

**Standards Committee
18 March 2019**

**Council
25 April 2019**

**Annual Report Of The Council's
Monitoring Officer – 2018**

A. 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 2018 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. The Protocol was substantially revised and updated in October 2015 to reflect changes in the law and government guidance. The first formal complaint of breach of the Protocol was dealt with in 2017.
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 1st April 2017 to 31 March 2018.

B. Code of Conduct and Related Matters 2018

6. Complaint activity in Ashford has been very 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. No complaints had been taken to

formal investigation and hearing up to the end of 2016. However both 2017 and 2018 have been more challenging. One formal complaint from this period which was referred for investigation awaits a final decision.

7. A number of further Code of Conduct complaints have arisen during 2018. These involve both borough and parish councillors. In some cases, submission of the official complaint form has been requested and is awaited. Details of the remaining complaints are set out in Table 1 below.
8. There has also been a significant volume of informal complaint activity and in contact with the Monitoring Officer regarding parish council activity. Some of this may yet result in further formal complaints. There has been a noticeable increase in requests for advice from and meetings with the Monitoring Officer in this regard. Subjects have ranged from allegations of non-declaration of interests to complaints about disruptive and bullying behaviour. Several of these informal complaints have been resolved by the Monitoring Officer without the need for formal complaint or investigation.
9. Although there is no obvious single reason for the increase in incidence of complaints, the increased use/misuse of social media has given rise to complaints about personal and defamatory attacks. For this reason, the Standards Committee have asked me to prepare a Social Media Guidance Note for Councillors in time for the new Council in May. The draft Guidance Note is being considered by the Standards Committee at its March meeting. The Council has also agreed the Code itself should be amended to include a prohibition on offensive or abusive use of social media. Again this will be in place for the new Council.

C. The Committee on Standards in Public Life

10. During 2018, the influential Committee on Standards in Public Life (CSPL) undertook a comprehensive review of the Local Government Ethical Standards system. Its report was published on 30 January 2019. The CSPL has made 26 formal recommendations to the Prime Minister and 15 'Best Practice' recommendations. The Government should respond to the report within 3 months. Many of the recommendations, if agreed, would require primary legislation changes.
11. A detailed report on the CSPL review is being considered by the Standards Committee at its March meeting. It is inevitable that the Council's Code of Conduct and adopted Arrangements for handling code complaints will require a fundamental review in the light of the Government's response. I will present a further report through the Standards Committee at the appropriate time as soon as the position going forward is clear.

Table 1

Formal Valid Code of Conduct Complaints Made or Resolved

Council Ref.	Allegation(s)	Decision(s)	Comments
ABC 17/06 and 17/09 Ashford Borough Council	Alleged defamatory or disreputable statement	Referred for Investigation	Investigator's Report under Consideration
ABC 17/08 Aldington & Bonnington Parish Council	Alleged bullying and disreputable behaviour	Referred for Investigation. No Breach	No Further Action
ABC 18/005 Bilsington Parish Council	Alleged bullying and intimidating behaviour and disclosure of confidential information	Still under consideration	

D. Ombudsman Complaints 2017/18

16. Since April 2013, complaints about social housing have been dealt with by the Housing Ombudsman (HO) and not the Local Government Ombudsman (LGO).
17. For Members' information the analysis of the complaints resolved by the LGO in 2017/18 are attached (Appendix A). The LGO's Annual Letter and Report are also included in Appendix A.
18. The number of complaints received by the Ombudsman in 2017/18 (16) was lower than in 2016/2017 (20). The number of complaints upheld was also lower (1 compared to 6 in 2016/17).
19. In next year's report, a column will be added to the Table of Ombudsman Complaints to capture any action taken internally as a result of a complaint.

E. Recommendations

1. That the Annual Report of the Monitoring Officer for 2018 be received and noted.
2. That the Monitoring Officer report to future meeting(s) of the Standards Committee in relation to the recommendations of the CSPL Report.

T W MORTIMER
 Director of Law and Governance & Monitoring Officer
 February 2019

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 1st April 2017 and 31st March 2018 the Local Government Ombudsman (LGO) received 16 complaints, with the following outcomes:

Not referred to the Council by the LGO

Incomplete or invalid complaint	2
Advice Given by LGO	1
Referred back for local resolution	<u>5</u>
	8

Investigated by the LGO

Closed after initial enquiries	
Not upheld	7
Upheld	1
	<u>0</u>
	8

TOTAL

16

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. The published information does not name the complainant or any individual involved with the complaint.

The outcomes of the 8 complaints investigated by the LGO in 2017/18 are detailed below:-

Closed after initial enquiries – out of jurisdiction or no further action	7
Not upheld: No Maladministration	1
Upheld: Maladministration & Injustice	0
Total	8

Attached is a table providing further details and outcome on these complaints.

I have also attached the Ombudsman's Annual Review letter 2017/18.

During this period one complaint was received by the Housing Ombudsman. The decision by the Housing Ombudsman was that there was no Maladministration by the Council.

Local Government Ombudsman Complaints 1st April 2017 – 31st March 2018

Reference	ABC Dept	Complaint details	LGO decision	LGO final comment
16 018 419	Environmental Services	Nuisance, inconvenience and rubbish at bottom of garden due to bus stop outside property	Closed after initial enquiries – no further action	n/a
16 013 550	Housing	Works undertaken on his house under a DFG	Not upheld: no maladministration	n/a
17 001 584	Housing	Council would not let them rejoin the housing register	Closed after initial enquiries – no further action	n/a
17 002 160	Planning & Development	Council failed to take action on a wrongly built drain on neighbour's property	Closed after initial enquiries – no further action	n/a
17 002 837	Environmental Services	The Council was wrong to issue him with a fixed penalty for littering as the alleged offence took place on private land	Closed after initial enquiries – no further action	n/a
17 008 426	Revs and Bens	The Council decided he was not entitled to housing benefit and council tax support	Closed after initial enquiries – out of jurisdiction	n/a

17 008 747	Planning & Development	Complaint about decisions made by the Council on planning applications submitted by the complainant. Alleged the Council has been unfair and inconsistent	Closed after initial enquiries – out of jurisdiction	n/a
17 016 079	Planning & Development	Complaint about the handling of his recent application. Also complaint about the Council's decision to grant prior approval for a change of use of agricultural buildings to residential dwellings.	Closed after initial enquiries – no further action	n/a

Housing Ombudsman 2016/17 – decision 20.10.17. Complaint about the reasonableness of the Council's decision not to reimburse their service charge.
Decision found that there was no Maladministration by the Council.

Local Government & Social Care **OMBUDSMAN**

18 July 2018

By email

Tracey Kerly
Chief Executive
Ashford Borough Council

Dear Tracey Kerly,

Annual Review letter 2018

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect 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, some of whom 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.

Future development of annual review letters

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new corporate strategy for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will therefore be seeking views from councils on the future format of our annual letters early next year.

Supporting local scrutiny

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at www.lgo.org.uk/scrutiny. I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

Learning from complaints to improve services

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the reports and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit www.lgo.org.uk/training.

Yours sincerely,



Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Local Authority Report: Ashford Borough Council
For the Period Ending: 31/03/2018

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	3	1	0	1	0	6	5	0	16

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	5	7	1	0		0%	16

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.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
0	0

