

**Standards Committee  
30 JANUARY 2024**

**Council  
29 February 2024  
Annual Report of the Council's  
Monitoring Officer – 2023**

**A. Introduction**

1. The principal purpose of my Annual Report is to assess activity in probity and related governance matters, in particular in relation to formal complaints about alleged breaches of protocols and codes of conduct by borough and parish councillors. The report also provides an opportunity to review the effectiveness of current procedures. This report deals with the calendar year 2023 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 a number of 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 adopted this "Kent Model Code of Conduct" although some parish councils have since adopted a model code prepared by the LGA.
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 or on behalf of the Monitoring Officer. 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 2022 to 31 March 2023.

**B. Code of Conduct Complaints 2023**

6. Formal complaint activity in Ashford has generally been relatively low since adoption of the new code of conduct in 2012. For example, during 2016 no new formal complaints were submitted, whilst in previous years the few complaints made, mainly at Parish Council level, had been resolved informally. However the period since 2020 has been more challenging. Between early 2020, and mid 2021 various temporary national and local "lockdowns" were in

place with most staff working remotely and councillor meetings taking place “virtually” up to May 2021. However this did not result in a reduction of formal or informal complaint activity. On the contrary the volume of informal complaint activity and requests for advice grew significantly at parish council level. In my report in 2022 I reported that 23 complaints had been received during 2021. Although most had resulted in no further action following initial filtering decisions, in many of these cases, a significant volume of “pre-investigation” work was required in order to reach a “no further action” decision. Some decisions were therefore lengthy documents and the time and cost involved in cases reflected this reality.

7. Last year (for the calendar year 2022) I reported that the volume of complaints had reduced to 8 with no new cases referred for formal investigation.

The handling of some of these complaints in 2021/2022 was undertaken by an external specialist lawyer in view of staff vacancies and other pressing work priorities in legal services. This had been undertaken within the current legal services budget, using vacancy savings. This allowed the work to be undertaken within reasonable timescales.

8. At the time of my report in January 2022 – and in view of the very significant growth in numbers of complaints at parish council level – members also requested that discussions be held with the Kent Association of Local Councils with a view to agreeing measures to reduce the incidence and cost of formal complaints. Discussions have taken place between Kent Monitoring Officers and KALC representatives in 2022 and 2023 and KALC did take some steps with their own member councils to strengthen their own training offer and promote internal procedures to resolve complaints about parish council governance and procedures which should not normally be pursued through code of conduct complaint channels
9. Although the number of formal code complaints made in 2022 reduced significantly – and the steps taken by KALC with its members may have helped initially in this regard – it can be seen from TABLE 1 below that the number of complaints received in 2023 has increased significantly again. Even leaving aside the first entry in the Table involving a complaint against all 9 Councillors at one local council, the volume of complaints has even exceeded the elevated level of 2021.

In addition to the complaints received in 2023 there is one earlier complaint still outstanding following referral for investigation. Delay has occurred for a number of reasons, including the personal circumstances of the subject councillor, their subsequent resignation and the consequent need for the investigator to review the terms of the final report on a number of occasions. I will report separately to this committee on that case in the near future.

**Table 1**  
**Formal Code of Conduct Complaints Made**  
**in 2023**

| No            | Ashford BC<br>-Complaint<br>Reference | Council                                    | Background<br>(Allegation)   | Action/Current Position   |
|---------------|---------------------------------------|--|--|---|
| 1-9           | PR304-224                             | Egerton<br>Parish<br>Council               | Para 3 – preventing<br>another person from<br>accessing<br>information                                 | The complaint was essentially about<br>alleged non-disclosure following an FOI<br>request to the parish council which should<br>be pursued through the Information<br>Commissioners Office, not as a code<br>breach   |
| 10<br>&<br>11 | PR304/225                             | Ruckinge<br>Parish<br>Council<br>(2 Cllrs) | Para 5 of code<br>alleged failure to<br>declare interests<br>when discussing a<br>planning application | Complaints rejected on basis the facts,<br>even if proven, did not disclose a potential<br>breach of the code as decision would not<br>affect financial interests   |
| 12            | PR304/226<br>(WC)                     | Pluckley<br>Parish<br>Council              | Alleged participation<br>in planning decision<br>when biased   | Monitoring Officer tried to resolve<br>informally but unsuccessfully.<br>Unfortunately, the case led to the<br>resignation of a councillor. Formal<br>decision was no further action as unlikely<br>an investigation would be able to come to<br>a firm conclusion on what had been said<br>prior to the meeting and circumstances<br>had changed significantly since complaint<br>so little public benefit in further action |
| 13            | PR304/227<br>(WC)                     | Ashford<br>Borough<br>Council              | Social Media post<br>Alleged disrepute<br>and<br>offensive/abusive<br>material on social<br>media      | Complaint rejected as even if acting as<br>councillor, conduct could not amount to<br>code breach – post made in political<br>context   |
| 14            | PR304/228<br>(WC)                     | Ashford<br>Borough<br>Council              | Social Media post<br>Alleged disrepute<br>and<br>offensive/abusive<br>material on social<br>media      | Complaint rejected as even if acting as<br>councillor, conduct could not amount to<br>code breach – post made in political<br>context   |
| 15            | PR304/230                             | Ashford<br>Borough<br>Council              | Alleged disclosure of<br>private information<br>on social media  | Complaint rejected as anonymous and<br>despite request insufficient information<br>provided to determine whether in public<br>interest to pursue  |
| 16            | PR304/231                             | Kennington<br>Community<br>Council         | Alleged breach of<br>code by offensive<br>social media post  | Insufficient evidence provided – no copy<br>of or details of alleged post   |
| 17            | PR304/232                             | Kingsnorth<br>Parish<br>Council            | Alleged bullying<br>between councillors  | Complaint not being considered due to<br>failure to provide sufficient information  |

|           |                   |   |  |   |
|-----------|-------------------|---|--|---|
| 18        | PR304/233<br>(WC) | Bethersden<br>Parish<br>Council                 | Alleged failure to<br>declare an interest<br>at Parish Council<br>meeting and<br>improper use of<br>position to confer an<br>advantage   | Decision Notice to be issued early 2024   |
| 19        | PR304/234<br>(WC) | Bethersden<br>Parish<br>Council                 | Alleged failure to<br>declare an interest at<br>Parish Council<br>meeting and<br>disclosure of<br>personal data  | Decision Notice to be issued early 2024   |
| 20-<br>22 | PR304/235<br>(WC) | Bethersden<br>Parish<br>Council<br>(3 Cllrs)    | Alleged failure to<br>declare interests at<br>Parish Council<br>Meeting, failing to<br>submit written<br>application for<br>dispensation and<br>using position<br>improperly to confer<br>an advantage | Decision Notice to be issued early 2024   |
| 23-<br>25 | PR304/236         | Kennington<br>Community<br>Council<br>(3 Cllrs) | Alleged breach of<br>code by councillors<br>arguing on social<br>media   | Awaiting further information to identify<br>which councillors complaint is about and<br>more information in relation to the posts |
| 26        | PR304/237<br>(WC) | Tenterden<br>Town<br>Council                    | Alleged breach of<br>code by<br>inappropriate social<br>media posts<br>regarding other<br>councillors  | Decision Notice to be issued early 2024   |
| 27        | PR304/238<br>(WC) | Tenterden<br>Town<br>Council                    | Alleged breach of<br>code by<br>inappropriate social<br>media posts<br>regarding other<br>councillors  | Decision Notice to be issued early 2024   |
| 28-<br>32 | PR304/239<br>(WC) | Bethersden<br>Parish<br>Council<br>(5 Cllrs)    | Misleading public<br>into believing s106<br>money to be used for<br>supporting business<br>they have an interest<br>in. And failure to<br>declare interest at<br>Parish Council<br>meeting             | Complaints under consideration  |
| 33-<br>37 | PR304/240<br>(WC) | Bethersden<br>Parish<br>Council<br>(5 Cllrs)    | Alleged holding<br>private Council<br>meetings thereby<br>excluding the public<br>from discussions   | Complaint under consideration   |
| 38        | PR304/241         | Kingsnorth<br>Parish<br>Council                 | Councillor Profile on<br>website incorrect<br>claims of holding<br>certain offices   | Complaint resolved by discussions<br>between Monitoring Officer and parish<br>clerk and updating of website                       |

|    |                   |                                 |  |                                   |
|----|-------------------|---------------------------------|--|-----------------------------------|
| 39 | PR304/242<br>(WC) | Kingsnorth<br>Parish<br>Council | Alleged disrepute by<br>comments made at<br>public meeting | Complaint under consideration     |
| 40 | PR304/243<br>(WC) | Kingsnorth<br>Parish<br>Council | Alleged bullying of<br>councillor                          | Referred for formal investigation |

WC = referred to external law firm

10. Complaints in 2023 have been predominantly at parish council level with a concentration of activity around a small number of councils. Although it is difficult to draw sweeping conclusions about root causes from this activity (because the prevailing background circumstances in each case are quite different) this level of complaint is unsustainable in terms of time and cost for the Borough Council. As happened in 2021/2022, about half the complaints have been referred to specialist external lawyers for determination using vacancy savings within the legal services budget where possible. Significant in-house costs have also been incurred not only in managing the outsourcing but also seeking to resolve the significant number of complaints not outsourced. A number of complaints were resolved in this way in 2023. Salary savings within legal services is unlikely to be available during 2024 and if complaint levels do persist, alternative funding will need to be identified. The average external costs incurred on a complaint is c.£4000 plus an average of five hours per case on internal handling and monitoring. The average in-house time commitment on complaints handled solely internally has been 8 hours.
11. In my view, a number of steps should be taken as a priority, in an endeavour to drive down complaint numbers and manage workloads:
- Further urgent engagement with KALC regarding training for their members. Ashford Borough Council did provide post- election code of conduct training for borough and parish councillors in May 2023 but there should be a greater emphasis now also on KALC's own training programme for local councillors. This could usefully focus on special skills such as chairing council meetings and managing conflicts at meetings as well as promoting mediation as a possible solution to working relationship tensions between councillors. The latter in particular has been a factor in a number of complaints, as well as causing multiple resignations in one local council. A further meeting between Kent Monitoring Officers and KALC is currently being arranged and this will also focus on further steps they can take to assist such as sitting in on council meetings at councils where difficulties persist so that advice and assistance can be offered subsequently.
  - Further discussions with KALC to develop an optimum programme for a

mid-term councillor training event as suggested by this Committee at previous meetings.

- Discussions with the Society of Local Clerks (the parish clerk organization) to explore options for further training for clerks to strengthen skills in good governance especially around declaration of interests, use of social media by councillors and conflict management at meetings.
- The Council's appointed Independent Person (IP) (Mrs Carol Vant) has been consulted and agrees with the above proposed steps. As members know, the IP is a member of the Standards Committee. Under statute, the views of the IP must be sought and taken into account before a decision is taken on an allegation it has decided to investigate. Statute also allows the IP to have a wider role. At Ashford the role of the IP also includes being consulted by the MO on certain decisions such as when undertaking initial assessment of a complaint, when deciding whether a complaint should be resolved informally and whether the identity of a complainant should be withheld. The IP may also be consulted by a councillor who is the subject of an allegation although it is important to note that it is not the IP's role to intervene on behalf of a subject councillor. The IP must remain independent but could, for example, ensure the subject councillor is aware of the process and that the process is being fairly followed.

### **C Other Governance Developments**

12. Following my last annual report I undertook to report further to this Committee regarding the work of Kent Monitoring Officers on the LGA's published "model code". At that time, I thought this work would conclude in a few months. However because the work was expanded to include a more comprehensive review of the "Arrangements for Handling Complaints" as well as the LGA Code, and because the LGA subsequently issued further Guidance which required further review work, the Kent Monitoring Officer work was not concluded until late 2023
13. The Kent Monitoring Officers work has resulted in a number of recommended minor changes to the Kent Code and the "Arrangements". I will bring forward a report to this Committee as soon as possible.

### **D Ombudsman Complaints 2022/2023**

14. Since April 2013 complaints about social housing have been dealt with by the Housing Ombudsman (HO) and not the Local Government and Social Care Ombudsman (LGO). With effect from April 2024 the two offices will introduce a new Joint Complaint Handling Code. The purpose of the Joint Code is to facilitate speedier resolutions of complaints and the use of complaint data to drive service improvements. Ombudsman guidance is expected shortly and a project team is already working on implementing revised internal procedures.
15. In the meantime the analysis of complaints resolved by the LGO in 2022/23 are attached at APPENDIX A. The LGO's Annual Review Letter is also in Appendix A
16. The number of complaints received by LGO in 22/23 (16) was similar to

2021/22 (17). The number of complaints upheld in 21/2 was 3. The number upheld in 22/3 was zero

17. Similar details for the Housing Ombudsman service are also provided at Appendix A. In this case for 2022/2023, 5 complaints were investigated resulting, in a total of 12 findings including 8 maladministration findings as broken down and tabulated in Appendix A. Further statistical details are given in the Landlord Performance Report at Appendix D. The table of Housing Ombudsman complaints includes full details of remedial measures taken and lessons learned. No probity issues arise of direct relevance to the work of the Standards Committee.

In 2021/2022 there were 2 complaints investigated with a total of 5 findings including 3 findings of fault/service failure (maladministration).

### **E Recommendations**

1. That the annual Report of the Monitoring Officer for 2023 be received and noted
2. That the Monitoring Offer report to a future meeting of this Committee in relation to the Kent Monitoring Officers review of the LGA Model Code and of the current Arrangements for Handling Code of Conduct Complaints
3. That the Monitoring Officer take the steps identified in paragraph 11 of this report in order to improve training, awareness and skills especially at local council level and seek to drive down incidence of formal complaints

T W MORTIMER  
Solicitor to the Council & Monitoring Officer

January 2024

## Appendix A – Analysis of Ombudsman Complaints

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

Between 1<sup>st</sup> April 2022 and 31<sup>st</sup> March 2023 the Local Government Ombudsman (LGO) considered a total of 16 complaints, with the following results:

- 9 cases where advice was given or a premature complaint was referred back to Council for local resolution
- 6 cases investigated and closed after initial enquiries
- 1 case investigated and complaint not upheld.

Details of the complaints investigated and the outcomes are set out in the table below.

I have also attached the Ombudsman’s Annual Review letter 2022/23 and statistics (Appendix B).

The LGO’s statistics focus on three key areas to help assess an organisation’s commitment to correcting errors in service delivery. These areas are: complaints upheld, compliance with recommendations and satisfactory remedy provided by the authority. The Annual Review letter gives further information on these key areas.

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). The published information does not name the complainant or any individual involved with the complaint. Each Council’s annual data is uploaded onto an interactive map, along with a copy of the Annual Review letter. Information can be found on decisions made about complaints against the Council, public reports issued by the LGO and the service improvements the Council has agreed to make as a result of LGO investigations (if any).

### Local Government Ombudsman Complaints – Investigations and Decisions made 1 April 2022 – 31 March 2023

| Reference | ABC Dept        | Complaint details   | Decision   | LGO comment | Action taken by the Council/lessons learned |
|-----------|-----------------|---|--|-------------|---|
| 22003111  | Planning & Devt | Complained that the Council failed to ensure the developer of her property used the materials she says were required to comply with the planning permission for her property. | Closed after initial enquiries – no further action | N/A         | N/A   |



| Reference | ABC Dept                | Complaint details   | Decision   | LGO comment | Action taken by the Council/lessons learned |
|-----------|-------------------------|---|--|-------------|---|
| 21009622  | Multiple                | Withdrawn   | N/A  | N/A         | N/A   |
| 21011599  | Planning & Devt         | Complained the Council allowed a landlord on his estate to subdivide upwards of 20 properties without planning permission and turn them into Houses in Multiple Occupation (HMOs).                                    | Not Upheld – No Maladministration                  | N/A         | N/A   |
| 22007348  | Multiple                | Complained about the Council's failure to respond to his complaint in relation to planning matters and refusal of permission for an application he had submitted  | Closed after initial enquiries – no further action | N/A         | N/A   |
| 22014665  | Finance                 | Complained that action by the Council to recover an over-payment of housing benefit is causing him poor mental health. It is unlikely we would find fault.  | Closed after initial enquiries – no further action | N/A         | N/A   |
| 22016122  | Planning & Devt         | Complainant used the Council's building control service during the construction of her extension. She says the Council did not properly inspect the building and issued a completion certificate for defective works. | Closed after initial enquiries – no further action | N/A         | N/A   |
| 22016863  | Environmental Contracts | Complained that the Council would not replace his personal bin which was lost during a garden waste collection  | Closed after initial enquiries – no further action | N/A         | N/A   |

### **Housing Ombudsman Service**

The Housing Ombudsman Service (HOS) looks at complaints about registered providers of social housing, including local authorities. The Local Government and Social Care Ombudsman considers complaints about local authorities' wider housing activities, for example in discharging their statutory duties in homelessness,, housing allocations, housing benefit and home improvement services.

During 2022-23, 5 cases were investigated by the HOS resulting in 12 findings (each case may be determined with more than one finding), as follows:

- 4 cases of Severe Maladministration
- 2 cases of Maladministration
- 2 cases of Service Failure
- 1 case of Redress provided

2 cases of No Maladministration found  
1 case outside of jurisdiction

Details of the complaints investigated and the outcomes are set out in the table below.

The full Housing Ombudsman Service Landlord Performance Report for Ashford Borough Council 2023-23 is attached at Appendix D, together with Guidance Notes at Appendix E.

### Housing Ombudsman Complaints – Investigations and Decisions made 1 April 2022 – 31 March 2023

| Reference | Complaint details   | Decision   | LGO Orders and Recommendations  | Action taken by the Council/lessons learned   |
|-----------|---|--|---|---|
| 202123303 | Complained about the landlord's response to the resident's reports of a leak from the property above  | Service failure regarding response to the resident's reports of a leak from the property above, but reasonable redress offered.                      | Reasonable redress of £200 compensation offered by the landlord for its service failure   | In future Officers to ensure a swift resolution that satisfies all parties and that comprehensive communication is maintained throughout. Closer monitoring of the progress of work, together with ensuring accuracy of reporting from contractors. |
| 202112658 | Complained about<br>a. The landlord's handling of repairs to the resident's windows.<br>b. The landlord's decision to issue the resident with a Notice Seeking Possession (NOSP) following a visit to his property by a contractor. | Service failure in respect of handling of repairs to residents windows.<br><br>Service failure in respect of decision to issue resident with a NOSP. | a. Pay the resident £100 compensation for the communication failures identified in this report with regards to the repairs to the resident's windows. b. Apologise to the resident and pay him £50 compensation for failure to investigate the concerns he had raised about the attitude of its Repairs Inspector. c. Pay the resident £50 for the upset and distress caused by the acknowledged error in issuing him with a NOSP following a visit to his property, by a contractor. d. Confirm that the Council has complied with the above orders. | To ensure that residents have an opportunity to present their side of the story, as well as the contractors. To adopt as standard practice that information is derived from all parties involved before such documents are issued.                  |
| 202013423 | Complained about<br>a) The resident's reports of antisocial behaviour from their neighbour.   | a) there was maladministration by the landlord when handling the residents' reports of antisocial  | a) Provide an apology to the resident for the service failures identified by Ombudsman.<br>b) Pay the resident £550 in compensation made up of:   | <ul style="list-style-type: none"> <li>Started the process of reviewing historic complaints to identify trends to improve upon complaints handling</li> <li>Commenced a review of the Housing Ombudsman Code – meetings held on</li> </ul>          |

|           |   |   |   |   |
|-----------|---|---|---|---|
|           | <p>b) The resident's request for a management move.</p> <p>c) The related complaint handling.</p> | <p>behaviour from their neighbour.</p> <p>b) there was no maladministration by the landlord when handling the residents' request for a management move.</p> <p>c) there was maladministration by the landlord when handling the resident's complaint.</p> | <p>c) £300 for failing to deal with ASB reports appropriately and;</p> <p>d) £250 for complaint handling failures.</p> <p>e) Review the learning from the service issues identified in the report and let the Ombudsman know how the Council will ensure ASB complaints are handled in accordance with its ASB policy, going forward.</p> | <p>29/6 and 15/7 – implementation plan developed, website updated with new guidance on timeframe for stage one complaints, further meetings scheduled for October 2022.</p> <ul style="list-style-type: none"> <li>• Holding regular bi monthly meetings regarding complaints, split between the HRA and the GF, working through case examples to find improvements and best practice</li> <li>• Conducted the Tenant Survey – asking questions relating to ASB and dealing with any specific issues raised regarding complaints of our ASB handling</li> <li>• ASB training to be provided by an external provider – booked for November 2021</li> <li>• Review of ASB policy by external organisation, agreed and shared in August 2022, followed by internal review</li> </ul> |
| 202108860 | Complained about handling of refurbishment works at her Council property                          | <p>a) Severe maladministration in the handling of the resident's reports concerning refurbishment and associated works at the property</p> <p>b) Severe maladministration in the handling of the formal complaint.</p>                                    | Numerous orders detailed at Appendix C.   | All orders within the Determination complied with, including actions put in place to prevent a similar occurrence.  |
| 202106882 | Complained about the handling of kitchen replacement  | No maladministration  | N/A   | N/A   |

## APPENDIX B

| Reference | Category  | Decided  | Decision                           | Decision Reason                               |
|-----------|---|----------|------------------------------------|---|
| 21009622  | Planning & Development                                  | 10/08/22 | Closed after initial enquiries     | At request of complainant                     |
| 21011599  | Planning & Development                                  | 19/08/22 | Not Upheld                         | no fault                                      |
| 22002558  | Benefits & Tax  | 16/06/22 | Referred back for local resolution | Premature Decision - referred to Organisation |
| 22002896  | Planning & Development                                  | 06/06/22 | Referred back for local resolution | Premature Decision - advice given             |
| 22003111  | Planning & Development                                  | 21/06/22 | Closed after initial enquiries     | Not warranted by alleged injustice            |
| 22003238  | Benefits & Tax  | 16/06/22 | Referred back for local resolution | Premature Decision - referred to Organisation |
| 22004074  | Planning & Development                                  | 04/07/22 | Referred back for local resolution | Premature Decision - referred to Organisation |
| 22007098  | Planning & Development                                  | 07/09/22 | Referred back for local resolution | Premature Decision - advice given             |
| 22007281  | Planning & Development                                  | 31/08/22 | Referred back for local resolution | Premature Decision - advice given             |
| 22007348  | Corporate & Other Services                              | 29/09/22 | Closed after initial enquiries     | Not warranted by alleged fault                |
| 22010940  | Planning & Development                                  | 09/11/22 | Referred back for local resolution | Premature Decision - advice given             |
| 22012598  | Housing   | 14/12/22 | Referred back for local resolution | Premature Decision - advice given             |
| 22014665  | Benefits & Tax  | 15/02/23 | Closed after initial enquiries     | Not warranted by alleged fault                |
| 22015246  | Planning & Development                                  | 01/03/23 | Advice given                       | Previously considered and decided             |
| 22016122  | Planning & Development                                  | 10/03/23 | Closed after initial enquiries     | Other reason not to investigate               |
| 22016863  | Environmental Services & Public Protection & Regulation | 29/03/23 | Closed after initial enquiries     | Not warranted by alleged fault                |

## Orders

### The Landlord

1. Within four weeks of the date of this decision, the landlord should:
  - a. Arrange for a senior member of the landlord's staff to apologise to the resident for the failings identified in this report which relate to the handling of the works and complaint handling.
  - b. Pay the resident compensation of £2000 for the failings in the handling of the refurbishment (and associated) works.
  - c. Arrange for inspection of the property, to include as a minimum:
    - i. The areas highlighted in the resident's PDF document provided by the PFI subcontractor to Landlord B.
    - ii. Any subsequent snagging list which was agreed between the parties.
    - iii. The outstanding issues reported by the resident to this Service, which are detailed in paragraph 39 of this report.

A report must follow the inspection, which should set out all outstanding works at the property. The landlord may arrange for a nominated organisation on its behalf to complete the inspection and report.

2. Within six weeks of the date of this decision, the landlord (or a nominated organisation on its behalf) must:
  - a. Write to the resident and this Service, providing a copy of the report ordered at paragraph 92 (c) of the investigation report. As a minimum, the landlord (or a nominated organisation on its behalf) should set out which works will be completed, who will complete the works, and a schedule of completion times for all works. Completion times should not exceed twelve weeks.
3. Within two weeks of the completion of all works undertaken in line with paragraph 93 of the investigation report, the landlord (or a nominated organisation on its behalf) must arrange a post-works inspection, the outcome of which should be shared with the resident and this Service.
4. Within four weeks of the date of this decision, the landlord should:
  - a. Consider the failings identified in this report which concern the responses to the resident's reports of disturbed asbestos containing materials in the property.
  - b. Decide whether a referral to the Health and Safety Executive would now be appropriate. The outcome of the landlord's decision, with reasons, must be provided to this Service, also within four weeks.

5. Within six weeks of the date of this decision, the landlord should consider and confirm to this Service:
  - a. Why it was not made aware of this case through its monthly PFI meetings, despite works outstanding at the property for such a significant time, and how it may be made aware of such cases in future.
  - b. How it will handle concerns raised directly by residents about functions delivered under the PFI arrangement.
6. Within six weeks of the date of this decision, the landlord in consultation with Landlord B and any other relevant parties it chooses to engage must review:
  - a. Whether current complaint handling arrangements enable proportionate investigation and outcomes in complaints about services delivered by another subcontractor under PFI arrangements. As a minimum, this should include:
    - i. How relevant and contemporaneous records may inform complaint responses, even when they are not held by Landlord B.
    - ii. How compensation will be decided and paid in cases where the detriment to the resident has not been caused directly by Landlord B, including not only for distress and inconvenience and time and trouble but also loss of rooms.
    - iii. Whether complaint handling arrangements support an approach compliant with the Ombudsman's Complaint Handling Code.
7. The landlord's review under paragraph 97 must be documented and the outcome should be shared with this Service, also within six weeks of this decision.
8. Within eight weeks of the date of this decision, the landlord in partnership any other relevant parties it chooses to engage must review:
  - a. How it is decided whether residents should remain in situ or be decanted from properties which are subject to PFI arrangements where significant works are undertaken (including but not limited to removal of asbestos containing materials and loss of rooms).
  - b. The approach to carrying out works where there are asbestos containing materials, including the prioritisation of this work and guidance to residents, in properties subject to the PFI arrangement.
  - c. Whether current repair record keeping practices concerning properties subject to the PFI arrangement allow proportionate and accessible records to be kept.
9. The landlord's review under paragraph 99 of the investigation report and any actions resulting from this review must be documented and shared with this Service, also within eight weeks of this decision.

10. The landlord must share a copy of the Ombudsman's decision in this case, together with confirmation of all actions consequently taken, with the PFI Contract Monitoring Board at the next Board meeting. The landlord should confirm to this Service when this meeting will next take place, and when this action has been completed.
11. Within eight weeks of the date of this decision, the landlord should share a copy of this report with its governing body, including the lessons the landlord has learned from the case.

# Housing

Ombudsman Service

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## PERFORMANCE

## REPORT

2022/2023

Ashford Borough Council

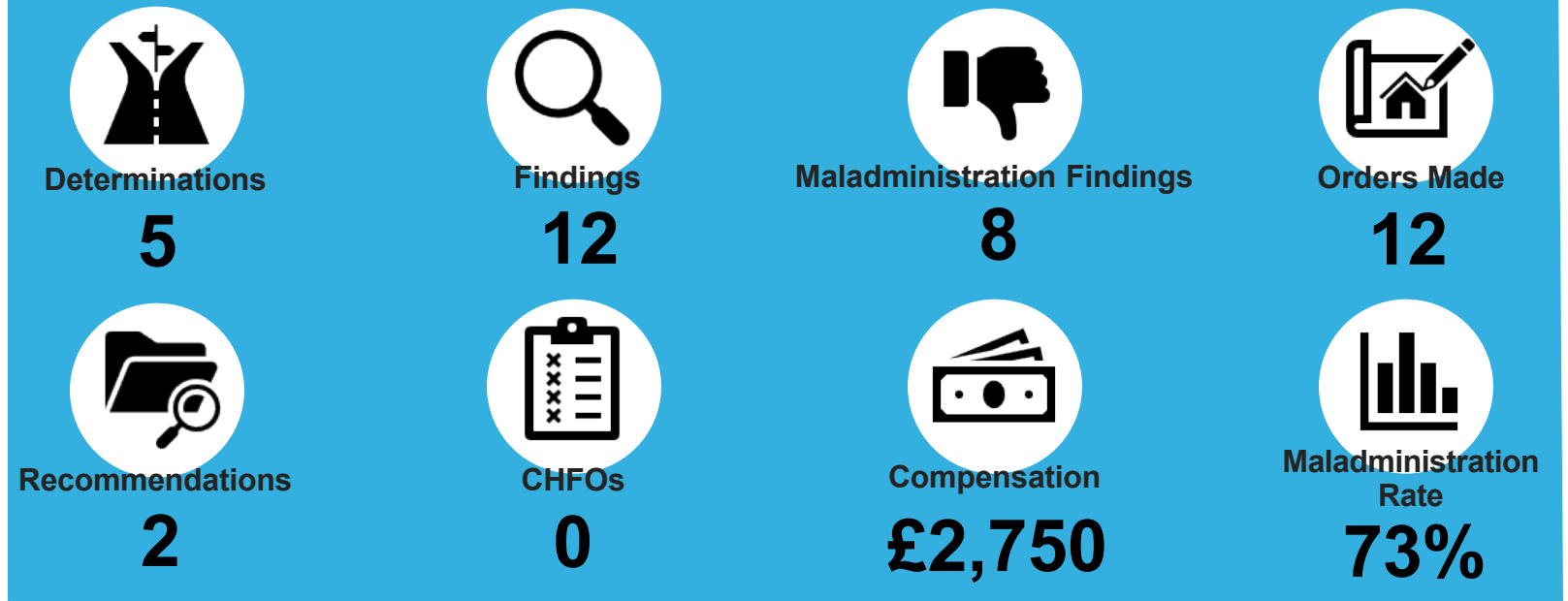


Landlord: Ashford Borough Council

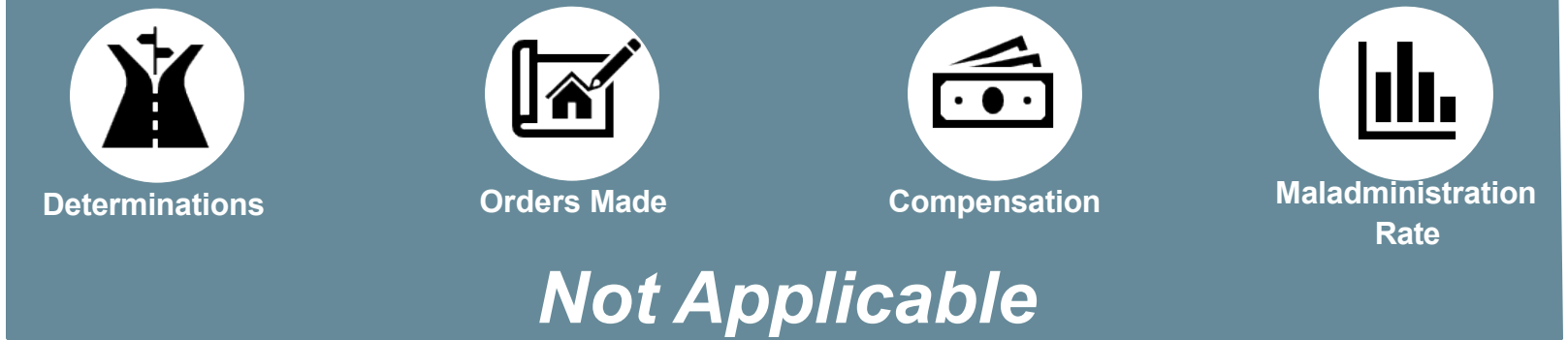
Landlord Homes: 5,193

Landlord Type: Local Authority / ALMO or TMO

**PERFORMANCE AT A GLANCE**



**PERFORMANCE 2021-2022**

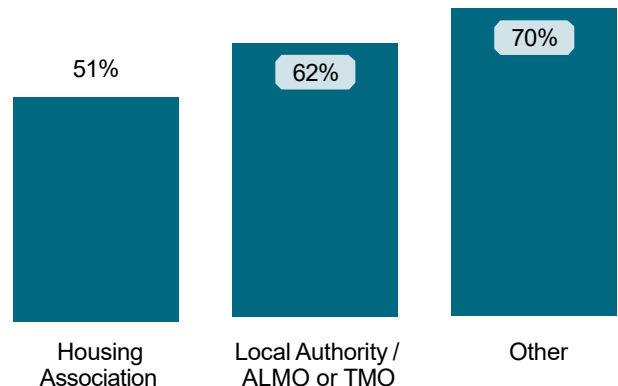
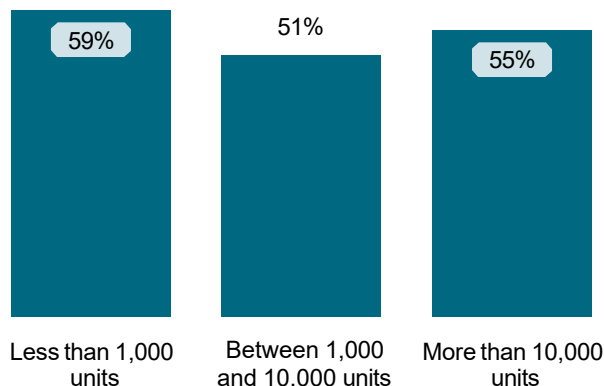


**Maladministration Rate Comparison** | Cases determined between April 2022 - March 2023

**NATIONAL MALADMINISTRATION RATE: 55%** | The landlord performed *poorly* when compared to similar landlords by size and type.

National Mal Rate by Landlord Size: Table 1.1

by Landlord Type: Table 1.2



**Findings Comparison** | Cases determined between April 2022 - March 2023

**National Performance by Landlord Size:** Table 2.1

| Outcome                  | Less than 1,000 units | Between 1,000 and 10,000 units | More than 10,000 units | Total      |
|--------------------------|-----------------------|--------------------------------|------------------------|------------|
| Severe Maladministration | 3%                    | 2%                             | 3%                     | <b>3%</b>  |
| Maladministration        | 27%                   | 20%                            | 25%                    | <b>24%</b> |
| Service failure          | 20%                   | 23%                            | 21%                    | <b>21%</b> |
| Mediation                | 0%                    | 1%                             | 2%                     | <b>2%</b>  |
| Redress                  | 10%                   | 12%                            | 16%                    | <b>15%</b> |
| No maladministration     | 25%                   | 32%                            | 22%                    | <b>24%</b> |
| Outside Jurisdiction     | 15%                   | 11%                            | 10%                    | <b>11%</b> |
| Withdrawn                | 0%                    | 1%                             | 2%                     | <b>1%</b>  |

| Ashford Borough Council  |            |
|--------------------------|------------|
| Outcome                  | % Findings |
| Severe Maladministration | <b>33%</b> |
| Maladministration        | <b>17%</b> |
| Service failure          | <b>17%</b> |
| Mediation                | <b>0%</b>  |
| Redress                  | <b>8%</b>  |
| No maladministration     | <b>17%</b> |
| Outside Jurisdiction     | <b>8%</b>  |
| Withdrawn                | <b>0%</b>  |

**National Performance by Landlord Type:** Table 2.2

| Outcome                  | Housing Association | Local Authority / ALMO or TMO | Other | Total      |
|--------------------------|---------------------|-------------------------------|-------|------------|
| Severe Maladministration | 2%                  | 3%                            | 6%    | <b>3%</b>  |
| Maladministration        | 23%                 | 28%                           | 32%   | <b>24%</b> |
| Service failure          | 21%                 | 22%                           | 24%   | <b>21%</b> |
| Mediation                | 2%                  | 1%                            | 3%    | <b>2%</b>  |
| Redress                  | 19%                 | 8%                            | 3%    | <b>15%</b> |
| No maladministration     | 23%                 | 24%                           | 21%   | <b>24%</b> |
| Outside Jurisdiction     | 9%                  | 13%                           | 12%   | <b>11%</b> |
| Withdrawn                | 2%                  | 1%                            | 0%    | <b>1%</b>  |

| Outcome                  | % Findings |
|--------------------------|------------|
| Severe Maladministration | <b>33%</b> |
| Maladministration        | <b>17%</b> |
| Service failure          | <b>17%</b> |
| Mediation                | <b>0%</b>  |
| Redress                  | <b>8%</b>  |
| No maladministration     | <b>17%</b> |
| Outside Jurisdiction     | <b>8%</b>  |
| Withdrawn                | <b>0%</b>  |

**Landlord Findings by Category** | Cases determined between April 2022 - March 2023

Table 2.3

| Category              | Severe Maladministration | Maladministration | Service failure | Mediation | Redress  | No maladministration | Outside Jurisdiction | Withdrawn | Total     |
|-----------------------|--------------------------|-------------------|-----------------|-----------|----------|----------------------|----------------------|-----------|-----------|
| Property Condition    | 2                        | 0                 | 1               | 0         | 1        | 1                    | 0                    | 0         | <b>5</b>  |
| Complaints Handling   | 2                        | 1                 | 0               | 0         | 0        | 0                    | 0                    | 0         | <b>3</b>  |
| Staff                 | 0                        | 0                 | 1               | 0         | 0        | 0                    | 1                    | 0         | <b>2</b>  |
| Anti-Social Behaviour | 0                        | 1                 | 0               | 0         | 0        | 0                    | 0                    | 0         | <b>1</b>  |
| Moving to a Property  | 0                        | 0                 | 0               | 0         | 0        | 1                    | 0                    | 0         | <b>1</b>  |
| <b>Total</b>          | <b>4</b>                 | <b>2</b>          | <b>2</b>        | <b>0</b>  | <b>1</b> | <b>2</b>             | <b>1</b>             | <b>0</b>  | <b>12</b> |

**Findings by Category Comparison** | Cases determined between April 2022 - March 2023

**Top 3 Categories for Ashford Borough Council** Table 3.1

| Category              | # Landlord Findings | % Landlord Maladministration | % National Maladministration |
|-----------------------|---------------------|------------------------------|------------------------------|
| Property Condition    | 5                   | 60%                          | 54%                          |
| Complaints Handling   | 3                   | 100%                         | 76%                          |
| Anti-Social Behaviour | 1                   | 100%                         | 40%                          |
| Moving to a Property  | 1                   | 0%                           | 29%                          |
| Staff                 | 1                   | 100%                         | 31%                          |

**National Maladministration Rate by Landlord Size:** Table 3.2

| Category              | Less than 1,000 units | Between 1,000 and 10,000 units | More than 10,000 units | % Landlord Maladministration |
|-----------------------|-----------------------|--------------------------------|------------------------|------------------------------|
| Anti-Social Behaviour | 43%                   | 39%                            | 41%                    | 100%                         |
| Complaints Handling   | 97%                   | 75%                            | 76%                    | 100%                         |
| Moving to a Property  | 50%                   | 17%                            | 29%                    | 0%                           |
| Property Condition    | 50%                   | 54%                            | 55%                    | 60%                          |
| Staff                 | 50%                   | 28%                            | 32%                    | 100%                         |

**National Maladministration Rate by Landlord Type:** Table 3.3

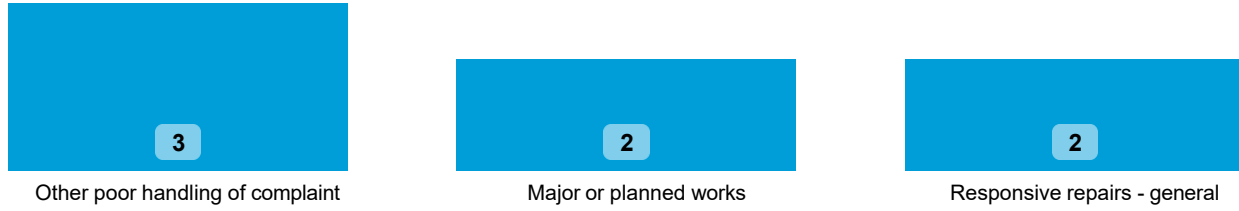
| Category              | Housing Association | Local Authority / ALMO or TMO | Other | % Landlord Maladministration |
|-----------------------|---------------------|-------------------------------|-------|------------------------------|
| Anti-Social Behaviour | 40%                 | 43%                           | 0%    | 100%                         |
| Complaints Handling   | 71%                 | 87%                           | 100%  | 100%                         |
| Moving to a Property  | 26%                 | 29%                           | 100%  | 0%                           |
| Property Condition    | 50%                 | 63%                           | 63%   | 60%                          |
| Staff                 | 27%                 | 36%                           | 60%   | 100%                         |

**Findings by Sub-Category** | Cases Determined between April 2022 - March 2023 Table 3.4

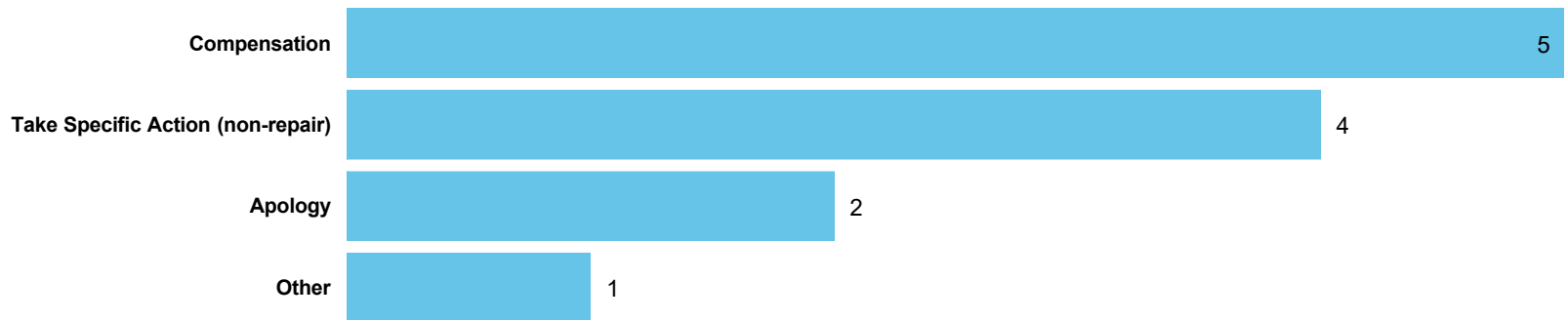
Highlighted Service Delivery Sub-Categories *only*:

| Sub-Category                              | Maladministration | Service failure | Mediation | Redress  | No maladministration | Outside Jurisdiction | Total    |
|---|-------------------|-----------------|-----------|----------|----------------------|----------------------|----------|
| Responsive repairs - general              | 0                 | 1               | 0         | 0        | 1                    | 0                    | 2        |
| Staff conduct                             | 0                 | 1               | 0         | 0        | 0                    | 1                    | 2        |
| Responsive repairs – leaks / damp / mould | 0                 | 0               | 0         | 1        | 0                    | 0                    | 1        |
| <b>Total</b>                              | <b>0</b>          | <b>2</b>        | <b>0</b>  | <b>1</b> | <b>1</b>             | <b>1</b>             | <b>5</b> |

**Top 3 Sub-Categories** | *Cases determined between April 2022 - March 2023* Table 3.5



**Orders Made by Type** | *Orders on cases determined between April 2022 - March 2023* Table 4.1

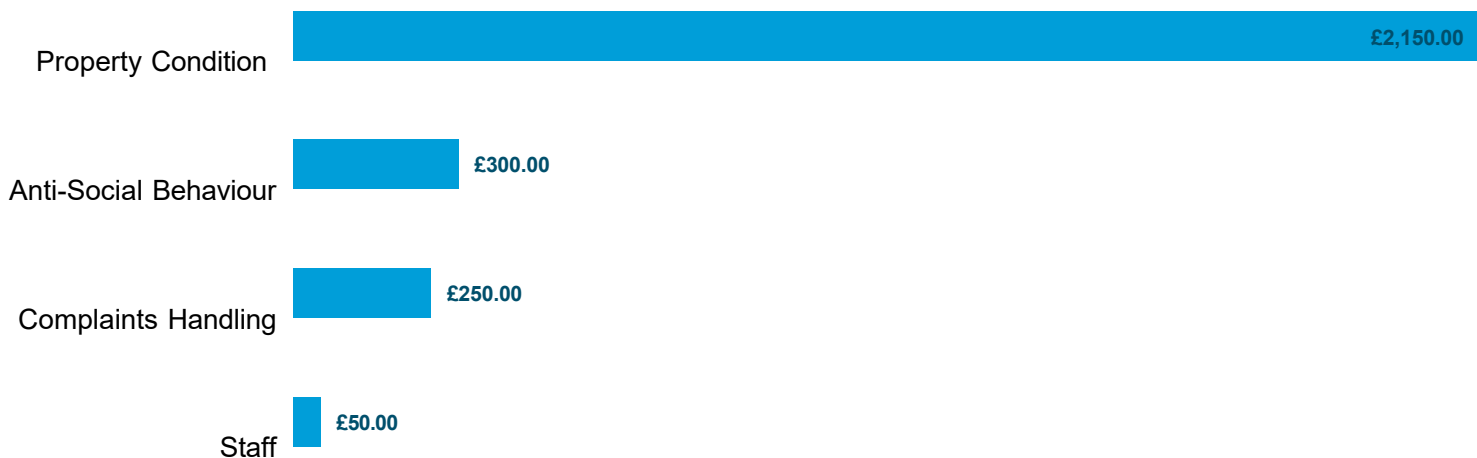


**Order Compliance** | *Order target dates between April 2022 - March 2023* Table 4.2

| Order Complete? | Within 3 Months |             |
|-----------------|-----------------|-------------|
|                 | Count           | %           |
| Complied        | 12              | 100%        |
| <b>Total</b>    | <b>12</b>       | <b>100%</b> |

**Compensation Ordered** | *Cases Determined between April 2022 - March 2023* Table 5.1

● Ordered ● Recommended



# Landlord Performance Report

## 2022-23 Guidance Note

### Introduction

The Ombudsman's 2022-23 landlord reports are for landlords with five or more findings made in cases determined between 1 April 2022 and 31 March 2023. The data comes from our casework management system.

The reports include statistics on cases determined in the period. If we published a performance report for the landlord last year, then its individual report will also include limited statistics about cases determined between 1 April 2021 and 31 March 2022 for year on year comparison.

### Definition of terms

#### Case

When a resident refers a complaint to the Ombudsman, it is recorded as a case.

#### Category

The subject matter being complained about. A case can have more than one category.

When deciding the top three categories of complaint for a landlord, we do not count findings of Outside Jurisdiction or Withdrawn.

#### CHFO

Complaint Handling Failure Orders (CHFOs) are issued if the landlord fails to comply with the conditions of membership of the Housing Ombudsman Scheme. This includes failing to comply with the Complaint Handling Code and failing to provide evidence requested by the Ombudsman.

#### Compensation

The amount of compensation ordered and recommended in cases determined.

#### Compliance

Whether orders have been complied with within three or six months. We do not enforce compliance with our recommendations.

### Determinations

The number of cases determined (decided upon) by the Ombudsman.

### Findings

The number of findings on cases determined. Each category on a determined case has one finding.

When we count findings, we exclude any cases where the entire case was declared Outside Jurisdiction or was entirely withdrawn. Individual findings of Outside Jurisdiction and Withdrawn on cases that have other findings are counted.

There are eight possible findings.

### Severe maladministration

The most serious failings will result in a finding of severe maladministration.

### Maladministration

We find maladministration when there was a failure which has adversely affected the resident.

### Service failure

We find service failure when there was a minor failing, but action is still needed to put things right. Service failure is a form of maladministration.

### Mediation

This finding is made where the resident and landlord have agreed to enter into mediation and, with the Ombudsman's intervention, reached an agreed outcome which resolves the complaint satisfactorily. Also referred to as 'resolved with intervention'.

### Redress

Also referred to as 'reasonable redress', this finding is made when there is evidence of maladministration but the landlord has identified and acknowledged this prior to the Ombudsman's formal investigation and has, on its own initiative, taken steps and/or made an offer of compensation, that puts things right.

### No maladministration

We find no maladministration where the landlord acted in accordance with its obligations and policies/procedures. Minor failings may have been found but these caused no detriment to the resident.

### Outside Jurisdiction

The complaint will not or cannot be considered by the Ombudsman.

### Withdrawn

The resident withdrew their complaint and the Ombudsman was satisfied as to the circumstances.

### Landlord Homes

The number of homes (or 'units') owned or managed by the member landlord under the Housing Ombudsman Service's jurisdiction as of 31 March 2022.

### Landlord Type

Member landlords are classed as one of three types of landlord.

### Housing Association

A non-profit organisation that provides homes to people on low incomes or with particular needs.

### Local Authority / ALMO or TMO

A local council, an Arms Length Management Organisation (ALMO) set up by the council to manage all or part of its housing stock, or a Tenancy Management Organisation (TMO) set up by tenants and/or leaseholders to manage an estate or block on behalf of the council.

### Other

Other includes voluntary members, almshouses, co-operatives, Abbeyfield and for-profit providers.

### Maladministration Rate

The number of findings of severe maladministration, maladministration and service failure, expressed as a percentage of the total number of findings (excluding findings of Outside Jurisdiction and Withdrawn). Also referred to as 'mal rate'.

### National Maladministration Rate

The total number of findings of severe maladministration, maladministration and service failure, expressed as a percentage of the total number of findings (excluding findings of Outside Jurisdiction and Withdrawn). Also referred to as 'National mal rate'.

Our report says how the landlord performed in comparison to the maladministration rate of other similar landlords:

- Very well – in the top 25% of similar landlords
- Similarly – within the expected range
- Poorly – in the bottom 25% of similar landlords

### Orders

Orders are made where the investigation has resulted in a finding of some level of maladministration. They are intended to put things right for the resident.

### Recommendations

Recommendations can be made for any case that has been investigated and determined by the Ombudsman. They are intended to help improve service delivery and promote learning from outcomes.

### Sub-categories

The specific category of the complaint. Each finding has one sub-category.

When deciding the top three sub-categories of complaint for a landlord, we do not count findings of Outside Jurisdiction or Withdrawn.

‘Highlighted service delivery sub-categories’ are areas of complaint which largely relate to the health, safety and well-being of residents and which the Ombudsman considers priorities for member landlords to monitor.

### Units

The number of dwellings owned or managed by the landlord, split into three size groupings: Less than 1,000 units; between 1,000 and 10,000 units; or more than 10,000 units.

### Case structure

As above, each determination has one or more category records reflecting the complaint(s) defined. Each category record has one finding and may have one or more orders and/or recommendations.



