

Torver Parish Council

Complaints Policy

Reviewed on 21st May 2024

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Introduction

1. Complaints are valuable because they provide a chance to
 - ✓ put things right if there has been an error, and
 - ✓ make sure that the same mistakes are not repeated.
2. Important information can be obtained both from single complaints and from patterns of complaints, which even if they do not fall within the parish council's remit can be passed on to others for information and action.
3. This complaints policy has been based on guidance provided by the National Association of Local Councils and the Local Government Organisation. It sets out how members of the public can raise a complaint with the parish council, and how the parish council will respond to any complaints that are received.
4. The objective of the policy is to ensure that all complaints are dealt with quickly, consistently and courteously. Not every issue can be resolved to the complainant's satisfaction, but anyone making a complaint to the parish council should at least feel that they have been listened to, that relevant information has been considered, and that an apology has been made when appropriate.

Making a complaint

5. Complaints should usually be made to the Council as a whole, not to individual councillors. A local elector may advise a councillor about his intention to lodge a complaint but individual councillors are not in a position to investigate or resolve complaints independently.
6. Complaints should be made in writing or by email, marked “**Confidential – Formal Complaint**”, to ensure they are actioned promptly. The complaint letter should contain as much detail as possible and include relevant supporting information. Correspondence should be addressed to the Clerk of the parish council who will acknowledge receipt of any complaint received within 3 working days.
7. If the complaint relates personally to the Clerk or their conduct it should be addressed instead to the Chair of the parish council. As the Clerk is an employee of the parish council the Chair will deal with any such complaints in accordance with the Grievance and Disciplinary Procedure set out in the Clerk's contract of employment.

Types of complaint

8. Complaints received will be allocated to one of the following categories as appropriate:

Anonymous complaints

9. Because of the inherent difficulties involved with substantiating, responding to and obtaining further information in connection with them, the parish council is unable to consider or acknowledge any complaints that are submitted anonymously.

Complaints about individual councillors

10. Any complaints about the conduct of individual councillors cannot, by law, be considered by the parish council. They must instead be referred to the Monitoring Officer at South Lakeland District Council at South Lakeland House, Lowther Street, Kendal, Cumbria LA9 4UF.
11. The Monitoring Officer can only consider whether or not the councillor has followed the Councillors Code of Conduct which is available to view online at www.southlakeland.gov.uk/council-business/councillors-and-decisions/code-of-conduct, they are unable to deal with any other matters not covered by the Code.

Complaints not relating to parish council functions

12. Complaints can only be considered if they relate to decisions made by the parish council, or to expenditure it has incurred. Complaints relating to services not provided by the parish council or to matters which are not the responsibility of the parish council, cannot be considered further. The Clerk should, however, endeavour to identify the body most likely to be responsible for the issue being complained about, and then provide the complainant with contact details.

Complaints about council policy and decisions

13. Parish council members are elected to represent the local community and to take decisions on their behalf. Inevitably not all electors will agree with every parish council decision, however providing that decision has been properly made, recorded and implemented in line with parish council standing orders, there can be no grounds to consider a formal complaint. The complainant should be advised to this effect and provided with sufficient evidence to demonstrate that the necessary processes and procedures for decision making have been observed. If it transpires that this is or may not be the case, for example because:

- ✓ the meeting was inquorate
- ✓ the matter fell outwith the meeting's approved remit
- ✓ the decision was incorrectly minuted or has not been implemented as agreed;

then the issue will be considered in terms of a complaint about Council administration and procedures rather than the merits or otherwise of the decision itself. The complainant will be advised of this fact accordingly.

Freedom of Information complaints

14. A complaint that the parish council has not released information in accordance with the Freedom of Information Act should be dealt with in the first instance under the policy set out below. However the complainant should also be advised that they can also complain to the Information Commissioner, and provided with the necessary contact details should they wish to do so.

Complaints about council administration and procedures

15. These will be dealt with using the two-stage process set out below.

Vexatious complaints

16. A small percentage of complaints may be made in a way that appears to be obsessive or repetitious, or in a manner that would be considered as intimidation, aggression or harassment. Everyone has the right to make a legitimate complaint, but not to act in an unreasonable manner that causes stress to others.
17. Complaints will not be considered further if they relate to matters which have already been dealt with, if they are requesting disproportionate or unrealistic outcomes, or if they contain offensive language, threats or personal remarks. The Clerk will advise the claimant to this effect.

Complaints against employees

18. Complaints against an employee of the parish council could result in disciplinary action or even dismissal. The parish council takes any complaints against individual members of staff extremely seriously and such matters will be dealt with in accordance with the Grievance and Disability Procedure set out in the individual's contract of employment. Employment rights legislation prevents the parish council from entering into a discussion with, or correspondence about, any action taken against named individuals once these proceedings have commenced.

Recording complaints

19. All complaints received will be recorded in the parish council complaints book. This will detail the date, category and nature of the complaint together with the date and details of further action taken and, if the complaint falls to be considered under the policy set out below, the date and details of its resolution.
20. The clerk shall prepare an annual report for full Council summarising the contents of the complaints book so that elected members can consider lessons learned and identify actions to be considered at future meetings. This summary report will exclude the names of all complainants.

Receiving a complaint

21. The Clerk will advise the Chair of any complaints received, and the Clerk and Chair together will determine whether the complaint is serious enough to be considered as a Stage 2 complaint from the outset. Issues relevant to this consideration include:
 - ✓ whether any individual has suffered injury, damage to property or financial loss as a result of the matter complained of;
 - ✓ whether the complainant is alleging that a criminal offence or breach of the parish council's statutory duties has occurred
 - ✓ potential for insurance claims, legal claims or other significant financial detriment
 - ✓ whether there could be a potentially significant impact on the parish council's reputation
22. Otherwise, Stage 1 will apply. The Clerk and Chair together will determine whether one of them or another council member is best placed to handle the complaint, and will advise that other individual accordingly.
23. The Clerk will then provide the claimant with a copy of this procedure note, and advise them:
 - ✓ whether their complaint is being dealt with through the Stage 1 or Stage 2 procedure;
 - ✓ if Stage 1, the name of the parish council contact who is handling the complaint
 - ✓ if Stage 2, the proposed date of the Panel meeting and the name of the Panel Chair.

Stage 1 complaint

24. The parish council representative appointed to handle the complaint will, within 10 working days:
 - ✓ contact the claimant to seek clarification on the nature of the complaint
 - ✓ obtain and assess any further evidence available
 - ✓ contact any other person complained about to give them the opportunity to respond
 - ✓ try to reach an agreed resolution with the claimant. Agreed resolution may include a written letter of apology, or a commitment to recommend changes to parish council policies or procedures at the next parish council meeting
 - ✓ report back to the Chairman either that he has achieved a resolution or has been unable to do so, in which case the chair will initiate Stage 2 of the procedure
 - ✓ confirm the Stage 1 outcome with the complainant in writing.

Stage 2 complaint

25. The Chair of the parish council shall establish a review panel to consider:
 - ✓ complaints where the stage 1 process has not managed to identify a resolution, and
 - ✓ any other complaints which are considered to be serious (see guidance above)
26. The review panel shall have delegated authority from the parish council to review and decide on complaints. It shall be subject to all of the usual parish council requirements for agendas, minutes, notices of motion etc as laid down in approved Standing Orders. It is expected that the Panel shall be able to meet within 10 working days of being notified by the Chair and will consist of 3 council members, none of which have any direct connection to the matter being complained about
27. At least three days in advance of the meeting the panel shall nominate a chair who will:
 - ✓ invite the complainant to attend the meeting with one “friend” or representative if they wish (but not more than one)
 - ✓ determine the time, date and location of the meeting
 - ✓ provide the complainant with all relevant documentation and evidence (including photographs) the council intends to refer to at the review meeting, and
 - ✓ request that the complainant provides the same to the parish council
28. At the meeting:
 - ✓ the panel shall first of all consider whether the circumstances of the meeting warrant exclusion of the public and the press
 - ✓ the chair of the panel shall explain the purpose of the meeting and outline the matter being complained about, and the compensation, redress or other action being sought by the complainant
 - ✓ the chair of the panel should then invite the complainant to expand on this summary, highlight particular pieces of evidence or events and respond to any questions from panel members
 - ✓ if relevant, one of the panel members (or the clerk if present) shall explain the Council's position
 - ✓ any final points of clarification should be dealt with
 - ✓ the complainant and his representative shall then be asked to leave the room while panel members decide on the most appropriate course of action
 - ✓ the complainant should then be invited back to hear the panel's decision. If further debate is required, or the panel decides that it needs to take external advice, the complainant should be advised of that fact and when it is expected that the final decision will be made.

29. As soon as possible after the decision has been made, the complainant should be advised in writing of the final decision and any further action to be taken. If the decision is made to uphold the complaint, the Panel may consider and approve any or all of the following actions:
- ✓ a written letter of apology
 - ✓ compensation or other reasonable benefit to any individual who has suffered loss as a result of the parish council's administration (subject to approval at the next Full Council meeting)
 - ✓ recommending changes to parish council policies or procedures at the next Full Council meeting.

Timing

30. The Parish Council will so far as possible adhere to the timings in this document, but in the case of a complex complaint or absence of key individuals, timings may need to vary. Should this occur the claimant will be kept advised of revised timescales.

Approved by Torver Parish Council

14 January 2016