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To: Corporate Policy Overview Committee

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Summary: This report provides Members with an overview information of the KCC's handling of complaints in 2007/08 and proposals for a new approach from April 2009.

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## **1. Introduction**

This report contains information on complaints, enquiries and comments received and dealt with by Kent County Council during 2007/08. It outlines the number of complaints received by departments, complaint trends, the source of complaints and the performance on handling complaints. Information, where available, is also provided on improvements taking place as a result of complaints.

## **2. The Current Complaints Process**

KCC has a well-established complaints process for handling complaints, comments and compliments from the public. A complaint is defined as "an expression of dissatisfaction, whether justified or not and however made, about the standard of or the delivery of service, the actions or lack of action by the Council or its staff which affects an individual service user or group of users". This covers:

- Statutory or non statutory services provided to individual customers
- Services provided on a commercial basis (e.g. Home to School transport)
- Services provided to schools.

This definition is in line with those of the Local Government Ombudsman and the British Standards Institute and is consistent with the definitions used by other local authorities.

For complaints, there are 3 stages to the process -

- STAGE 1 Problem solving/Local Resolution
- STAGE 2 Formal/Investigative Stage
- STAGE 3 Appeal Panel

The emphasis in the current complaints procedure is to try to resolve complaints at a local level. If the complaint is not resolved at Stage 1 (problem solving) or if it is particularly serious, then the complaint can progress to Stage 2 (Formal Complaint).

Any individual (or organisation) that uses or receives a council service can make a complaint if they are dissatisfied with the service and they can do so via a number of channels, although letters are still recorded as the medium most used for complaints.

The complaints procedure does not cover complaints from members of staff, trainees, apprentices or persons on work placements, involving working conditions, pay or other internal grievances.

### **3. Operation of the Complaints Procedure in 2007/08**

Complaints are useful customer feedback, not to apportion blame where the service may not have been up to the standard expected but rather to develop a learning and customer responsive culture.

A review of complaints in November 2006 highlighted the need for improved monitoring. When benchmarked with other authorities Kent appeared to receive fewer complaints. On investigation it was found that not all complaints were recorded and steps have been taken to improve this process in all directorates, but more continues to need to be done.

In 2007/08, 1,839 complaints were received compared with 1,732 for 2006/07. This does not necessarily represent a decline in the standard of service, as the increase almost certainly reflects the effectiveness of the improved reporting procedure now in place. It also reflects the fact that people are better informed about our complaints procedure and more willing to exercise their right to complain if they are not happy with the service(s) they received.

The number of complaints and compliments also needs to be considered in the context of the number of people accessing services.

#### **3i. Adult Social Services**

##### **Number of Adult Social Services Complaints Received in 2007/2008**

In 2007/08, there were over 31,700 referrals to Adult Social Services, there were also over 35,500 people in receipt of services in March 2008. Compared to the number of people accessing services, the number of complaints received is relatively small.

In 2007/08, 346 complaints were received; this is a decrease from the previous year when 440 complaints were recorded. This reflects a 21% decrease in the overall number of complaints received. Whilst it is pleasing to note this significant reduction, which indicates that staff feel more confident and empowered to resolve problems as they arise, we should not be complacent and must continue to ensure service users are given the opportunity to complain when a service falls below the expected standard.

Out of the 346 complaints, 295 of these were logged as statutory complaints under the NHS and Community Care Act, this is a decrease from the previous year when 368 complaints were recorded. The remaining 51 complaints were from "non qualifying individuals" (not service users or carers); these complaints do not fall within the statutory process.

Of the 295 statutory complaints received in 2007/08, 20 were investigated under Stage 2 of the complaints procedure, with only 3 resulting in a Complaint Review Panel.

### Services for Adults with a Disability

Last year there were 57 complaints about services for people with a disability. The total number of complaints received has been divided separately between those with physical or learning disabilities.

Those complaints about services for adults with physical disabilities total 10. This can be further broken down with care management accounting for 7 of the complaints received, 2 were about domiciliary care and 1 was about residential care.

Those complaints about services for adults with learning disabilities total 47. Of the number received, 29 related to care management, 5 were about day care, 9 residential care, 2 transitional arrangements and 2 were classified under "other".

Further analysis of the complaints received under disability, both physical and learning, indicates that in comparison to last year, there has been a slight increase overall in the total number of complaints received – 14% (7 additional complaints). The numbers relating to care management have decreased by 12%, although in contrast complaints about residential care have doubled. However this amounts to an increase of 5 complaints for the year.

The common themes that cause people to complain about these services include those who are dissatisfied with; the outcome of their assessment (typically, insufficient service provision), the quality of care, poor timekeeping, and failure of service delivery.

### Services for Older People

There were 191 complaints about services for older people, indicating a slight decrease (5%) in comparison to the previous year, when 201 complaints were received. In broad terms the numbers of complaints received within the categories of older people services do not show significant fluctuations, when compared to those received in 2006/07. The exceptions are domiciliary care, where complaints received have decreased by 41% (19 complaints) on the previous year. The reverse is true of residential care complaints, where the numbers have increased by 58% (10 additional complaints) to those lodged in the previous year.

It is pleasing to note the decrease in domiciliary care complaints as a significant amount of work has been undertaken to raise the satisfaction levels of people using these services. It was reported last year that following meetings with a group of service users concerned about domiciliary care services, the Contracting Department had addressed these by:

- Ensuring there are mechanisms in place for addressing issues of concern with a focus to monitor whether these are working.
- A Quality Assessment Framework was introduced enabling the department to target those providers that are not performing as well as expected.
- CSCI have introduced a rating system for providers. This will be effected as a rolling programme with new homes being assessed first.

### Occupational Therapy and Sensory Loss

There were 39 complaints about the O.T Bureau, (4 of which related to Deaf Services and 6 were about the Blue Badge scheme). Overall this is a decrease of 22% on the previous year's total of 50 complaints.

The vast majority of these complaints arise as a result of delays in equipment provision or completion of adaptations once an assessment has been completed. Funding for this work is obtained via the Disabled Facilities Grants (available from Borough Councils) and this is where the delays occur.

#### Other Direct Provision Complaints

In total 32 complaints were received about other Direct Provision services. Included in this figure are 6 complaints about the Adult Services Provider Unit. This is a significant reduction on the previous year when 18 complaints were received.

26 of these complaints were received about in-house registered care centres for older people. Reasons for people complaining typically include poor communication and/or concerns on the quality of care.

#### Method of Contact

The majority of complaints 247 (71%) were received by letter. 59 (17%) were received by telephone and 26 (7%) were received by email.

#### Timescales

##### **Acknowledgements**

##### **Number of Complaints**

##### Non-statutory

95.5% done within the standard of 3 days (49)

##### Statutory stage 1

87.6% done within the standard of 3 days (255)

##### Statutory stage 2

88.2% done within 3 days (18)

##### Statutory stage 3

100% done within the standard 3 days (3)

##### **Response Times**

##### Non-statutory

68.8% done within the standard of 20 days (34)

##### Statutory stage 1

80.3% done within the standard of 20 days (234)

##### Statutory stage 2

40.0% done within the standard 65 days (9)

##### Statutory stage 3

66.6% done within the standard 20 days (2)

From April 2009 there will no longer be statutory timescales to answer complaints. Kent Adult Social services will continue to issue acknowledgements within 3 working days and complaints within 20 days for less complex complaints.

#### Learning the Lessons from Complaints

As a result of a complaint regarding the lack of accurate information regarding a Nursing Home placement, which resulted in the family being liable for a top up fee of over £1,900 for the period of stay a number of improvements were made to the 'Charging for Residential Care' booklet. In addition, a standard letter was developed that gives clear and detailed information in relation to financial contributions and charging.

Improvements were put into place after relatives complained about their experience of collecting the belongings of their deceased relative from an in-house respite/residential home. These include, staff training covering the issues raised; a review of staff training records to ensure staff had undertaken training on support for bereaved relatives; production of an information leaflet for relatives to explain the procedure for collection of belongings. The complainants were involved in this process.

After receiving a complaint regarding quality of care issues following a period of respite, staff arranged a meeting with the complainant to discuss the detail of the complaint. Subsequently, staff training was implemented focussing on the importance of recording service user information, especially when personal care is refused. This stressed the need to complete detailed care plans and risk assessments on admission. A 'lifestyle questionnaire' was also devised, for completion prior to admission. This records specific information about the service user that he/she or the family think will be useful, including their likes/dislikes and/or life history. The information gleaned on service users enables staff to have a better understanding of each individual and ensures consistency of care.

The charging policy is another good example. In previous years, although minimal changes were made to the policy, a large number of complaints were received as a result of poor communication in relation to the proposed changes. In this period, significant changes were made to the policy, but previous complainants were involved in advising on how this should be communicated to other service users. As a result, the number of complaints reduced.

#### Compliments

There were 455 letters of compliment received during the year. This is a 38% decrease on last year, although on reviewing the previous years compliments, it was clear that one organisation, in particular, was classifying each comment received as a compliment. This practice has now been reviewed, hence the reduction in the overall number of compliments for this reporting period.

#### Developments

*Making Experiences Count – National and Local context.* The Department of Health is introducing a single complaints system across Health & Social Care with the aim of increasing people's confidence that their complaints will be taken seriously and that services will improve as a result of their experiences.

The proposal is to develop a single 2-step complaints process across health and social care, ensuring that local resolution is robust and fit for purpose. The focus of which will be to adopt a flexible approach to resolving complaints locally in a more person centred way. The current role of the Healthcare Commission in reviewing NHS complaints will be removed, as will the current requirement within Social Care to hold a Complaints Review Panel.

12 sites representing 93 organisations across the country have been identified as "Early Adopters" and will pilot the new approach for a period of 3-6 months. Originally, it was expected that the single process would come into effect from April 2009, but it is anticipated that there will be some slippage on this timing.

Kent has been identified as one of the Early Adopter sites and representatives from Kent & Medway health and social care organisations have been involved in the pilot. The Department of Health team co-ordinating the pilot have recognised Kent & Medway as

playing a significant role in the national pilot and have judged the Kent & Medway project as being “ahead of the game”.

### Kent Health Watch

Kent Health Watch was established by Kent County Council in partnership with the NHS to help local residents express their views about health and social care in Kent. This service will not replace existing feedback mechanisms within health and social care, but enhance what is currently available with the aim of improving services.

It will cover all health and social care services delivered within Kent along with services commissioned for Kent residents but provided elsewhere. Kent Health Watch will operate 24 hours a day, seven days a week, by telephone, texphone and email. It will operate like a Directory Enquiry service, signposting callers to the right contact whenever they want to make compliments, comments, complaints or concerns about health or social care.

In preparation for the launch of Kent Health Watch, contact centre agents have undergone bespoke training in dealing with social care queries. This included, safeguarding, provision of service - how this is funded and the issues around direct payments and self funders. The logging system has been amended to reflect these specific groups to enable the Directorate to monitor the volume of calls specifically from self funders.

Reassuringly, some of the agents who are already experienced in dealing with social care calls have been transferred to the Health Watch number. This will provide consistency and experience of social care services. They will also be able to share this knowledge and experience with newer members of staff.

### **3ii Children Families and Education**

This section is divided into two parts, Children’s Social Services, whose complaints procedure is required by the “Children Act 1989 Representations Procedure (England) Regulations 2006” and then other information regarding the complaints and enquiries received in the wider CFE Directorate.

#### Number of Children Social Services Complaints Received in 2007/2008

When taking into account the number of new referrals to the service (10,222), the number of existing service users and the number of contacts with the service everyday, the proportion of complaints is relatively small. Statutory complaints received in 2007/08 represent only 2.5% of latest caseload figures.

In 2007/08, there were 267 complaints relating to Children’s Social Services. Of these 178 were statutory complaints logged under the Children Act procedures. The other 89 were non-statutory complaints, complaints that were outside the scope of the legislation. The total number of complaints has increased over previous years however this was the first full year in which the new regulations were in operation and the figures are not, therefore directly comparable.

The new complaint regulations and associated guidance issued in September 2006 has impacted on the complaint procedure in terms of extending the scope of the procedures. Although the number of statutory complaints at Stage 1 has not increased, it is noticeable that there are more Stage 2 complaints, possibly reflecting the greater complexity of issues in the complaints received. With the extended scope of the regulations more child

protection and legal issues are dealt with in the complaints procedure often raising issues that are not easily resolved at an early stage.

When a statutory complaint is received, in the majority of cases it will be logged at the first stage of Local Resolution. At this stage a local manager will endeavour to address the issues and resolve the complaint. In 2007/08, 177 complaints were logged at Stage 1.

Where the complaint is not resolved then the complainant might decide to take the complaint to the next Stage of Formal Investigation. In 2007/08, 42 complaints were logged at Stage 2 (compared to 32 in 2006/07); four of these were subsequently withdrawn. There were also 6 complaints that went to the Complaints Review Panel Stage in 2007/08. The Panels were constituted under the new regulations with 3 Independent Panel Members considering the complaints and making recommendations to the Local Authority.

Some of those accessing Children's Social Services might not be "willing" customers as the reasons for the contact could be due to a statutory intervention as a result of concerns for the welfare of a child. Not surprisingly many of the complaints received reflected the contentious nature of aspects of the service. Approximately 30% of complaints related to the attitude or behaviour of staff. This might include for example instances where service users considered social workers were not taking their views sufficiently into account or where a comment was made that the service user didn't agree with, or where there was a perception that the social worker had not acted fairly regarding a dispute between family members. Some people complained that their social workers did not keep them sufficiently informed of developments and considered the social workers were not communicating frequently enough or responding quickly enough to issues raised.

Disputed decisions also accounted for approximately 30% of complaints. This covers a range of issues including for example decisions about changes of placement or decisions about the provision of a particular service such as Direct Payments.

Another issue that gives rise to complaints is where people want more support than is being offered (19%). An example is where someone has left a family home and wants social services to intervene in the family but the assessment indicates the family does not need social work help. Another example is where people are requesting more financial support such, as where a relative or friend is caring for a child in need. Other examples include where parents of disabled children are requesting more support such as day care or respite care for their child.

#### Method of Contact

In 2007/08 most statutory complaints were received by letter 65% but increasing numbers of people are using e-mail 11%. Other complaints were made by direct contact with customer care by telephone or in person. Half of the 19 complaints from children and young people were via the *Upfront* children's advocacy service for Looked After Children.

#### Timescales

The time scales for Stage 1 complaints are 10 working days for most complaints and 20 working days for complex complaints (for example complaints that involve another agency). The majority of Stage 1 complaints were responded to within the statutory time scales with 67.1% responded to within 10 working days and 78.6% of the complex complaints responded to within 20 working days. In 2007/08 there were difficulties in meeting time scales on Stage 2 complaints – there were a number of reasons for this – the

complexity of the complaints, the increased number of Stage 2 complaints and the independent provider of the Independent Person experienced problems meeting the increased demand. This has now been addressed and time scales are improving.

### Learning the Lessons from Complaints

In 2007/08 there were occasions where lessons were learned more widely from complaints. One example is where a parent complained that his views had not been properly considered at a case conference – clear advice on this and on the right to complain is now included in the new safeguarding procedures and in leaflets for people being invited to case conferences. Other complainants questioned the difficulty of complying with written agreements, the policy section is now drawing up good practice guidance for social workers to advise on the use and status of written agreements.

During 2007/08 there have been training sessions for staff regarding conducting investigations into complaints and writing responses to complaints. The Local Government Ombudsman's Office assisted with the delivery of complaint investigation training and the Customer Care team has provided training for social work teams, newly qualified social workers and administrative staff in complaints handling.

### Compliments

There were 36 "merits" (or letters of compliment). These included instances where others, for example courts, teachers, service users, police officers and foster carers, complimented social workers on the quality of their work.

### Enquiries

There were also 94 enquiries (these include letters from MPs or Members to senior managers about an individual or about the service in general).

### Developments

There are a number of developments taking place in 2008/09, which are intended to further improve the Children Social Services complaint procedure. This includes: making the procedure more accessible to children and young people (as the number of complaints from this group is relatively low), provide more training for staff on aspects of the complaint procedures, and continue to develop links with colleagues in health to ensure a co-ordinated response to joint complaints.

### Complaints Relating to other Children, Families, and Education services.

There are not the same statutory requirements for complaints about education services nevertheless it is still important to have a responsive and robust complaints procedure in place to resolve any dissatisfaction and to learn the lessons where services have not been to a standard that might be expected.

In September 2007, a *Respond* database, based on the one used in Children's Social Services, was developed to log complaints and enquiries. There is not a full year set of data to analyse yet and there are still areas for development, nevertheless it is a useful tool for logging and tracking complaints and should in due course be a useful source of data.

Between 1 September 2007 and 31 March 2008, 218 complaints and "expressions of discontent" have been logged. This is an increase on the previous year but this is probably due to a more systematic approach to logging issues rather than any reflection on the

services delivered. There were also 110 enquiries logged, 55 school issues, and 110 contacts requesting or providing information.

Complaints about schools are passed direct to the schools to be dealt with in the schools complaints procedure. Appeals processes exist for people to challenge decisions they are not satisfied with, for example appeals processes for school admissions, transport and statementing. Consequently not all “dissatisfaction” is handled through the complaints procedure. Where complaints are received that do not fall within the remit of appeals and are not for school complaints procedures, then the complaints are being logged on the Respond database.

#### Method of Contact

The majority of complaints received were through written correspondence, – either by letter 171(78%) or by e-mail, 37 (17%). Most were initiated by parents or close relatives of children and young people.

#### Compliments

From April 2009 all Business Units will record compliments.

### **3iii Communities**

#### Number of Communities Complaints Received in 2007/2008

The number of complaints received in 2007/08 was 457 a reduction in the 634 received in 2006/07. The main decrease in complaints has been in the reduction of the number of complaints received by the Adult Education service. In 2006/07 there had been a number of course cuts which resulted in a high number of complaints. Improved customer care training and staff being better able to deal with complaints when first raised has also reduced the number of complaints received within the Communities Directorate.

#### Trading Standards

The number of official complaints from both businesses and consumers for 2007/08 totals 15. Four were from businesses and 11 from consumers.

#### Kent Scientific Services

Within KSS complaints are encouraged and actively sought as they are a way of improving the service. There was 1 complaint in 2007/08

#### Community Safety

During 2007/08 a total of 20 complaints were received by the Community Safety Unit.

#### Registration & Coroners

10 formal complaints were received in 2007/08. Four concerned the attitude and behaviour of the Registrar during a birth and death registration and were all upheld. Two concerned delays to the death registration process caused by the death being referred to the Coroner and a full explanation was given in each case. Two related to fees charged for ceremonies for which a full explanation was given in each case. One concerned a request for a refund that was initially refused but subsequently granted. One concerned the lack of appointment availability for which a full explanation was given.

#### Youth Service

A total of 7 complaints were received during 2007/08.

### Youth Offending Service

There were no complaints received in 2007/8. Complaints and Customer Comments are monitored centrally through the Service's Customer Care Manager. Emphasis is placed on early problem solving at team level.

### Kent Drug & Alcohol Action Team (KDAAT)

A total of 2 complaints were received from clients regarding Service Providers. KDAAT's Service User Involvement Officer advised clients on how to access provider complaints mechanisms.

### Sports Leisure & Olympics

There have been no formal complaints throughout the day to day operation of the service. However, some minor levels of dissatisfaction were expressed in the Customer Satisfaction Survey, which have been addressed through an action plan and where appropriate direct contact, to clarify the issues raised and provide appropriate responses.

### Libraries & Archives

1,425 Comment cards were received from the public in 2007/08. 691 were comments or suggestions, 364 were compliments and 370 were complaints. All complaints received were all resolved with an initial response from the appropriate manager.

### Kent Adult Education Service

27 complaints were received in 2007/08 compared with 149 in 2006/07. In 2006/07 there had been a number of course cuts which resulted in a high number of complaints. Improved customer care training and staff being better able to deal with complaints when first raised has also reduced the number of complaints received. The main causes of complaints are course cancellations, dissatisfaction with classes, facilities and venues.

### Turner Contemporary

There were 5 complaints in 2007/08.

### Learning the Lessons from Complaints

Following complaints Trading Standards reviewed and changed a legal process system to ensure that members of the public who may have provided witness statements are kept informed of progress. Written warnings to traders are now more clearly worded and readily identifiable as cautions.

The Youth Service has issued guidance on recruitment. KDDAT now include complaints in service provider quarterly performance monitoring meetings and any outstanding issues are raised in these forums.

Kent Adult Education Service complaints have led to improvement in facilities, centres and teaching delivery as part of our overall approach to raising service standards. These included:

- Additional support for students who were finding their courses of study challenging
- Movement of classes where noise from neighbouring activities caused disruption
- Negotiated favourable car parking rates for students where centre car parking was limited.

### Methods of contact

80% of complaints were received by comment card, with 11% received by letter.

### Timescales

Communities did not collect detailed information on response times in 2007/08.

### Compliments

From April 2009 all Business Units will record compliments, comments and timescales.

## **3iv. Environment and Regeneration**

### Number of Environment & Regeneration Complaints Received in 2007/2008

The number of complaints received in 2007/08 was 660 compared with 341 in 2006/07. The increase in the number of complaints recorded reflects the effectiveness of the improved reporting procedure now in place since Environment & Waste applied for and achieved Charter Mark (customer service) accreditation in March 2008 and this process has improved monitoring of customer feedback.

173 of the Environment & Waste 426 complaints for 2007/08 were regarding a policy decision to remove eight bins and stop plastic recycling at Household Waste Recycling Centre's. The contribution to the County's recycling rate made by these bins was 0.03% as the tonnages taken to the site by the public were very small as the twelve districts provide kerbside collections.

The level of complaints and compliments for KHS has also increased over the last year. This is mainly down to improved understanding by the Contact Centre Highways Team about customer feedback and increased information going out by the KHS communications team about how to report feedback to the service.

### Learning the Lessons from Complaints

Environment & Waste has conducted customer surveys and mystery shopping at a number of Household Waste Recycling Centres and Customers Surveys at some Country Parks and is using the findings to provide customer led services and as a benchmark to monitor customer satisfaction. There has been improved feedback from being more proactive this year in ensuring its customers can offer feedback by a number of methods e.g. Country Park Comments Cards, Explore Kent website and customer surveys.

Kent Highway Services has improved the handling of customer feedback by ensuring that all feedback is logged and responses managed by the new Customer Liaison Team Leaders and that all customers reporting complaints are contacted in a short period of time to explain the complaints process and next steps.

Within the Business, Performance and Communications service plan a review of service standards to improve response times for complaints is detailed, with measures and expected outcomes. KHS has also implemented an action plan for improving letter response times across the organisation. In addition to these action plans all complaints are now monitored centrally, with actions being sent directly to the Heads of Service.

### Method of Contact

The majority of complaints received were through written correspondence – either by letter 33% or by e-mail 32%. 18% were received by telephone and 11% by comment card.

### Timescales

In 2007/08 616 (93%) were acknowledged within 5 working days and 638 (97%) were responded to in full within 20 working days.

### Compliments

1,398 compliments were received between April 2007 & March 2008. Once again the majority of these were received by KHS (51%) and E&W (46%). Copies of all external compliments are filed and provided to the Managing Director of E&R on a quarterly basis.

### **3v. Chief Executives Department**

#### Number of Chief Executives Department Complaints Received in 2007/08

In 2007/08, 44 complaints were received compared with 42 for 2006/07.

#### Business Solutions and Policy

There has been 1 complaint regarding information on a consultation with the public.

#### Commercial Services

The majority of complaints received are from parents who are not satisfied regarding the mode of transport to school provided for their child.

There have also been a number of complaints in the press by the private sector regarding Commercial Services activity, which have resulted in an on-going dialogue with the Federation of Small Businesses'.

#### Corporate Finance

Within Corporate Finance there were 12 complaints that our insurers had declined legal liability for paying out on claims for compensation made against the Council and 4 connected to council tax. These related to comments about: multiple council tax leaflets; compensation for a faulty street light; pensioner complaining about overpaid officials; and local facilities - tax paid compared to services personally received.

Finance have also dealt with over 100 enquires about council tax or county spending. The majority of these complaints are received by e-mail. Following articles in the press a number of enquires have been received regarding the Chief Executive's salary and the non-disclosure of senior staff salaries. The majority of these queries have been generated by the Taxpayers' Alliance publicity.

#### Legal & Governance

Complaints to Legal and Governance are mainly to do with delays in responding to correspondence.

#### Personnel

Between April 1st 2007 - March 31st 2008 a total of 1,765 posts were advertised and over 24,000 application forms from candidates from candidates. During this period 4 complaints were received regarding issues such as no response from application process, feedback after the interview and information on KCC website.

#### Property Group

1 complaint was received by a householder concerning building work being carried out a nearby school. This was an on-going complaint during the time work was carried out. In total 7 letters were sent and approximately 12 telephone calls made to answer this complaint.

### Strategic Development and Public Access

KCC Gateways are managed by Strategic Development and Public Access department. Complaints about the Gateways service are dealt with by the relevant business service using the Gateway and will not be reported here. As from April 2008 complaints received about the Contact Centre and public access will be reported within the Chief Executives Department complaints report.

### Method of contact

The majority of complaints received were through written correspondence – either by letter 86% or by e-mail 11%.

### Timescales

All complaints were acknowledged within 5 days and 95% of complaints were answered within 10 working days.

### Learning the Lessons from Complaints

Customers have the right to complain. However, there are not always wider lessons from complaints. Some complaints often involve one off administration or human errors. However, services are encouraged to understand and apply the lessons from complaints in terms of service or procedural improvements where clear trends emerge from individual complaints. There have been no policy changes as a result of these complaints.

### Compliments

Chief Executives Department will collect comments, compliments and timescale information from April 2009.

## **3vi. Complaints to the Local Government Ombudsman**

The Local Government Ombudsmen (LGO) investigate complaints of injustice arising from maladministration by local authorities and investigates complaints about council matters including planning, education, social services, consumer protection, highways, drainage and council tax.

A complainant must give the Council concerned an opportunity to deal with a complaint against it first. If the complainant is not satisfied with the action the Council takes, they can send a written complaint to the LGO, or ask a councillor to do so on their behalf.

The LGO can investigate complaints about how the council has done something but cannot question what a council has done simply because someone does not agree with it. The LGO's objective is to secure satisfactory outcomes for complainants, where appropriate, and improve administration in local authorities.

Each year the LGO provides a summary of the complaints the Council has received in an Annual Letter. This is reported to Governance & Audit Committee annually in June, with half year progress reported to Governance & Audit Committee in December.

### Complaints Received

In 2007/08, 146 complaints were received by the LGO a slight reduction on the 148 complaints received in 2006/07 (The number of complaints received is not the same as the number of complaints determined by the Ombudsman, because some complaints are made one year and decided in the next year).

### Decisions on Complaints

During the year decisions on 140 complaints against the Council were made by the LGO. There were 22 premature complaints (the council has not had an opportunity to deal with the complaint itself), 21 complaints outside the LGO jurisdiction, the LGO used discretion and closed 23 with no further action by the Council. There was no maladministration in 49 complaints.

### Local Settlements

A 'local' settlement is a complaint where, during the course of our investigation, the Council has agreed to take some action which the LGO considers is a satisfactory response to the complaint. The investigation is then discontinued. In 2007/08 the Local Government Ombudsmen determined 25 of complaints by local settlement (excluding 'premature' complaints). Details can be found in the LGO's Annual Letter, Appendix 2.

### Compensation

A total of £6,550 was paid in compensation to settle complaints. Details can be found in The LGO's Annual Letter, Appendix 2.

### Timescales

The target for responding to LGO complaints is 28 days. The average time for responding to first enquiries is 29.4 days. There has been no improvement from last year when our response time was also 29.4 days.

## **4. The revised approach for 2009 onwards**

### **Corporate Assessment - Comprehensive Performance Assessment**

The Corporate Assessment highlighted a number of areas for improvement in the way the Council handles complaints:

'The Council's use of and response to complaints as a resource to drive improved services is being further developed, but currently - although statutory requirements are met - directorates have inconsistent approaches, and mechanisms for monitoring and using complaints are underdeveloped. This inconsistency is reinforced by the mixed quality and availability of service standards'.

These areas are being addressed by the County Complaints Group who will ensure consistent practice across all Directorates in monitoring and responding to complaints from the public and regarding use of complaints to drive service improvements.

All Directorates now produce an annual complaints report and from 2009 they will all cover the following common areas:

- Number of complaints
- How we received them; phone, letter, e-mail
- % answered within our standards
- What we have learnt and what we have changed and improved
- Equality and diversity information

The Corporate complaint leaflet and the website are also being updated to improve information to the public. Progress will be monitored via the annual Complaints Report to the relevant POC, and the summary report to this POC.

## **Future Changes**

The Council is phasing in a new two step corporate complaint procedure to replace and improve on the former 3 stage procedure in operation since 1991/1992. The first 'Local Resolution' step will be for service departments and the 'Review Step' will be undertaken centrally. As from April 2009 Adult Social Care statutory complaint procedure will no longer have review panels and will also only have 2 steps. The statutory complaint procedures for children will still follow a 3 stage process, with different time scales and procedural requirements.

The revision of the corporate complaints process is one part of the developing strategy to transform customer service by listening to what our customers want and expect. The aim is to reduce the bureaucracy involved. This strategy includes reducing the number of formal stages and changing the culture within the Council by encouraging staff to deal with complaints speedily and sympathetically, apologising when things go wrong and taking action to resolve the source of complaints by learning lessons from what causes them.

A primary object of KCC's corporate complaint procedures is to provide an open, accessible and accountable process that can offer an early resolution of dissatisfaction with council services. A further objective is to protect the Council from receiving any final reports of maladministration and injustice from the LGO, which can be costly and time consuming. Managers and staff are encouraged to recognise service failures, learn the lessons from complaints to improve service delivery and to follow the Ombudsman's guidance on 'Remedies' when dealing with a formal complaint.

Within the Council we have developed a whole range of forums and engagement processes which enable people to express their views, which are then fed into the appropriate development/delivery processes for services. This provides people with alternative avenues, rather than resorting to making a complaint.

## **Valuing Diversity**

The Council collects diversity and equalities information as required by the statutory guidance. A form is issued to people who have made a complaint to seek information on ethnicity, gender and age of the complainants. Not everyone completes and returns the form so the details are not known for all complaints.

Monitoring information is used to inform practice, however due to the relatively low response rate to our equality and diversity monitoring forms it has not been feasible to make judgments and set specific objectives or actions from the feedback received.

Further work will be undertaken in 2008/10 to ensure that all Directorates collect this information for complaints.

## **Vexatious and Repetitious Complainants**

The Council can review a complaint and give a decision without formal Investigation where it considers it to be deliberately repetitious or vexatious.

The number of such complaints is increasing to such an extent nationally that in Autumn 2007 the Local Government Ombudsman published a Guidance Note on 'Unreasonable and persistent complainants'. The Council has adopted this guidance. (see Appendix 3)

There were no recorded Vexatious and Repetitious Complainants recorded in 2007/08.

### **Local Involvement Network (LINKs)**

Kent and Medway Networks (KMN) have been appointed as the Host organisation for the Kent LINK. KMN has previously been a Forum Support Organisation for the former Patient and Public Involvement Forums and therefore has knowledge and experience of the area. The Kent LINK is not operational at present, although once it is launched it is anticipated that the information received from the public will influence public services in ways that are relevant and meaningful to the public themselves. It should also provide a further opportunity for concerns and complaints to be heard and responded to. (The LINK was launched on 3<sup>rd</sup> December 2008)

### **Conclusion**

In 2007/08 KCC continued to provide a robust and effective complaints procedure in line with new statutory regulations and guidance. Lessons are learned from complaints and used to improve service delivery.

Further improvements in both process and culture are proposed for April 2009 onwards.

### **Recommendations**

Members of the Policy Overview are asked to note the contents of this report and support the proposed changes for 2009 onwards.

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### *Background Documents*

Annual Complaints Report 2007/08, CFE Policy Overview September 2008  
Adult Social Services Annual Complaints Report, KASS Policy Overview Committee 18 November 2008  
E & R Annual Complaints 2008, E & R Policy Overview Committee, 25 September  
Chief Executives Department Annual Complaints, Comments and Enquires Report, Corporate Policy Overview Committee, 26 September 2008  
2007/08 Budget Outturn and Outturn Business Plans, Communities Policy Overview Committee, 22 Sept 2008

Other useful information -

It is a statutory requirement under the following items of legislation for local authorities to have in place a complaints and representations procedure:

- Children Act 1989 Representations Procedure (England) Regulations 2006
- NHS & Community Care Act 1990 (section 50)
- Health & Social Care Act 2000
- Local Authorities Social Services Complaint (England) Regulations 2006 (including associated Guidance; Learning From Complaints – Social Services Complaints Procedure for Adults)
- Local Government Act 2000.

**COMPARISON OF COMPLAINTS NUMBERS FOR  
2005/06, 2006/07 and 2007/08**

**KENT ADULT SOCIAL SERVICES**

<b>Service</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>
<b>Contacting</b>	37	39	33
<b>Disability</b>			
Care Management	42	41	36
Day Care	6		5
Domiciliary	5	4	2
Residential	23	5	10
Transition Arrangements			2
Other	2		2
<b>Older People</b>			
Care Management	112	132	128
Day Care	5	1	3
Domiciliary	33	46	27
Residential	34	17	27
Respite			4
Other	6	5	2
<b>Specialist Services</b>			
Adult Provider Unit	19	18	6
Homecare	1	4	
Older People	21	24	26
Social Economy		3	
<b>OT and Sensory Loss</b>			
Deaf Services	1	1	4
OT	(inc Blue Badge) 41	(inc Blue Badge) 49	29
Blue Badges			6
<b>Mental Health</b>	2	4	4
<b>Planning</b>			1
<b>County Benefits</b>	1	1	
<b>Finance</b>	4	18	18
<b>Hospitals</b>	11	22	17
<b>Out of Hours</b>	2		2
<b>Supporting People</b>		1	
<b>Direct Payments</b>	3	1	
<b>HQ Learning Disability</b>		2	
<b>County Duty Service</b>		1	2
<b>Others</b>	2	1	4
<b>TOTAL</b>	<b>413</b>	<b>440</b>	<b>400</b>

## CHILDREN FAMILIES AND EDUCATION

<b>Service</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>
AEN & Resources	36	5	
Admissions & Transport	0	5	
Advisory Service Kent	3	0	
Attendance & Behaviour	3	10	
Capital Strategy	0	2	
Children's Safeguards Unit	1	0	
Children and Families	228	239	
Client Services	1	0	
Communication and Information	0	2	
Early Years and Childcare	4	0	
Educational Psychology Service	1	2	
LAC Education Adviser Team	3	0	
School Governance	1	0	
School Organisation	0	6	
Specialist Teaching Service	8	0	
Student Awards	0	4	
<b>TOTAL</b>	<b>289</b>	<b>275</b>	<b>485</b>

**89 non-statutory**

**178 statutory**

**218 education (01/09/07-31/03)**

Due to changes in the way complaints are logged and the introduction of the new database part way through 2007/08, It has not been possible to give an accurate breakdown of the complaints stats for the various services for 2007/08.

## COMMUNITIES

<b>Service</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>
Contact Centre	0	44	0
Arts Development	0	6	0
Community Safety	0	14	20
Emergency Planning	0	0	0
Kent Adult Education	152	149	27
KDAAT	0	1	2
Kent Volunteers	0	0	0
Kent Scientific Services	0	4	1
Libraries	389	388	370
Registration & Coroners	11	6	10
Sports	0	0	0
Trading Standards	12	12	15
Turner Contemporary	0	6	5
Youth Offending Service	1	4	0
Youth Service	0	0	7
<b>TOTAL</b>	<b>565</b>	<b>634</b>	<b>457</b>

**ENVIRONMENT & REGENERATION**

<b>Service</b>	<b>*2005/06</b>	<b>2006/07</b>	<b>2007/08</b>
Environment & Waste	17	148	220
Kent Highway Services	25	190	232
Strategy & Planning	1	0	1
Regeneration & Economy	2	3	0
Resources	0	0	0
Change & Development	0	0	0
<b>TOTAL</b>	<b>45</b>	<b>341</b>	<b>453</b>

\*Formal monitoring reviewed in October 2005 and new procedures implemented to improve data quality in January 2006

**CHIEF EXECUTIVES**

<b>Service</b>	<b>*2005/06</b>	<b>2006/07</b>	<b>2007/08</b>
Commercial Services	6	4	1
Finance	11	22	16
Information Services	1	6	16
Legal & Democratic Services	1	0	5
Personnel	0	4	4
Property	7	6	1
Policy & Performance	2		1
<b>TOTAL</b>	<b>28</b>	<b>42</b>	<b>44</b>



## Complaints information 1 April 2007 – 31 March 2008

### How complaints were received

	Total No.	How complaint was received								
		Phone	Letter	E-mail	On-line	KMS	Face-to-face	Comment Card	Fax	Other
<b>COMMUNITIES</b>										
2007/08	<b>457</b>	<b>21</b>	<b>51</b>	<b>14</b>			<b>1</b>	<b>370</b>		<b>1</b>
<b>ENVIRONMENT AND REGENERATION</b>										
2007/08	<b>660</b>	<b>119</b>	<b>215</b>	<b>213</b>	<b>6</b>	<b>29</b>	<b>1</b>	<b>75</b>	<b>2</b>	<b>0</b>
<b>CHILDREN, FAMILIES AND EDUCATION</b>										
Children's Social Services	178 statutory	43 stat. (by phone or f to f)	116 stat.	19 stat.						
Education (01/09/07 – 31/03/08)	218		171	37	3				6	1
<b>TOTAL</b>	<b>396</b>	<b>43</b>	<b>287</b>	<b>56</b>	<b>3</b>				<b>6</b>	<b>1</b>
<b>KENT ADULT SOCIAL SERVICES</b>										
2007/08	<b>346 (51 non-stat.)</b>	<b>50 (9)</b>	<b>210 (37)</b>	<b>24 (2)</b>	<b>4 (2)</b>		<b>2 (0)</b>		<b>0 (1)</b>	<b>5 (0)</b>
<b>CHIEF EXECUTIVE'S DEPARTMENT</b>										
2007/08	<b>44</b>	<b>1</b>	<b>38</b>	<b>5</b>						

## Acknowledgement and Response Times against standards

	COMPLAINTS	COMPLIMENTS	ENQUIRIES	% answered within our standards	
				ACKNOWLEDGEMENT	RESPONSE
<b>COMMUNITIES</b>					
2007/08	457	-	-		
<b>ENVIRONMENT AND REGENERATION</b>					
2007/08	660	1398	-	93%	97%
<b>CFE</b>					
Children's Social Services	267 (178 statutory, 89 non- statutory)	36	94		78.6% (within 20 days)
Education (01/09/07 – 31/03/08)	218	2	110	DO NOT HAVE THIS INFORMATION	
<b>KENT ADULT SOCIAL SERVICES</b>					
2007/08	346 - 295 statutory (51 non-statutory)	455	264	96% (98%)	92% (88%)
<b>CHIEF EXECUTIVES DEPARTMENT</b>					
Business Solutions and Policy	1	-	-	100%	100%
Commercial Services	16	-	-	100%	100%
Corporate Finance	16	-	100+	100%	94%
Legal & Governance	5	-	-	100%	80%
Personnel	4	-	-	100%	100%
Property Group	1	-	-	100%	
Strategic Development & Public Access	1	-	-	100%	100%
<b>TOTAL</b>	<b>44</b>	-	-		

No figures for Kent Volunteers or the Contact Centre



Local Government  
**OMBUDSMAN**

**The Local Government Ombudsman's  
Annual Letter**

**Kent County Council**  
for the year ended  
**31 March 2008**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual letters.

## **Annual Letter 2007/08 - Introduction**

This annual letter provides a summary of the complaints we have received about Kent County Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the letter will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two attachments form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

## **Complaints received**

### ***Volume***

In 2007/08, I received 146 complaints against your Council. This represents a slight reduction on the 148 complaints I received in the previous year.

### ***Character***

Education continues to produce the largest number of complaints, rising from 65 to 79. The number of complaints about children and family services issues also increased from ten to 22.

Complaints about transport and highways issues fell from 28 to 23. Complaints about planning and building control fell from 27 to two (although the previous year's figure had been inflated by complaints linked to the same issue). Complaints about adult care dropped slightly from 14 to ten.

## **Decisions on complaints**

During the year, we made decisions on 142 complaints against your authority. We found no maladministration in 49 complaints, and we exercised discretion to close a further 23 without requiring action by the Council. We found that 21 complaints were outside my jurisdiction.

### ***Reports and local settlements***

A 'local settlement' is a complaint where, during the course of our investigation, the Council has agreed to take some action which we consider is a satisfactory response to the complaint. The investigation is then discontinued. In 2007/08 the Local Government Ombudsmen determined 27% of complaints by local settlement (excluding 'premature' complaints - where councils have not had a proper chance to deal with them - and those outside our jurisdiction).

None of the complaints we investigated this year justified the issue of a report. My office settled 25 complaints. The Council's action to settle complaints included the payment of compensation totalling £6,550.

/...

*Social services*

One complaint related to adult care services. It concerned the way in which the Council handled an increase in domiciliary charges, contrary to Government guidance. The Council agreed to refund the backdated charge to the complainant. In a further complaint about private housing grants, the Council did not tell an applicant of her right to use her own managing agent, rather than the Home Improvement Agency funded by the Council to oversee adaptation works to her home. The Council acknowledged the complainant's loss of opportunity by paying her £500, and undertook to review its arrangements with the Agency.

Three complaints related to children and family services. In one case, the Council paid the complainant £1,000 to acknowledge its failure to allocate a social worker to her for one year while she was in care. In a second case the Council paid the complainant £100 and apologised for its failure to explain the application process for its adult placement scheme. In a third case, the Council delayed in finding a suitable placement for a young adult, and in considering his parents' complaint about that. This complaint was settled by the Council's relatively swift agreement that the young man could move, on appropriate terms, to supported living when a place became available.

*Planning and building control*

Five complaints related to the continuation of building work on a new school where the Council had been one of the joint applicants for planning permission. The Council might reasonably have been expected to put a stop to the wrongly sited building, but it delayed in doing so. An application for retrospective planning permission to permit the deviation from the original approval was successful. The Council agreed to pay a total of £1,950 to recognise the complainants' distress at its delay in taking appropriate action.

*School admissions*

13 complaints related to applications and appeals for admission to Community and Voluntary Controlled schools, where the Council is the admissions authority. In four cases, a school (wrongly, as it was not the admissions authority, but the Council was) offered places to applicants. Another school (which was also not the admissions authority) failed properly to maintain its waiting list. In all five cases, the Council, very properly, offered places to the applicants' children and gave advice to the latter school on how to maintain a waiting list.

In an unusual case, a member of the public was able to obtain information about a child's test results for admission to a selective school, by misleading the Council on the telephone. The Council apologised to the child's mother, and has put in place procedures to prevent a recurrence.

Five complaints were settled by the Council offering to arrange rehearings of appeals by Panels consisting of completely different members and with a different Clerk, and agreeing to be bound by the outcome. Two other complaints were settled by the Council agreeing to the admission of the child to the school in question. These were among complaints where Panels took account of wrong, incomplete, or irrelevant information, or Panels did not fully test whether the Council had correctly applied its admissions arrangements. In some instances, the Council's cases opposing appeals for places in infant classes contained guidance which was more restrictive than was appropriate. In other cases, the Council's composite prospectus for transfers to secondary schools contained inadequate guidance on detailed points, a situation which the Council has agreed to reconsider.

/...

In another case, the Council declined my suggestion that it should admit a child to an infant class where the mother said she had relied, in relation to the distance between her home and a school, on an inaccurate distance on a website sponsored by the Council for that purpose. The Council, as an alternative, arranged a rehearing of the mother's appeal, which was successful. I am pleased that by this means the matter was resolved.

### *Special educational needs*

One complaint concerned the Council's delay over two years in specifying hydrotherapy in a child's statement of special educational needs. The Council agreed to pay £2,000 to recognise the delay and £1,000 to recognise the complainant's time and trouble. The Council also agreed to discuss with the health authority ways of avoiding difficulties in delivering the hydrotherapy.

### **Your Council's complaints procedure and handling of complaints**

During the past year, my office referred 22 'premature complaints' to your Council for consideration, as we did not believe that it had had a full opportunity to deal with them through its own procedures. At 16% of all decisions, this was well below the national average. We do not, however, treat complaints about school admissions and some other educational complaints as premature, because complainants have usually exercised a right of appeal before coming to me.

During that period, four premature complaints were resubmitted to me. I pursued none of these complaints.

### **Liaison with the Local Government Ombudsman**

The Council replies reasonably promptly to my first enquiries about complaints. Last year, the Council's average time for responding to first enquiries was 29.4 days, almost exactly the same average time as the previous year. This remains just outside my target of 28 days, I should be grateful if the Council would do what it can to reduce the time taken to respond to my first enquiries.

We appreciate the regular contact between our offices by telephone, email and fax. This contact saves the time of both our offices and assists complainants.

I note that on occasion the Council, in responding to our enquiries, does not consider as fully as it might whether the Council or an Appeal Panel has been at fault and if so how it might resolve matters. I would encourage the Council to be more proactive in dealing with my enquiries and in identifying settlements where appropriate.

### **Training in complaint handling**

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. This year we carried out a detailed evaluation of the training with councils that have been trained over the past three years. The results are very positive.

The range of courses is expanding in response to demand. In addition to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution) we now offer these courses specifically for social services staff and a course on reviewing complaints for social care review panel members. We can run open courses for groups of staff from different smaller authorities and also customise courses to meet your Council's specific requirements.

All courses are presented by an experienced investigator so participants benefit from their knowledge and expertise of complaint handling.

I note that in the past year we have run six courses in all for the Council. I hope the Council found these useful. I have enclosed some information on the full range of courses available together with contact details for enquiries and any further bookings.

We run, from time to time, seminars for Council staff who liaise directly with my office. I am pleased that the Council's link officer was able to join the seminar last October.

### **LGO developments**

We launched the LGO Advice Team in April, providing a first contact service for all enquirers and new complainants. Demand for the service has been high. Our team of advisers, trained to provide comprehensive information and advice, has dealt with many thousands of calls since the service started.

The team handles complaints submitted by telephone, email or text, as well as in writing. This new power to accept complaints other than in writing was one of the provisions of the Local Government and Public Involvement in Health Act, which also came into force in April. Our experience of implementing other provisions in the Act, such as complaints about service failure and apparent maladministration, is being kept under review and will be subject to further discussion. Any feedback from your Council would be welcome.

Last year we published two special reports providing advice and guidance on 'applications for prior approval of telecommunications masts' and 'citizen redress in local partnerships'. Again I would appreciate your feedback on these, particularly on any complaints protocols put in place as part of the overall governance arrangements for partnerships your Council has set up.

### **Conclusions and general observations**

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**Tony Redmond**  
**Local Government Ombudsman**  
10<sup>th</sup> floor, Millbank Tower  
Millbank  
London SW1P 4QP

June 2008

Enc: Statistical data  
Note on interpretation of statistics  
Leaflet on training courses (with posted copy only)

## Notes to assist interpretation of the LGO's local authority statistics 2007/08

### 1. Complaints received

This information shows the number of complaints received by the LGO, broken down by service area and in total within the periods given. These figures include complaints that are made prematurely to the LGO (see below for more explanation) and that we send to the council to consider first. The figures may include some complaints that we have received but where we have not yet contacted the council.

### 2. Decisions

This information records the number of decisions made by the LGO, broken down by outcome, within the periods given. **This number will not be the same as the number of complaints received**, because some complaints are made in one year and decided in the next. Below we set out a key explaining the outcome categories for 2007/08 complaints.

**MI reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

**LS (local settlements):** decisions by letter discontinuing our investigation because the authority has agreed to take some action which is considered by the Ombudsman as a satisfactory outcome for the complainant.

**M reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

**NM reps:** where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

**No mal:** decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

**Omb disc:** decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

**Outside jurisdiction:** these are cases which were outside the Ombudsman's jurisdiction.

**Premature complaints:** decisions that the complaint is premature. The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it to the council as a 'premature complaint' to see if the council can itself resolve the matter.

**Total excl premature:** all decisions excluding those where we referred the complaint back to the council as 'premature'.

**3. Response times**

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

**4. Average local authority response times 2007/08**

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

Complaints received by subject area	Adult care services	Children and family services	Education	Other	Planning & building control	Public finance	Social Services - other	Transport and highways	Total
01/04/2007 - 31/03/2008	11	22	79	8	2	1	0	23	146
2006 / 2007	14	10	65	4	27	0	0	28	148
2005 / 2006	14	15	90	10	8	0	3	15	155

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	Mi reps	NM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2007 - 31/03/2008	0	25	0	0	49	23	21	22	118	140
2006 / 2007	1	17	0	0	33	40	25	26	116	142
2005 / 2006	0	29	0	0	42	37	13	23	121	144

See attached notes for an explanation of the headings in this table.

Average local authority response times 01/04/2007 to 31/03/2008

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2007 - 31/03/2008	78	29.4
2006 / 2007	62	29.5
2005 / 2006	86	23.5

Types of authority	<= 28 days %			29 - 35 days %			> = 36 days %		
	District Councils	56.4	24.6	19.1	41.3	50.0	8.7	58.3	30.6
Unitary Authorities	47.1	38.2	14.7	45.5	27.3	27.3	71.4	28.6	0.0
Metropolitan Authorities									
County Councils									
London Boroughs									
National Park Authorities									

**COMPLAINTS AGAINST KCC RECEIVED BY AND DECIDED ON BY LOCAL GOVERNMENT OMBUDSMAN OVER LAST 3 YEARS**

**(EXCLUDES PREMATURE COMPLAINTS AND ONES OUTSIDE THE OMBUDSMAN'S JURISDICTION)**

Year		Chief Executives Dept	Children, Families & Education	Communities	Environment & Regeneration	Kent Adult Social Services	Total	Percentage Change from Previous Year	
								Kent	England
<b>05/06</b>	Total Complaints (Decision made)	3	83	0	11	11	108	-15%	-1.5%
	Settled Locally	0	26	0	0	3	29		
	Formally investigated	3	57	0	11	8	79		
	Maladministration Found	0	0	0	0	0	0		
<b>06/07</b>	Total Complaints (Decision made)	3	57	0	19	12	91	-16%	-0.4%
	Settled Locally	0	13	0	3	1	17		
	Formally investigated	3	43	0	16	11	73		
	Maladministration Found	0	1	0	0	0	1		
<b>07/08</b>	Total Complaints (Decision made)	0	64	1	24	8	97	+07%	-1.7%
	Settled Locally	0	17	0	6	2	25		
	Formally investigated	0	47	1	18	6	72		
	Maladministration Found	0	0	0	0	0	0		



## **GUIDANCE ON UNREASONABLY PERSISTENT AND VEXATIOUS COMPLAINANTS**

### **Introduction**

Generally, dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the Council. This can happen either while their complaint is being investigated, or once the Council has finished dealing with the complaint.

It is important to distinguish between:

- people who make a number of complaints because they really think things have gone wrong
- people who make unreasonably persistent complaints.

If the complainant is persisting because his complaints have not been considered in full then we must address this (normally by invoking the next stage of the complaints procedure).

However, if the Council has already done so and has demonstrated this to the complainant, then we need to consider whether the complainant is now inappropriately persistent.

### **Principles**

The Council is committed to dealing with all complaints equitably, comprehensively and in a timely manner. It does not normally limit the contact which complainants have with Council staff and offices. The Council does not expect staff to tolerate unacceptable behaviour which is abusive, offensive or threatening and will take action to protect staff from such behaviour.

### **Aim of guidance**

The aim of this guidance is to contribute to the Council's overall aim of dealing with all complainants in ways which are demonstrably consistent and equitable.

It sets out how the Council will decide which complainants will be treated as vexatious or unreasonably persistent, and what the Council will do in those circumstances.

This guidance runs alongside existing corporate policies and guidance relating to equalities, health & safety and dignity and respect at work and should only be pursued where absolutely necessary.

### **Definition of unreasonably persistent and vexatious complainants**

The Council defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts

with the Council, hinder the Council's consideration of their or other people's complaints. The descriptions 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.

There is a difference between 'unreasonably persistent' and 'vexatious' complainants.

A vexatious person in this context is someone who is not seeking to resolve a dispute between themselves and the Council but is seeking to cause unnecessary aggravation or annoyance to the Council.

Unreasonably persistent complainants or vexatious complainants may have justified complaints or grievances but are pursuing them in inappropriate ways. Alternatively, they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and settled. Their contacts with the Council may be amicable but still place very heavy demands on staff time, or they may be distressing for all involved.

### **Actions and Behaviours**

These are some of the actions and behaviours of unreasonably persistent complainants and vexatious complainants which the Council may experience. A combination of some of these trigger actions may cause this policy to be invoked depending on the specific case by case circumstances. This list is not exhaustive and one single feature on its own will not necessarily imply that a person will be considered persistent and/or vexatious

1. refusing to specify the grounds of a complaint, despite offers of assistance with this from staff
2. refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved
3. refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope
4. refusing to accept that issues are not within the power of the Council to investigate, change or influence ( examples could be something that is the responsibility of another organisation
5. making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced
6. changing the basis of a complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage
7. introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered
8. electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved
9. persistently approach the Council through different routes about the same issue
10. adopting a 'scattergun' approach; pursuing a complaint(s) with the Council and at the same time with a department, the Chief Executive, an M.P., Councillor, Auditor, Standards Board, Police, Solicitors or the Local Government Ombudsman

11. making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses
12. submitting repeat complaints after the complaints process has been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure
13. refusing to accept the decision – repeatedly arguing the point and complaining about the decision

### **Being reasonable**

Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.

Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.

The Council will offer the complainant appropriate support, as it would any other customer.

It may be helpful to both parties if the complainant has an advocate. If the complainant feels that they would like an advocate, the Council must consider offering to help find an independent one. If the complainant has specific needs, the Council will offer relevant support. There are specialist bodies (such as the Royal National Institute for the Blind, Age Concern) which the Council can contact for advice and help

### **The decision**

Before making the decision, some or all of the following steps need to be taken:

- The Council will ensure that the complaint is being, or has been, investigated properly according to the Council's complaints procedure
- Although each complaint is unique, the Council will deal with the complaint in line with other complaints of a similar nature in order to apply a consistent approach
- The Council will contact the complainant to:
  - discuss his or her behaviour
  - explain why this behaviour is causing the Council concern
  - ask him or her to change this behaviour
  - explain about the actions that the Council may take if his or her behaviour does not change
- If the complainant has not already had a meeting about the complaint with a member or members of staff, and provided that the Council

knows nothing about the complainant which would make this inadvisable, the Council will consider offering the complainant a meeting with a member of staff of appropriate seniority. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution.

The decision to declare a complainant as unreasonably persistent and/or vexatious will be an exceptional step, and should be made by the Resource Director/ Monitoring Officer/ Head of Service who has not been directly involved in the complaint or with the complainant. They should make a written note of the considerations and decisions.

The complainant should be told in writing:

- why we believe their behaviour falls into that category
- what action we are taking
- the duration of that action
- how the complainant can challenge the decision if they disagree with it (this should normally include information regarding the Local Government Ombudsman, see Appendix A).

### Options

The precise nature of the action should be appropriate and proportionate to the nature and frequency of the complainant's contacts with the Council at that time.

The following is a list of possible options:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week)
- Limiting the complainant to one medium of contact (telephone, letter, email etc.) and/or requiring the complainant to communicate only with one named member of staff
- Requiring any personal contacts to take place in the presence of a witness
- Refusing to register and process further complaints about the same matter
- Banning a complainant from one or more Council premises
- Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence
- Where a complainant's complaint is closed and the complainant persists in communicating about it, it may be decided to terminate contact with that complainant.

These options are not exhaustive and often local or other factors will be relevant in deciding what might be appropriate action. For instance, any arrangements for limiting a complainant's contact must take account of the

complainant's individual circumstances, bearing in mind such issues as age, disability, gender, race and religion or belief.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the Council may not give the complainant prior warning of that action.

### **Further actions**

Adequate records of all contacts with unreasonable persistent and vexatious complainants must be kept and information needs to be shared on a 'need to know' basis only in order for staff to carry out their role at work.

Personal details about the complainant and about the complaint will be managed and stored appropriately in line with data protection and records management principles and procedures.

When unreasonable and unreasonably persistent complainants make complaints about new issues these should be treated on their merits, and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

Reviews of decisions to restrict a complainant's contacts or the Council's responses to them, should be taken by the Complaints Manager/ Resource Director/ Monitoring Officer/ Head of Service

Source documents:

LGO Guidance on persistent and unreasonably persistent complainants

Information Commissioner's guidance on vexatious requests

Hantsnet – corporate policy on dealing with difficult/vexatious complainants

### **Referring unreasonable and unreasonably persistent complainants to the Local Government Ombudsmen**

In some cases, relations between unreasonable and unreasonably persistent complainants break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there is often little purpose in following through all stages of the Council's complaints procedure and where this occurs the Ombudsman may be prepared to consider complaints before the Council's complaints procedures have been exhausted. This is the case even in respect of statutory complaints procedures.

A complainant who has been designated an unreasonably persistent complainant may make a complaint to the Ombudsman about the way in which he or she has been treated. The Ombudsman is unlikely to be critical of the council's action if it can show that its policy has been operated properly and fairly.

In extreme cases the council may consider the following actions:

- referring the complaint to the Local Government Ombudsman before the complaints procedure has been exhausted
- advising the complainant that it cannot assist further and informing them of their right to approach the Local Government Ombudsman.

The distinction between the two options above is that early referral to the Local Government Ombudsman is a positive action that can only be undertaken in agreement between the KCC and the complainant. This is therefore the less likely option with persistent complainants.

Option 2 may arise where the KCC does not agree with the complainant that the complaints are substantively valid and the two parties disagree on the way forward. This is more likely with a persistent complainant.

Should the authorised manager take this option, do not contact the Local Government Ombudsman directly, but indicate to the complainant that he may make this approach and confirm to the complainant that the council is not responding to the complaint further.

The Local Government Ombudsman is likely to apply the test of reasonableness over our response in a similar manner to an early referral and will have a range of options open to him.