

**Standards Committee  
31 January 2017**

**Council  
16 February 2017**

**Annual Report Of The Council's  
Monitoring Officer - 2016**

**Introduction**

1. The principal purpose of my Annual Report is to assess activity in probity matters, in particular in relation to formal complaints about alleged breaches of protocols and codes of conduct by borough and parish councillors. The report provides an opportunity to review the effectiveness of current procedures based on real data. This report deals with the calendar year 2016 in relation to these matters.
2. The Council's current code of conduct for councillors was adopted on 20 July 2012 and has since been the subject of minor amendments. This code is based on Localism Act principles and was developed as a collaborative project by Kent Monitoring Officers in consultation with task groups of councillors within individual councils. The vast majority of district and parish councils in Kent have adopted this "Kent Model Code of Conduct".
3. When it adopted the Code of Conduct in 2012, the Council also adopted new procedural "Arrangements" for handling code of conduct complaints. Again this was developed on a Kent-wide basis with the objective of simplifying procedures and removing unnecessary bureaucracy which had beset the previous standards regime.
4. The Council has also adopted a "Good Practice Protocol for Councillors Dealing with Planning Matters". This sets out detailed best practice rules for this specialist and sensitive area of the Council's work which go beyond the general rules set out in the code of conduct.
5. My Annual Report also includes data on Ombudsman complaints as these are also handled by the Monitoring Officer and his staff. The Standards Committee monitors any issues of probity raised in Ombudsman investigations. In terms of Ombudsman complaints the relevant period relates to the most recent data provided by the Ombudsman namely that for the period 1<sup>st</sup> April 2015 to 31 March 2016.

**Code of Conduct and Related Matters 2016**

6. Complaint activity in Ashford has been very low since adoption of the new code of conduct in 2012. During 2016 no new formal complaints were submitted. Of the three cases referred to in TABLE 1 attached, two were carried over from last year and determined this year whilst one, albeit on the required complaint form, was in effect a complaint about service delivery and the complainant was advised to pursue it as such cases where complaint

forms were provided to potential complainants, but have not been completed and returned, are not included in these figures. Nor are cases where intended complaints have been resolved or are still being resolved prior to submission of a formal complaint. There is only one matter in the latter category.

7. Whilst 2015 was a year of considerable activity in relation to probity matters (full Disclosable Pecuniary Interest procedures for ABC and all parishes following local elections, substantial revision of Good Practice Planning Protocol, code training event etc) 2016 has been relatively uneventful. The following matters are worthy of note however:

- All ABC meeting agenda do now include an early item seeking declarations of interest and this item has been updated to assist members who may need to declare different types of interest. 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.
- Also during the course of the year the Monitoring Officer has provided detailed written advice to borough councillors regarding the approach to declaration of interests on the “call for sites” and local plan preparation process currently being undertaken.
- In terms of general constitutional matters, it is worth drawing attention to the fact that significant changes have been made to the training requirements for membership of the specialist regulatory committees on Licensing and Planning. The Constitution now enshrines a formal training pre-condition to membership of both Committees and a requirement that such training is refreshed every 4 years.
- The Council’s Training Panel has recently decided that several new areas of member training should be provided during 2017. A number of the topics have significant relevance to probity, good governance and general code of conduct compliance, including data protection, equality and diversity and planning as a ward member.

8. Taking all the above matters into account. I am satisfied that the Borough Council’s code of conduct is generally well understood and widely observed.

### **Chilham Parish Council**

9. I am now in a position to update members in relation to the independent review of governance undertaken at Chilham Parish Council shortly before the 2015 elections. The Borough Council had funded an independent review by specialist consultants following complaints about poor councillor working relations and disruption of meetings and other business. A report back to Borough Council members was agreed once a minimum period of 1 year had passed since the election of a new council.

10. The election of the new parish council in May 2015 and subsequent elections/co-options has resulted in total replacement of the previous membership. A summary of the current status of the Parish Council’s work on the recommendations in the report is set out in the attached TABLE 2.

11. The Parish clerk has confirmed that the problems which beset the previous parish council – largely due to personality clashes – have been resolved and the council now undertakes its duties and holds meetings in a professional and respectful environment with good levels of public engagement. Meetings are chaired effectively.
12. Inevitably, the parish council has had to focus its attention on those recommendations which it regarded as the greatest priorities in its new form. The council has only one part-time officer and most of the administrative burden falls upon him, as in most local councils. Accordingly some actions regarded as less important by the council remain outstanding to some extent but excellent progress has been made on the higher priority recommendations.
13. It is recommended that the Monitoring Officer continues to liaise with the parish clerk and offer assistance or guidance if required in order to complete work on the action plan.

### **Ombudsman Complaints 2015/2016**

14. Since April 2013, complaints about social housing have been dealt with by the Housing Ombudsman (HO) and not the Local Government Ombudsman (LGO). The LGO's annual letter and report are attached.
15. For Members' information the analysis of the complaints resolved by the LGO in 2015/16 are attached (appendix A). The number of cases (10) represents a significant reduction from the previous year's total of 16
16. The LGO has changed the way its decisions are described and now uses the term 'maladministration' to indicate administrative fault. Only one decision involved such a finding but in that case the LGO did not consider that the complainant had suffered any injustice as a result. In the previous year there were three such cases.

### **Recommendations**

1. That the report of the Monitoring Officer be received and noted.
2. That the Monitoring Officer continue to offer support and guidance to Chilham PC in completion of the review action plan.

T W MORTIMER  
Director of Law and Governance & Monitoring Officer  
January 2016

**TABLE 1**

| VALID CODE OF CONDUCT COMPLAINTS MADE OR RESOLVED |  |  |   |
|---|--|--|---|
| COUNCIL/CASE REF                                  | ALLEGATION                                   | DECISION   | COMMENTS  |
| ABC/15/04<br>ABC/15/06<br>ASHFORD BC              | Bullying/Disrepute                           | Resolved by way of apologies under informal resolution procedure | This complaint was unresolved at the time of the last annual report in January 2016 |
| ABC/16/02<br>ASHFORD BC                           | Failure to take effective enforcement action | Complainant advised to pursue as a service complaint             |   |

**TABLE 2**

**REVIEW OF GOVERNANCE ARRANGEMENTS CHILHAM PARISH COUNCIL**

| RECOMMENDATION  | CURRENT POSITION  |
|---|---|
| R1. CPC should consider how it will run meetings up to May 2015   | This is now historic. Only one meeting took place between report and election in any event.   |
| R2. Adopt a policy on how grievance and disciplinary matters against staff or by staff against members are handled.                                   | This has been given lower priority in the new Council as the tensions giving rise to the urgent need ceased after the election. However work on this including consideration of various examples from other councils, has now progressed to a point where a policy is expected to be adopted by the end of the financial year or soon after.                    |
| R3. Review the 'need to know' policy to clarify entitlement to information.   | As above.   |
| R4. In the interests of transparency, future agendas should include greater detail about specific issues to be dealt with under general agenda items. | With effect from late Summer 2015, CPC introduced a process whereby agenda items are accompanied by a short paper, identifying the issues for consideration and options available. These papers are available publicly with the agenda at least a week before a meeting. This particularly assists transparency in relation to planning items to be considered. |

|  |   |
|--|---|
| <p>R5. Introduce a specific agenda item to hear ABC ward member views.</p>   | <p>This has been implemented. Periodic invitations to the county councillor are also made.</p>  |
| <p>R6/7. Agree a training and induction package for the new Council and the need for ongoing councillor development.</p>   | <p>This recommendation has not been fully implemented. However a KALC training policy and plan is now being considered for adoption. CPC is fortunate to have a chairman with considerable experience of local government practice and this has proved a significant benefit to the parish council. CPC regarded “meeting etiquette” as particularly important in this regard and the role of the Chairman has been significant in achieving major improvements since the election.</p>   |
| <p>R8/9/10. CPC should consider introducing protocols about better working and engaging with the community to explain its work, encourage participation understand the priorities of its community and adopt a strategic plan to guide its work.</p> | <p>CPC arranged consultative “Question Time” forums within the community during early 2016 and subsequently adopted a strategic plan in October, identifying projects and work streams the parish council will prioritise in its term of office. This is an innovative step taken by the Parish Council and in March the community engagement exercise is to be refreshed and the Strategic Plan updated. The plan has been distributed to all households in the parish and identifies the Taylors Hill toilets refurbishment scheme for example as a priority. Other schemes are identified for achievement with other partners.</p> |
| <p>R11/12 The Council chair and clerk should share best practice and seek quality parish’ status at an appropriate stage.</p>  | <p>The parish council is actively working towards achieving the local council foundation award scheme which replaced the Quality Council Scheme. The clerk’s professional development requirement is expected to be achieved in the first half of the year which would place CPC in a strong position to achieve the award.</p>   |

## Appendix A – Analysis of Ombudsman Complaints

The Ombudsman investigates complaints about Council services to remedy personal injustice caused by maladministration (or “fault”) or service failure.

Between 1<sup>st</sup> April 2015 and 31<sup>st</sup> March 2016 the Local Government Ombudsman (LGO) received 23 complaints and enquiries, and made 22 decisions on these. 8 of these cases were referred to the Council by the Ombudsman for further investigation, prior to being resolved by the LGO as set out in the table overleaf. There were no Housing Ombudsman cases in this period.

For comparison, in 2014/15 the LGO resolved 10 complaints and there were no Housing Ombudsman complaints for this period.

In the LGO’s annual report the figures for the number of complaints received by the LGO about this Council may differ from the figures for the number of complaints the Council received from the LGO. For example, the LGO may have received a premature complaint which was referred back to the complainant with the advice that the complaint needed to be taken up with the Council, but the complainant may not have pursued the complaint.

When the LGO has issued a report on a completed investigation, these are generally published in the Complaints Outcomes section of the LGO website [www.lgo.org.uk](http://www.lgo.org.uk).

Since 1<sup>st</sup> April 2013, the LGO has published all its decision statements on its website. The published information does not name the complainant or any individual involved with the complaint. Decision statements are published no earlier than three months after the date of the final decision.

The decision outcomes received by the Council are recorded below and how they related to the changed LGO decision reasons are indicated where appropriate.

The LGO’s decisions were grouped in accordance with the following headings:

| <b>Decision Reasons from 1 April 2013</b>   | <b>What changed in February 2014</b>   | <b>Annual Letter categorisation</b>   |
|---|--|---------------------------------------|
| <i>Not in jurisdiction (OJ) and no discretion</i>   | <i>No Change</i>   | <i>Closed after initial enquiries</i> |
| <i>Not in jurisdiction (OJ) and discretion not exercised</i>  |  |                                       |
| <i>Not investigated</i>   |  |                                       |
| <i>To discontinue investigation</i>   |  | <i>Not upheld</i>                     |
| <i>To discontinue investigation (for those cases where a remedy is agreed with an authority without LGO making a finding of maladministration or fault)</i> |  | <i>Upheld</i>                         |
| <i>Investigation complete and satisfied with authority actions or proposed actions and not appropriate to issue report S30(1B)</i>                          | <i>Investigation complete: Maladministration and Injustice</i>                   | <i>Upheld</i>                         |
|   | <i>Investigation complete: Maladministration, No Injustice</i>                   |                                       |
|   | <i>Investigation complete: No Maladministration</i>                              | <i>Not Upheld</i>                     |
| <i>Investigation complete and appropriate to issue a report S30(1)</i>  | <i>Investigation complete and report issued: Maladministration and Injustice</i> | <i>Upheld</i>                         |
|   | <i>Investigation complete and report issued: Maladministration, No Injustice</i> |                                       |
|   | <i>Investigation complete and report issued: No Maladministration</i>            | <i>Not upheld</i>                     |

The outcomes of the 8 complaints to this Council resolved by the LGO in 2015/16 are detailed below:-

|   |          |
|---|----------|
| <b>Closed after initial enquiries – out of jurisdiction</b>   | <b>4</b> |
| <b>Closed after initial enquiries – no further action</b>     | <b>1</b> |
| <b>Not upheld; no further action</b>                          | <b>-</b> |
| <b>Upheld: Maladministration &amp; Injustice</b>              | <b>1</b> |
| <b>Upheld: Maladministration, No Injustice</b>                | <b>1</b> |
| <b>Not upheld: No Maladministration</b>                       | <b>1</b> |
| <b>Investigation complete: No Maladministration</b>           | <b>-</b> |
| <b>Report issued: Upheld; maladministration and injustice</b> | <b>-</b> |
| <b>Report issued: Upheld; maladministration, no injustice</b> | <b>-</b> |
| <b>Report issued: Not upheld; no maladministration</b>        | <b>-</b> |
| <b>Total</b>  | <b>8</b> |

Attached at Appendix 1 is a table of LGO complaints, together with details and outcome.

I have also attached the Ombudsman's Annual Review letter 2015/16 (Appendix 2).

## Appendix 1 – Local Government Complaints 1<sup>st</sup> April 2015 – 31<sup>st</sup> March 2016

There are 8 complaints here, referred to the Council by the LGO, all of which have been resolved.

The decision reasons used by the LGO from 1<sup>st</sup> April 2013 were changed in February 2014 and again on 1<sup>st</sup> April 2014.

The decisions given on this table are those given in the LGO's decision letter.

The number of complaints resolved has decreased since last year, and there was only one decision of injustice by this Council.

| <b>ABC ref no</b> | <b>ABC Dept</b>                | <b>Complaint Details</b>                        | <b>LGO decision</b>                                    | <b>LGO conclusion</b>  |
|-------------------|--------------------------------|---|--|--|
| 1620              | Planning                       | Neighbour's comments on ABC website             | Closed – no further action                             |  |
| 1608              | Finance                        | Re Council's decision to end HB and CT support  | Closed after initial enquiries – out of jurisdiction   |  |
| 1609              | Finance                        | Re Council's decision on HB and bedroom tax     | Closed after initial enquiries – out of jurisdiction   |  |
| 1610              | Environmental Services/Housing | Damage to car in Council garage                 | Closed after initial enquiries – out of jurisdiction   |  |
| 1365              | Housing                        | Complaint re B&B accommodation for young person | Maladministration and injustice – cost payable of £250 | The Council was not at fault in how it decided D's homeless application or how it allocated her an unfurnished property. It was wrong to keep D and her baby in B&B accommodation for longer than the law allows |

| ABC ref no | ABC Dept | Complaint Details  | LGO decision   | LGO conclusion   |
|------------|----------|--|--|--|
|            |          |  |  | (6 weeks). On the direction of the LGO, the Council apologised to D and paid her £250 in recognition of injustice. The Council reviewed its provision of self-contained accommodation and how it moves families into more suitable emergency accommodation. Christchurch House was established to facilitate a better quality service and ensure no recurrence of this incident. |
| 1643       | Planning | Council did not advise how to access report on planapp               | Upheld: maladministration, no injustice              | No significant injustice through fault by the Council.   |
| 1683       | Finance  | Re the Council applying for a charging order for Council Tax arrears | Not upheld: no maladministration                     | No fault   |
| 1611       | Planning | Re the way the Council determined a planning application             | Closed after initial enquiries – out of jurisdiction |  |

## Appendix 2

LGO Annual Review Letter and Local Authority Report

1<sup>st</sup> April 2015 – 31<sup>st</sup> March 2016

21 July 2016

*By email*

Tracey Kerly  
Chief Executive  
Ashford Borough Council

Dear Tracey Kerly,

### **Annual Review Letter 2016**

I write to you with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2016.

The enclosed tables present the number of complaints and enquiries received and the decisions we made about your authority during the period. I hope that this information will prove helpful in assessing your authority's performance in handling complaints.

Last year we provided information on the number of complaints upheld and not upheld for the first time. In response to council feedback, this year we are providing additional information to focus the statistics more on the outcome from complaints rather than just the amounts received.

We provide a breakdown of the upheld investigations to show how they were remedied. This includes the number of cases where our recommendations remedied the fault and the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. In these latter cases we provide reassurance that your authority had satisfactorily attempted to resolve the complaint before the person came to us. In addition, we provide a compliance rate for implementing our recommendations to remedy a fault.

I want to emphasise that these statistics comprise the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, but who may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

### **Effective accountability for devolved authorities**

Local government is going through perhaps some of the biggest changes since the LGO was set up more than 40 years ago. The creation of combined authorities and an increase in the number of elected mayors will hugely affect the way local services are held to account. We have already started working with the early combined authorities to help develop principles for effective and accessible complaints systems.

We have also reviewed how we structure our casework teams to provide insight across the emerging combined authority structures. Responding to council feedback, this included reconfirming the Assistant Ombudsman responsible for relationship management with each authority, which we recently communicated to Link Officers through distribution of our manual for working with the LGO.

## **Supporting local scrutiny**

Our corporate strategy is based upon the twin pillars of remedying injustice and improving local public services. The numbers in our annual report demonstrate that we continue to improve the quality of our service in achieving swift redress.

To measure our progress against the objective to improve local services, in March we issued a survey to all councils. I was encouraged to find that 98% of respondents believed that our investigations have had an impact on improving local public services. I am confident that the continued publication of our decisions (alongside an improved facility to browse for them on our website), focus reports on key themes and the data in these annual review letters is helping the sector to learn from its mistakes and support better services for citizens.

The survey also demonstrated a significant proportion of councils are sharing the information we provide with elected members and scrutiny committees. I welcome this approach, and want to take this opportunity to encourage others to do so.

## **Complaint handling training**

We recently refreshed our Effective Complaint Handling courses for local authorities and introduced a new course for independent care providers. We trained over 700 people last year and feedback shows a 96% increase in the number of participants who felt confident in dealing with complaints following the course. To find out more, visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

## **Ombudsman reform**

You will no doubt be aware that the government has announced the intention to produce draft legislation for the creation of a single ombudsman for public services in England. This is something we support, as it will provide the public with a clearer route to redress in an increasingly complex environment of public service delivery.

We will continue to support government in the realisation of the public service ombudsman, and are advising on the importance of maintaining our 40 years plus experience of working with local government and our understanding its unique accountability structures.

This will also be the last time I write with your annual review. My seven-year term of office as Local Government Ombudsman comes to an end in January 2017. The LGO has gone through extensive change since I took up post in 2010, becoming a much leaner and more focused organisation, and I am confident that it is well prepared for the challenges ahead.

Yours sincerely

Dr Jane Martin  
Local Government Ombudsman  
Chair, Commission for Local Administration in England

Local Authority Report: Ashford Borough Council  
 For the Period Ending: 31/03/2016

For further information on how to interpret our statistics, please visit our website:  
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

## Complaints and enquiries received

| Adult Care Services | Benefits and Tax | Corporate and Other Services | Education and Children's Services | Environment Services | Highways and Transport | Housing | Planning and Development | Other | Total |
|---------------------|------------------|------------------------------|-----------------------------------|----------------------|------------------------|---------|--------------------------|-------|-------|
| 0                   | 7                | 3                            | 0                                 | 3                    | 0                      | 2       | 8                        | 0     | 23    |

## Decisions made

|                       |              |                                    |                                | Detailed Investigations |        |             |       |
|-----------------------|--------------|------------------------------------|--------------------------------|-------------------------|--------|-------------|-------|
| Incomplete or Invalid | Advice Given | Referred back for Local Resolution | Closed After Initial Enquiries | Not Upheld              | Upheld | Uphold Rate | Total |
| 2                     | 1            | 11                                 | 5                              | 1                       | 2      | 67%         | 22    |

### Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.

The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

The compliance rate is the proportion of remedied complaints where our recommendations are believed to have been implemented.

### Complaints Remedied

| by LGO | Satisfactorily by Authority before LGO Involvement | Compliance Rate |
|--------|--|-----------------|
| 1      | 0  | 100%            |