

MODEL COMPLAINTS PROCEDURE

Introduction

Complaint procedures are an integral part of the machinery of nearly every commercial or public service organisation. This is because it is through dealing with and responding to accusations or instances of poor performance or delivery of service that the organisation sees its faults and has the opportunity to address them and improve.

Principal Councils (county, unitary and district) have the added incentive in that there is the local government ombudsman service who have the statutory remit to investigate complaints and the power to issue public reports where it is deemed appropriate. The Ombudsman may recommend the payment of compensation or another remedy if appropriate.

This does not mean that Local Councils may ignore the need to have a robust complaints system, nor that there are not other places that a member of the public, or a member of the council for that matter, cannot go to seek redress for a wrong they consider the Parish Council has committed.

Depending on the nature of the complaint, and to some extent the person who is making it, there will be an occasion in the life of every Parish Council when a complaint cannot be resolved and the complainant wishes to take the matter further.

These will include complaints concerning the following

- Where someone feels very strongly that a decision of the Parish Council was unlawful, they may apply to the courts for a judicial review of the Council's decision.
- An employee complaint, with or without going through the grievance procedure or a whistle-blowing route which goes to an employment tribunal or the courts (such as a personal injury claim)
- An accusation of financial wrongdoing, where a complaint may be made to the council's external auditor. Aside from referring the matter to another body if required, the auditor will have the power to carry out such actions as refusing to sign off the accounts or producing a public interest report.
- Breaches of the Members Code of Conduct for the council may result in an allegation being made to the Standards Board for England. It has been known that all of the members of the Council have been reported to the SBE. This may be in respect of financial wrongdoing, acting on prejudicial interests, not complying with equality legislation and so on.
- Any matter that raises a suspicion of criminal wrongdoing can, of course, be referred to the police.
- Where the Council carries out functions on behalf of another authority, such as litter picking or crime and disorder measures under an agency agreement with the District Council, the complaint can be referred to them. In such a situation, the ombudsman may be involved if the matter is not resolved by the principal authority.
- Finally, complaints under the Freedom of Information legislation, that the council has not released information in the manner that person believes it should have done, can be referred to the Information Commissioner. Here, the legislation **requires the parish council to have a complaints procedure** to be able to deal with these sort of matters.

COMPLAINTS PROCEDURE

The following text is based on guidance provided by the Society of Local Council Clerks and provides a template for a complaints procedure which could be adopted by a Parish or Town Council.

SHOSCOMBE PARISH COUNCIL – COMPLAINTS PROCEDURE

1. The following procedure will be adopted for dealing with complaints about the Council's administration or its procedures. Complaints about a policy decision made by the Council will be referred back to the Council, or relevant Committee, as appropriate, for consideration.
2. This procedure does not cover complaints about the conduct of a member of the Parish Council. Any complaint that a Councillor may have breached the Council's adopted code of conduct should be referred to the Standards Board for England at 1st Floor, Cottons Centre, Cottons Lane, London, SE1 2QG.
3. If a complaint about procedures, administration or the actions of any of the Council's employees is notified orally to a Councillor, or to the Clerk to the Council, a written record of the complaint will be made, noting the name and contact details of the complainant and the nature of the complaint.
4. The complainant will be asked to put the complaint in writing (letter/e-mail/standard form) to the Clerk to the Council at Thefossacecos@aol.com. The complaint will be dealt with within 21 days of receipt. Refusal to put the complaint in writing does not necessarily mean that the complaint cannot be investigated, but it is easier to deal with if it is.
5. If the complainant prefers not to put the complaint to the Clerk to the Council (because the matter relates to the Clerk, for example,) he or she should be advised to write to the Chairman (Mayor).
6. (a) On receipt of a written complaint, the Clerk to the Council (except where the complainant is about his or her own actions) or Chairman of Council/Mayor (if the complaint relates to the Clerk), will seek to settle the complaint directly with the complainant. This will not be done without first notifying any person complained about and giving him or her an opportunity to comment. Efforts should be made to resolve the complaint at this stage.

(b) Where the Clerk to the Council or a Councillor receives a written complaint about the Clerk's actions, he or she shall refer the complaint to the Chairman of Council/Mayor. The Clerk to the Council will be formally advised of the matter and given an opportunity to comment.
7. The Clerk to the Council (or Chairman/Mayor) will report any complaint disposed of by direct action with the complainant to the next meeting of the Council.
8. The Clerk to the Council (or Chairman/Mayor) will report any complaint that has not been resolved to the next meeting of the Council. The Clerk will notify the complainant of the date on which the complaint will be considered and the complainant will be offered an opportunity to explain the complaint to the Council orally.
9. Matters relating to Grievance or Disciplinary proceedings that are taking, or are likely to take place, should be dealt with in accordance with the Council's grievance and disciplinary procedures.

10. The Council may consider whether the circumstances of any complaint warrant the matter being discussed in the absence of the press and public, but any decision on the complaint will be announced at the Council meeting in public.
11. The Council may consider in the circumstances of any particular complaint whether to make any without liability payment or provide other reasonable benefit to any person who has suffered loss as a result of the Council's maladministration. Any payment may only be authorised by the Council after obtaining legal advice and advice from the Council's auditor on the propriety of such a payment.
12. As soon as possible after the decision has been made (and in any event not later than 10 days after the meeting) the complainant will be notified in writing of the decision and any action to be taken.
13. The Council may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The advice will be considered and the complaint dealt with at the next meeting after the advice has been received.

Local Government Act 2000 S92 (payments in cases of maladministration).