

Guide To Handling Complaints & Complaints Procedure

Introduction

1. A complaint is an expression of dissatisfaction by one or more members of the public about the Parish Council's action, or lack of action, or about the standard of a service, or a person or body acting on behalf of the council. Complaints may be verbal or written.

2. A good complaints procedure is:
 - Well publicised and easy to use
 - Helpful and receptive
 - Not adversarial
 - Fair and objective
 - Based on clear procedures and defined responsibilities
 - Quick, thorough, rigorous and consistent
 - Decisive and capable of putting things right where necessary
 - Sensitive to the special needs and circumstances of the complainant
 - Adequately resourced
 - Fully supported by councillors and officers; and
 - Regularly analysed to spot patterns of complaint and lessons for improvement.

3. It will not be appropriate to deal with all complaints under this Complaints Procedure, e.g.
 - Where someone feels very strongly that a decision of the Council was unlawful, they may apply to the courts for a judicial review of the Council's decision.
 - In the event of an accusation of financial wrongdoing, a complaint may be made to the Council's auditor.
 - Breaches of the Members' Code of Conduct for the Council may result in an allegation being made to the local Principal Authority (West Lindsey District Council).
 - Any matter that raises a suspicion of criminal wrongdoing can be referred to the police.
 - Where the Council carries out functions on behalf of another authority (under an agreement with the District/County Council) the complaint can be referred to them. The Ombudsman may be involved if the matter is not resolved by the principal authority.
 - A complaint that the Council has not released information under the Freedom of Information Act 2000 in the manner that a person requesting believes it should have been done, can be referred to the Information Commissioner.

Confidentiality:

4. The identity of a complainant should only be made known to those who need to consider a complaint and the council should take care to maintain confidentiality where circumstances demand.

Remedies:

5. The purpose of a Complaints Procedure is to put things right if things go wrong. The written response on behalf of the Council should include a full and frank response to concerns raised by the complainant and an apology where appropriate. Town Councils have the power to:
 - make a payment or
 - provide some other benefit where action amounts to or may amount to maladministration.

Handling Vexatious or Abusive Complaints (See Appendix 1 – Definition of a Vexatious Complaint)

6. A very small minority of complainants may persist unreasonably with their complaints or make complaints in order to make life difficult for the Council, rather than to genuinely resolve a grievance.

The Council recognises the need to distinguish between those who make a number of complaints because they genuinely believe things have gone wrong and those who are looking to subvert the legitimate business of the Council.

7. A policy on handling unreasonably persistent complaints and unreasonable complainant behaviour and corresponding guidance for staff, helps the Council deal with complainants in ways which are demonstrably consistent and fair. It also helps staff to understand clearly what is expected of them, what options for action are available and who can authorise these actions.
8. It is not necessary to meet a complainant's unreasonable demands and judgement is required to separate the legitimate from the unreasonable queries, often within the same complaint. If the complainant's persistence adversely affects the Council's ability to do its work, it must address such behaviour. The Clerk will implement action agreed by the Council and will notify the complainant that their complaint is considered vexatious and what action will be taken.

Threatening and Abusive Complainants and Harassment:

9. Gainsborough Town Council does not expect staff or members to tolerate unacceptable behaviour by complainants which causes or may cause undue stress. "Harassment" is defined as unwelcome and unwarranted behaviour that affects the dignity of an individual or group. Harassment may also include actions characterised as offensive, intimidating, malicious, insulting or humiliating that attempt to undermine or injure an individual or group of individuals. Examples may include, verbal abuse, bullying, shouting or swearing or threat of any of these behaviours.
10. All such incidences must be documented and all personal contact with the complainant will be discontinued and the complaint will thereafter only be continued through written communication by post.

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 for consideration.
2. This procedure does not cover complaints about the conduct of a Member of the Council.
3. If a complaint about procedures, administration or the actions of any of the Council's employees is notified verbally to a councillor or to the Clerk, 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 or e-mail) to the Clerk to the Council, at the address at the front of this guidance. The complaint will be dealt with within 28 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 when it is in writing. The Town Council will provide reasonable assistance to the complainant to accurately record the complaint where the complainant cannot or has difficulty setting out a written complaint.
5. If the complainant prefers not to put the complaint to the Clerk to the Council, he or she should be advised to write to the Chairman of the Council.
6. On receipt of a written complaint, the Clerk to the Council (except where the complaint is about his/her own actions) or Chairman of the Council (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 opportunity to comment. Efforts should be made to resolve the complaint at this stage.
7. 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 the Council. The Clerk to the Council will be formally advised of the matter and given an opportunity to comment.
8. The Clerk to the Council (or Chairman) will report any complaint disposed of by direct action with the complainant to the next meeting of the Management and Finance committee by way of a standing agenda item for this purpose.

For complaints which cannot be resolved by less formal measure, or initial explanations provided to the complainant by the Clerk or Chairman:

9. The Clerk to the Council (or Chairman) will report any complaint that has not been resolved to the next meeting of the Management and Finance Committee. 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 Committee verbally.
10. Matters relating to Grievance or Disciplinary proceedings that are taking place (or are likely to take place) should be dealt with in accordance with the Council's grievance and disciplinary procedures.
11. The Committee 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 Committee meeting in public.

12. The Committee 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.
13. As soon as possible after a 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.
14. The Committee 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.
15. There shall be no automatic right of appeal against the way in which a complaint is handled and the Committee is entitled to stand by its original decision. The Committee does however reserve the right to review all complaints and decisions made in relation thereto and may at its own discretion allow an attempted appeal to be actioned and considered in accordance with this policy.
16. This policy will be reviewed every two years.

APPENDIX 1 – Definition of a Vexatious Complaint

Complainants and or anyone acting on their behalf may be deemed to be vexatious where contact with them shows that they meet one or more of the following criteria:-

- ✓ Persist in pursuing a complaint/grievance where the Council's Complaints Procedure or the Freedom of Information procedure has been fully implemented / exhausted.
- ✓ Persistently change the substance of a complaint/grievance, raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response.
- ✓ Are repeatedly unwilling to accept evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- ✓ Repeatedly do not clearly identify the precise issues which they wish to raise, despite reasonable efforts of the Council to address their concerns and/or where the concerns identified are not within the remit of the Council.
- ✓ If the complaint is about essentially the same matter that has already been considered, with only very minor differences and does not contain any new information.
- ✓ Regularly focus on a trivial matter to an extent which is out of proportion to its significance. It is recognised that determining a trivial matter can be subjective and judgement must be used in identifying frivolous complaints.
- ✓ Have threatened or used physical violence towards staff or members at any time.
- ✓ Have had an excessive number of contacts with the Council, placing unreasonable demands on staff or members. Discretion will be used in determining the precise number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
- ✓ Have harassed or been personally abusive or verbally aggressive towards staff or members dealing with the complaint/grievance. The Council recognises however those complainants may sometimes act out of character in times of stress, anxiety or distress and should make reasonable allowances for this. All instances of harassment, abusive or verbally aggressive behaviour will be documented.
- ✓ Have harassed or been personally abusive or verbally aggressive towards any Councillors whether this has been on a face-to-face contact or at public meetings.
- ✓ Are known to have recorded meetings or conversations without the prior knowledge and consent of other parties involved and/or have impersonated any member of staff or Councillors with the objective of soliciting information for whatever purpose.
- ✓ Seeking to coerce, intimidate or threaten staff, Councillors or other people involved, whether by use of language, tone of voice or behaviour including body language.
- ✓ Regularly raise grievances which are already proven to be without substance or foundation.
- ✓ Pursuing a complaint with the Council and at the same time with a Member of Parliament /Councillor / Council's auditor /local police/ solicitors/the Ombudsman.
- ✓ 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 e-mails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.