



Code of Practice on handling complaints

Adopted 9th April 2015 Resolution FC2014/113.2 refers

Introduction:

It remains the position that the Local Government Ombudsman has no jurisdiction over parish councils, except where they are

- i) working jointly with a principal authority through a joint committee which includes representatives of the principal authority, or
- ii) exercising the functions of a principal authority

An explanation of the process for complaints to the Ombudsman in such cases is given at Appendix 2.

The question therefore arises as to what should happen if complaints are received about administration or procedures of the council itself?

Complaints about an employee of the council should be dealt with as an employment matter. The complainant can be assured that the matter will be dealt with internally as such and appropriate action taken as required.

Complaints by an employee about the workplace, must be raised in accordance with the Council's established internal Grievance procedure.

Complaints about a councillor are subject to the Code of Conduct for Members. Complainants will be advised to contact the District Monitoring Officer for further information.

The code of practice shown at Appendix 1 is therefore aimed at those situations where a complaint has been made about the administration of the council or about its procedures. It is not an appropriate forum for a complaint against individuals, as other provisions (as above) should cover these situations.

A complaint is defined as:

“an expression of dissatisfaction about the Council's action or inaction, or about the standard of a service, whether the action was taken or the service provided by the Council itself or a person or body acting on behalf of the Council”

This is in line with that established for principal authorities by the Local Government Ombudsman.

For the benefit of good local administration, it is suggested that every council adopts a standard and formal procedure for considering complaints either made by complainants direct or which have been referred back to the council from other bodies. The procedure below is a way of ensuring that complainants can feel satisfied that at least their grievance has been properly and fully considered.

The Council views the adoption of this complaints procedure as an efficient way of dealing with complaints received and a means of preserving the good reputation of the council through a transparent process. If the council fails to deal with complaints directly, they may have to utilise other resources in dealing with outside bodies, which a complainant may engage to further highlight their dissatisfaction.

The council has authorized the Audit Panel to deal with complaints. This avoids the need for full council having to assemble and also makes the process less daunting for a complainant if they choose to attend a meeting in person. The Panel will report its conclusions to the next Council meeting. Council remains available for an appeal.

Under the Local Government Act 2000, the standards committee of Lewes District Council is empowered to promote and maintain high standards of conduct by the members of parish and town councils. Lewes Town Council considers it to be good practice and has notified the standards committee that a local code for such complaints has been adopted. The procedure below should not be confused with that available for complaints against individual members.

The procedure is designed for those complaints that cannot be satisfied by less formal measures or explanations provided to the complainant by the Town Clerk, a Lead Member or the Mayor. If the Town Clerk is putting forward the justification for the action or procedure complained of, he or she will not advise the council or committee.

At all times, the rules of natural justice will apply. In other words, all parties should be treated fairly and the process should be reasonable, accessible and transparent.



APPENDIX 1

CODE OF PRACTICE

Before the Meeting

1. The complainant will be asked to put the complaint about the council's procedures or administration in writing to the Town Clerk, and whether they wish to have the complaint treated as confidential.
2. The complainant will be furnished with all details necessary to facilitate delivery of the complaint, in whichever form is most appropriate.
3. If the complainant does not wish to put the complaint to the Town Clerk, they will be advised to put it to the Mayor.
4. The Town Clerk (or Mayor) will acknowledge the receipt of the complaint within one working week and advise the complainant when the matter will be considered by the Audit Panel.
5. The complainant will be invited to attend the relevant meeting, accompanied as they may wish.
6. The complainant will be advised of the opportunity to appeal the Audit Panel's decision, and this will be dealt with by Council.

Investigating the complaint

7. The Council will investigate the facts of the complaint and collate relevant evidence
8. Seven (7) clear working days prior to the meeting, the complainant shall provide the council with copies of any documentation or other evidence, to which they may wish to refer at the meeting. The Council will similarly provide the complainant with copies of any documentation or information upon which they wish to rely at the meeting.

At the Meeting

9. The Panel shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press.
10. The Chairman will introduce everyone.
11. The Chairman will explain how the meeting will proceed.
12. The Complainant (or representative) will outline grounds for complaint.
13. Members will ask any question of the complainant.
14. If relevant, the Town Clerk or a nominated officer will explain the Council's position.
15. Members will ask any question of the Town Clerk (or other officer).
16. The Town Clerk (or other officer) and complainant will be offered the opportunity of a last word.
17. The Town Clerk (or other officer) and complainant will be asked to leave the room while Members decide whether or not the grounds for the complaint have been made. (If a point of clarification is necessary, both parties to be invited back).
18. The Town Clerk (or other officer) and complainant will be invited to return to hear the decision, or to be advised when a decision will be made.

After the Meeting

19. The decision will be confirmed to all parties, in writing, within seven working days; together with an explanation of the reasoning, and details of any action to be taken. This notification will explain the opportunity to appeal the decision, which will then be considered by the full Council.
20. The decision on a complaint will be announced at the next appropriate Council meeting.



APPENDIX 2

COMPLAINTS TO THE LOCAL GOVERNMENT OMBUDSMAN

1. The relevant legislation is the Local Government Act 1974 ('the 1974 Act'). The Local Government Ombudsman (LGO) has no jurisdiction in respect of a local council unless it is working jointly with a principal authority through a joint committee which includes representatives of the principal authority (section 25(4)(b)) of the 1974 Act) or it is exercising the functions of a principal authority (section 25(7) of the 1974 Act).
2. To assist members of the public (including, perhaps councillors) to complain to the LGO where appropriate, the key points to remember are:
 - parish councils are unable to lodge complaints as a public body (section 27(1) of the 1974 Act) about another local authority or public body defined at section 25 of the 1974 Act but this does not prevent individual councillors from making complaints about another local authority or public body in their personal capacity. In their official capacity, if so requested by member(s) of the public, a parish councillor could represent them in making complaints. Please note:-
 - complaints must be made in writing;
 - complaints must be made within 12 months of notice of the matters which are subject to the complaint;
 - complainants must first give the authority in question notice of the complaint and give them an adequate opportunity to investigate and reply to the complaint. This usually entails exhausting that authority's complaints procedure;
 - the Ombudsman may not investigate matters which are or have been subject to a right of appeal; and
 - the Ombudsman may not investigate matters where the complainant has or has had a remedy by way of court proceedings.
3. The most common application of the Ombudsman's lack of jurisdiction where the subject matter of the complaint is subject to a right of appeal or court proceedings is in respect of judicial review. Many councils claim that the Ombudsman does not have jurisdiction in certain cases due to the availability of judicial review. In these circumstances the Ombudsman can rely on section 26(6) of the 1974 Act which states that:-

'A Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person affected to resort or have resorted to it.'
4. A copy of the full guidance may be obtained from the LGO's website:
<http://www.lgo.org.uk/publications/guidance-notes>