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 - 31/03/2010

LGO Advice Team

Enquiries and complaints received	Housing	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	0	1	3	0	4
Advice given	1	1	0	0	2
Forwarded to investigative team (resubmitted prematures)	0	0	1	0	1
Forwarded to investigative team (new)	2	1	3	4	10
Total	3	3	7	4	17

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	0	0	0	4	3	3	10

Appendix 2: Local Authority Report - Ashford BC

For the period ending - 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	7	18.0
2008 / 2009	11	24.7
2007 / 2008	2	30.0

Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days	29 - 35 days	> = 36 days
	%	%	%
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

STANDARDS COMMITTEE
30 JUNE 2010
REPORT OF THE MONITORING OFFICER
REFERRALS OF MATTERS TO MONITORING OFFICER
FOR STEPS OTHER THAN AN INVESTIGATION

1. Under Regulation 13 of the Standards Committee (England) Regulations 2008, I am required to report in writing on steps taken by me to comply with directions by Assessment Panels to take action other than investigation on complaints. Such reports should be submitted within 3 months and if the Standards Committee is not satisfied with the action then it can give further directions to the Monitoring Officer (but cannot at that stage require a formal investigation).
2. Because of the nature of the 'other action' I have been directed to take in previous cases, I have reported back informally that the required action has been duly taken. The table below provides a formal record of action as required by the Regulations.

CASE REFERENCE	ALLEGATION AND DECISION	DETAILS OF ACTION TAKEN
ABC/09/3B (ROLVENDEN)	Using position improperly (para 6) and seeking to improperly influence decision (para 12). Due to recent history at this Parish Council, appropriate course was to direct Monitoring Officer to undertake code training for the whole Council in order to encourage/ensure future compliance with all aspects of code (May09)	Formal training session delivered by Monitoring Officer and Deputy Monitoring Officer at Rolvenden Village Hall on 30 June 2009. Attended by clerk and 6 out of 9 parish councillors. (The others being unavailable due to work/holidays). Positive feedback given by attendees at training event.
ABC/09/02 (BIDDENDEN)	Failure to treat others with respect (para 3(1)). Advisory letter to be sent by Monitoring Officer to parish councillor because investigation not justified in view of fact correspondence was between councillors and a letter of regret had been sent by the councillor (July09)	Advisory letter sent regarding tone of correspondence in July 2009. In addition, a formal code of conduct training session was given to all Biddenden councillors in April 2009. This was after submission of the complaint in this case but before the Assessment Panel decision. Positive feedback given by attendees at training event.
ABC/09/15 (ASHFORD)	Failure to treat others with respect. Advisory letter to be sent by Monitoring Officer because investigation not justified in view of fact communications were between councillors and a letter of	Advisory letter sent in February as to use of disrespectful language and use of alternative methods for raising concerns with Council officers.

	apology had been sent by the councillor (Feb2010)	
ABC/09/16,17 & 20 (KENARDINGTON)	Failure to treat others with respect and bullying between councillors. Advisory letter to clerk offering Monitoring Officer's assistance in resolving ongoing problems between councillors because investigations not justified as conduct not sufficiently serious and suggested there was really a breakdown in relationships generally (Feb2010)	Advisory letter sent to clerk in February 2010 offering Monitoring Officer's assistance. Monitoring Officer has been requested to attend a parish council meeting to witness how meetings are handled and this will be taken up once pending court proceedings in relation to street naming have been concluded.

ASHFORD BOROUGH COUNCIL
REPORT OF THE MONITORING OFFICER
STANDARDS COMMITTEE
30th June 2010

**KENARDINGTON PARISH COUNCIL –
APPLICATIONS FOR DISPENSATION**

1.BACKGROUND

1.1 The Clerk to Kenardington Parish Council has informed the Monitoring Officer, that Kenardington Parish Council has been requested by the Planning dept of Ashford Borough Council to consider putting forward three sites as potential sites for a Local Needs Housing Scheme in the Village.

1.2 A number of provisional sites have been identified by the Clerk and a representative of Action for Communities in Rural Kent. It is proposed that the Parish Council will meet to consider which of the sites should be put forward as the three potential sites.

1.3 It appears however, that four Kenardington Councillors will have a Prejudicial Interest in the provisional sites, by virtue of the proximity of the sites to their own properties or in the case of Councillor Ashby because he owns two of the provisional sites.

1.4 There are five Councillors at the Parish Council and the quorum for a meeting is three. Therefore more than 50% of the Council's members would be unable to participate and the business of the Parish Council would be impeded as they would be unable to formulate a response to the request from Ashford Borough Council's planning dept.

1.5 Three of the Parish Councillors (applications attached hereto) wish to be granted dispensations to speak and vote on this matter, since they believe the input of the Parish Council is essential in arriving at the best site for the Local Needs Housing.

1.6 The relevant Parish Council meeting was to have already taken place, but the matter has been adjourned to a future date to follow the Standards Committee decisions on dispensations.

2. THE REGULATIONS.

2.1 The Standards Committee (Further provisions) (England) Regulations 2009 provide (amongst other things) that a Standards Committee may grant a dispensation to a Member, where more than 50% of the Members who would be entitled to vote at a

meeting are prohibited from voting due to the mandatory provisions of the Code of Conduct (ie not being able to vote due to a Prejudicial Interest).

2.2 If the Standards Committee concludes that, having regard to these matters, and to all the other circumstances of the case, it is appropriate to grant the dispensations, then they may grant them.

2.3 The Committee may however, feel that due to the nature of the interest of Cllr Ashby (as owner of two of the provisional sites), that he should be granted a dispensation to speak, but not to vote.

3. RECOMMENDED.

That

- (i) Councillors Cocking and Hedley be granted dispensation to enable them to speak and vote,
- (ii) Councillor Ashby be granted dispensation to enable him to speak, but not vote

at meetings of the Kenardington Parish Council, when matters relating to the formulation of the Parish Council's response to suggest three potential sites for a Local Needs Housing site are being discussed, notwithstanding that they have prejudicial interests therein by virtue of the proximity of their private properties or their ownership of potential sites, such dispensations to expire when the Parish Council's response has been formulated and submitted to the Borough Council.

T W Mortimer
Monitoring Officer
Ashford Borough Council.
REF:CDM 16/6/10.

For any further information contact:
Colin Mawston
01233 330215
Colin.mawston@ashford.co.uk

Local Needs Housing Kenardington - Message (HTML)

File Edit View Insert Format Tools Actions Help

Reply Reply to All Forward

You replied on 15/06/2010 13:26.

From: [REDACTED] Sent: Tue 15/06/2010 12:33

To: Colin Mawston

Cc: Appledore & Kenardington Parish Council

Subject: Local Needs Housing Kenardington

Attachments: (no subject) (4 KB)

Dear Mr Mawston

I am re-sending the statement as I did not fully complete it before - my apologies.

I, Councillor Vicky Cocking of Kenardington Parish Council hereby apply to the Ashford Borough Council Standards Committee for a dispensation to speak and vote at a meeting of the Kenardington Parish Council, when the Parish Council considers the selection of three potential sites for local needs housing, notwithstanding that I have a Prejudicial Interest in one of the possible potential sites.

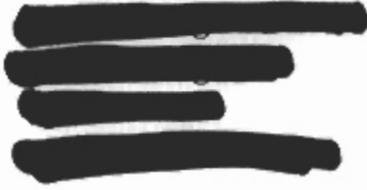
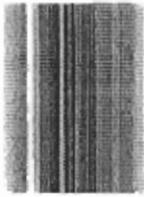
The nature of my Prejudicial Interest is that one of the possible sites is close to a property part owned by myself.

The ground on which I apply for dispensation is that more than 50% of the members of the Council who would be entitled to vote at a meeting are prohibited from voting

Kind regards

V J Cocking

start [Taskbar icons] Inbox - Microsoft Out... Local Needs Housing ... EN [System tray icons] 11:07



The Standards Committee

Ashford Borough Council

Dear Sirs

I, Councillor Keith Ashby chairman of Kenardington Parish Council hereby apply to the Ashford Borough Council Standards Committee for a dispensation to speak and vote at a meeting of the Kenardington Parish Council, when the Parish Council considers the selection of three potential sites for local needs housing, notwithstanding that I have a Prejudicial Interest in two of the possible potential sites.

The nature of my Prejudicial Interest is that two of the possible sites is property is owned by myself.

The ground on which I apply for dispensation is that more than 50% of the members of the Council who would be entitled to vote at a meeting are prohibited from voting

Yours sincerely



Keith. P. Ashby

Colin Mawston

From: Brenda Hedley [REDACTED]
Sent: 08 June 2010 14:11
To: Colin Mawston
Subject: Kenardington Parish Council

Dear Sir

I, Councillor Brenda Hedley of Kenardington Parish Council hereby apply to the Ashford Borough Council Standards Committee for a dispensation to speak and vote at a meeting of the Kenardington Parish Council, when the Parish Council considers the selection of three potential sites for local needs housing, notwithstanding that I have a Prejudicial Interest in one of the possible potential sites.

The nature of my Prejudicial Interest is that one of the possible sites is opposite and another on land neighbouring property owned by myself.

The ground on which I apply for dispensation is that more than 50% of the members of the Council who would be entitled to vote at a meeting are prohibited from voting.

Yours faithfully

Councillor Brenda Hedley