

**Standards Committee
1 November 2011**

**Council
15 December 2011**

**Annual Report Of The Council's
Monitoring Officer - 2010-11**

Introduction

1. This is the sixth annual report I have presented to the Standards Committee and the Council. The principal purpose of the annual report is to 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 2010 to 31 May 2011.
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 fourth to be based on that code.
3. With effect from May 2008 the Local Government and Public Involvement in Health Act 2007 introduced substantial changes to the complaint system under which complaints (against both borough and parish councillors) are no longer be made to or investigated by the national body (Standards for England) but are made locally and "filtered" by local Assessment and Review Panels (which are Sub-Committees of the Borough Council's Standards Committee). 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. Standards for England 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 have been significant although no increased resources were provided to local government to cover this.
5. The Localism Bill, currently going through its various formal parliamentary stages, contains provisions which will bring forward the abolition of the national standards body but, at the time of writing the future position regarding the duty to adopt a new code of conduct and appoint Standards Committees, the proposed new provisions on declaration of interests and the inclusion of parish councils in any new regime remains uncertain and subject to further political discussions. In the meantime, the Leader of the Council announced at a Cabinet meeting in October that a cross-party Task Group would be asked to examine the Council's existing Constitution provisions in relation to conduct

requirements and would also need to engage with any requirements which emerge from the localism legislation.

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 although further sessions are on hold pending clarification of the Localism Bill provisions. A "Probity in Planning" update was given by the Monitoring Officer to Borough Councillors in November 2009 and refresher training for Standards Committee members took place in June 2010. Post-election training on probity and standards issues was included in the 2011 member induction programme. 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. At the time of writing the difficulties which beset the Great Chart with Singleton Parish Council following the May 2011 elections have been resolved to the extent that by-elections for 6 vacant seats were held in October. My next annual report for 1011/12 will include any relevant data on complaints.
9. 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 2010/11 data for Ombudsman complaints as well.
10. 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.
11. 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 2010 to March 31st 2011.

Analysis of Code of Conduct Complaints

12. The attached TABLE gives brief details of all formal allegations/complaints made to the Monitoring Officer and referred to an Assessment Panel in the year 2010/11 regarding borough councillors and parish councillors within the borough.
13. The figures for 2010/11 show a slightly reduced number of “filtering” decisions compared to the preceding year (when there were 8 referrals). However, no assessments resulted in a referral for formal investigation.

To date no complaints under the local "filtering" system have been referred for investigation although one is still awaiting Assessment Panel decision at the time of writing.

14. 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.
15. 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 once the Localism Bill provisions are finalised and the role of parish councils clarified, further individual parish training events can be arranged and this will help reduce further the incidence of such complaints.

Analysis of Ombudsman Complaints

16. The Ombudsman resolved **23** complaints against Ashford Borough Council within the period 1st April 2010 to 31st March 2011, 13 more than last year and there was an increase in the time taken by the Council to respond to first enquiries from the Ombudsman - from 18 days to 27 days. Two of these decisions relate to complaints received in 2009/10 where the decision was made after 31 March 2010.
17. No complaints were ruled as maladministration by this Council. The outcomes of those complaints resolved by the Ombudsman are detailed below.

5	Local Settlement
11	No, or insufficient, evidence of maladministration.
4	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. The Ombudsman determines a complaint as “Local Settlement”, when an authority takes or agrees to take some action that the LGO considers to be a satisfactory response to the complaint. There were five Local Settlement decisions for 2010/11, three of these related to the same complaint which was submitted jointly to the LGO by residents at separate addresses. Further details of these are given in Appendix B.

19. There are five decisions relating to complaints received between 1st April 2010 and 31st March 2011 which were made after 31 March 2011, (these will be included in the LGO statistics for 2011/12).

20. Three charts are attached at appendices A, B and C for the Committee’s information:
 - A - Ombudsman Decisions by Service
 - B - Local Settlement decisions
 - C - Comparison table of other Kent Local Authority complaint figuresI have attached the Ombudsman’s Annual Review 2010/11 (appendix D).

Annual Reviews and data for previous years are available on the LGO website.

21. Overall, the Council’s record in relation to Ombudsman case outcomes – including the absence of a single finding of maladministration – remains good.

TERRY MORTIMER
MONITORING OFFICER

October 2011

Table 1.

CODE OF CONDUCT COMPLAINTS JUNE 2010 - MAY 2011			
PART A - CASES INVESTIGATED OR REFERRED FOR INVESTIGATION OR OTHER ACTION			
COUNCIL/ CASE REF	ALLEGATION	DECISION	COMMENTS
ABC/10/03 (ASHFORD)	Failure to treat others with respect (para 3(1))	Refer to Monitoring Officer to send advisory letter on behalf of Panel.	
ABC/10/08 (ASHFORD)	Failure to treat others with respect (para 3(1))	Refer to Monitoring Officer to send advisory letter on behalf of Panel	

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

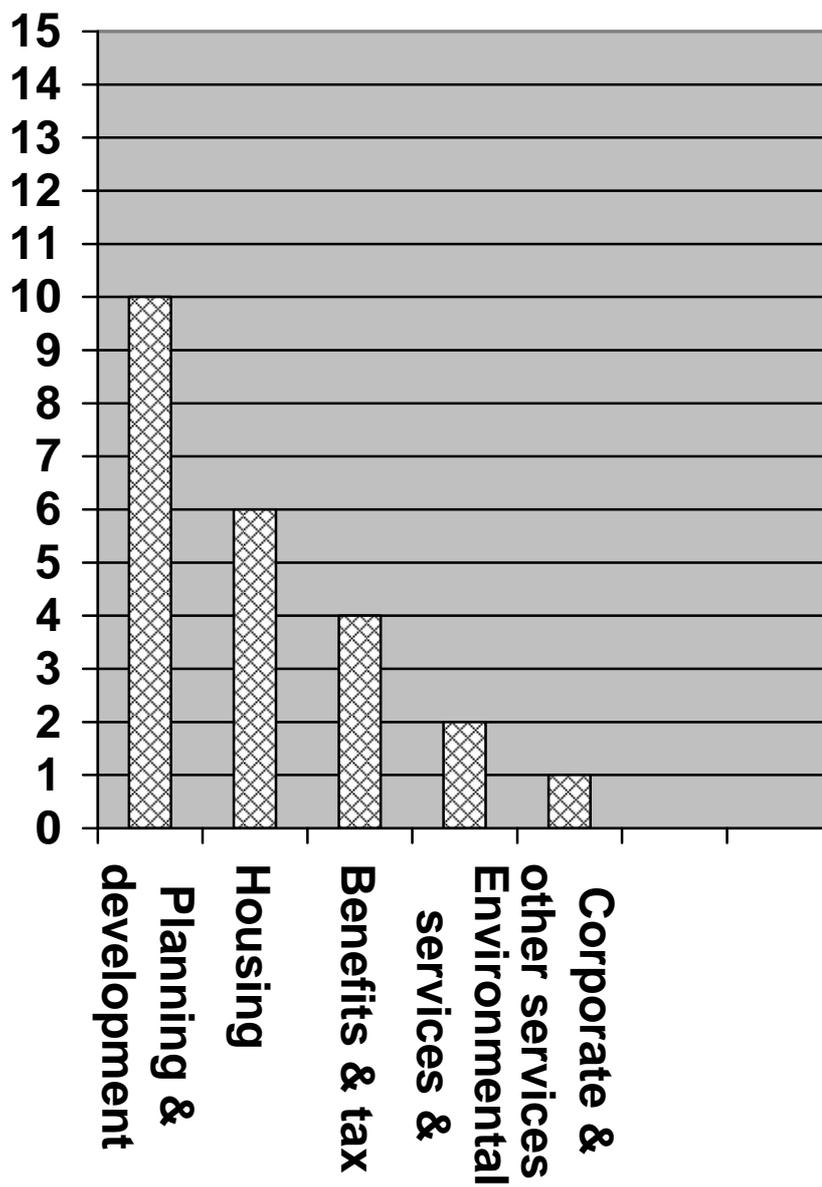
COUNCIL/ CASE REF	ALLEGATION	DECISION	COMMENTS
ABC/10/04 (ASHFORD)	Failure to treat others with respect (para 3(1)) Bringing office into disrepute (para 5)	No Further Action – no potential code breach identified	
ABC/10/05 (ASHFORD)	Bringing office into disrepute by misleading members on a planning matter.	No Further Action – no potential code breach identified.	
ABC/10/06 (ASHFORD)	Bringing office into disrepute by misleading members on a planning matter.	No Further Action – no potential code breach identified.	
ABC/10/09 (KINGSNORTH)	Bringing office into disrepute by misleading members on a planning matter.	No Further Action – no potential code breach identified.	
ABC/10/10 (KINGSNORTH)	Bringing office into disrepute by misleading members on a planning matter.	No Further Action – no potential code breach identified.	

NOTE: There is one case on which an assessment decision was taken after 31 May 2011, and another case which is due to be referred to an Assessment Panel in late October which will be included in the data for the next Annual Report.

Appendix A

Ombudsman Decisions by Service

Received between 1st April 2010 – 31st March 2011



Appendix B – Local Government Complaints 1st April 2010 – 31st March 2011

Local settlement.

Basis of Complaint	Ombudsman's Ruling	Outcome/Comment	Probity Issues Raised	Lessons Learned
The complainant considered that the Council had failed to ensure that the sheltered property offered to his mother was in satisfactory condition before she moved in.	Local settlement (no report)	The Council agreed to reimburse complainant £600 for the cleaning and redecoration works he had had done.	None	When the Council's void inspection officer is on leave the inspecting contractor be encouraged to raise any uncertainty about decoration or repairs with another officer.
The complainant considered that her application to transfer to an alternative property was not properly assessed by the Council.	Local settlement (no report)	The Council agreed to backdate its assessment of Mrs A's application from February 2010 to August 2009 so that the application is shown as having 135 points from that date.	None	The Council has reviewed the way it considers 'Management Moves' and this should ensure the issue does not occur again.
The complainants (3) considered that the Council was at fault for providing them with misleading advice about the action it would take against the owner of an empty property, for leaving that property empty, and for failing to provide an adequate response to the complaint.	Local settlement (investigation discontinued)	The Council has said it will continue to monitor the situation and has learnt a number of valuable lessons from this case which will enable it to give clearer advice in the future. The complainants indicated to the LGO that such action and outcome provided a satisfactory resolution to the complaint.	None	The Council should try to ensure that any advice given to residents is clear, straightforward and not open to misinterpretation. Residents should also be made aware of the likelihood of success of a proposed course of action.

Appendix C - Comparative data from other Kent authorities: 2010/11

Authority	Total complaints determined		Maladministration and injustice reports	Local settlements	Maladministration reports	No maladministration reports	No maladministration without report	Ombudsman's discretion	Outside jurisdiction
	2010/11	2009/10							
Ashford BC	23	10	0	5	0	0	11	4	3
Canterbury City C	26	19	0	8	0	0	11	2	5
Dartford BC	7	11	0	1	0	0	4	0	2
Dover DC	18	15	0	4	0	0	9	3	2
Gravesham BC	15	13	0	4	0	0	6	3	2
Kent CC	106	120	0	28	0	0	47	22	9
Maidstone BC	23	22	0	5	0	0	7	6	5
Medway Unitary	66	60	0	14	0	0	22	22	8
Sevenoaks DC	17	9	0	1	0	0	10	2	4
Shepway DC	26	6	0	6	0	0	13	5	2
Swale BC	12	12	0	1	0	0	6	5	0
Thanet DC	19	37	0	4	0	0	9	2	4
Tonbridge & Malling BC	9	4	0	0	0	0	7	1	1
Tunbridge Wells BC	9	7	0	2	0	0	4	1	2

Appendix D

Ombudsman's Annual Review 2010/11

In previous years the Ombudsman has issued a tailored letter for each council. This year the Ombudsman has agreed that tailored letters would only be sent to some councils – if a report had been issued, or if over 50 complaints had been received, or if response times were poor.

There is no tailored letter for Ashford this year and appendix D contains a summary of the complaint statistics and a covering letter

24 June 2011

Local Government OMBUDSMAN

Mr John Bunnett
Chief Executive
Ashford Borough Council
Civic Centre, Tannery Lane
ASHFORD, Kent TN23 1PL

Dear Mr Bunnett

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 89 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your Council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely



Anne Seex
Local Government Ombudsman

Local authority report - Ashford BC

for the period ending - 31/03/2011

For information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Benefits & Tax	Corporate & Other Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	0	0	1	0	0	0	4	5
Advice given	0	0	0	0	2	0	0	2
Forwarded in investigative team (resubmitted)	2	0	0	0	0	0	5	7
Forwarded to investigative team (new)	1	1	2	0	9	0	6	19
Total	3	1	3	0	11	0	15	33

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	0	5	0	0	11	4	3	23

Ashford BC

No adult social care decisions were made in the period

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	15	27.3
2009 / 2010	7	18.0
2008 / 2009	11	24.7

Provisional comparative response times 01/04/2010 to 31/03/20 11

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0