



HAILSHAM TOWN COUNCIL - COMPLAINTS PROCEDURE

1. Introduction

Hailsham Town Council aims to provide the best possible services to the residents of Hailsham.

However, We recognise that from time to time, users of our services may feel that the quality or level of service is less than they could reasonably expect.

It remains the position that the Local Government Ombudsman has no jurisdiction over Town, parish or Community Councils except where it is; working jointly with a principal authority through a joint committee which includes representatives of the principal authority or exercising the functions of a principal authority.

2. The Scope of this procedure

This complaints procedure has been adopted by the Town Council in order to allow members of the public the opportunity to submit a complaint regarding the administration of the council or its procedures and have the complaint dealt with in a fair and timely manner.

Complaints about an employee of the council will 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. Such complaints will not fall under the remit of this policy.

Complaints about a councillor or councillors are subject to the jurisdiction of the Code of Conduct as adopted by Hailsham Town Council. Complaints of this nature should be made to the District Monitoring Officer at Wealden District Council. Full details of this process can be found on Wealden District Council's website. This is the only recourse for any formal complaints about the behaviour of a Town Councillor(s) and there is no facility or mandate for the Town Council to investigate or act on such a complaint on its own.

Complaints about or disagreement with a decision made by the council or one of its committees are not dealt with by this procedure. Such comments should be made by addressing the relevant council or committee during its 'public forum' session at the beginning of each meeting. This can be done either in person or in writing to the Town or Committee Clerk beforehand, and will be addressed at the council or committee at the chair's discretion.

3. Confidentiality

All complaints made according to this procedure will be treated as confidential both by Officers of the Council and by Councillors. Details of the complaint and those involved in the complaint will be disclosed only to those who have a need to know as part of any investigation of or resolution to the complaint.

However, the occurrence of a complaint, its substance and outcome will be reported to full council.

4. Informal Complaint

It is hoped that most complaints can be resolved quickly and amicably through this route.

Informal complaints can be made by telephone, letter, email or a visit to the council officers. The complaint will be handled by the most appropriate member of staff, depending on its nature. The Town Clerk will be kept informed of the handling of the complaint and its resolution.

Complaints should always be directed through the council offices. Complaints made to individual or groups of councillors will be acknowledged and recorded by the councillor and passed to the office for handling according to this procedure.

It is expected that most complaints can be resolved through this informal route. However, the council appreciates that on occasions an informal approach has not resolved the complaint, or that the initial complaint is so serious, then the formal complaints process should be followed.

5. Formal Complaints

5.1 Time Limits

Formal complaints should be made as soon as possible after the event to which they refer and in any event no later than four calendar months after the event (or after the event became apparent as appropriate)

Complaints received more than four months after the event (or after the event became apparent) will be admitted only if the complainant can demonstrate that special circumstances apply which make it just and equitable to extend the time limit. In the event that the complainant does make a case for exceptional circumstances the decision on whether to admit it on this basis will be made by the Town Clerk.

5.2 Anonymous Formal Complaints

Anonymous complaints will not be investigated unless there is a strong and clear public interest in doing so.

5.3 Timings for dealing with formal complaints

The Town Council will try to adhere to the timings outlined in this procedure, but in the case of a complex complaint, or the absence of a member of staff who is involved in the complaint, may mean that the timings have to vary.

Should this occur then the complainant will be kept advised of the revised timescales.

5.4 Formal Complaints Procedure

All formal complaints must be made in writing (by post or through email) and addressed to the Town Clerk (or other nominated proper officer). They should be marked as confidential and will be treated as such by council officers.

If the complainant does not wish to put the complaint to the Town Clerk (or other proper officer), they may be advised to put it to the Chair of Council.

The complainant should set out in as much detail as possible: the circumstances surrounding their complaint, the individuals involved if appropriate, the timings of these circumstances, the basis for their complaint and if possible or appropriate, what outcome they seek as a result of their complaint.

On receiving the complaint the Town Clerk shall acknowledge the complaint and try to resolve the complaint directly.

The complaint will be logged with a deadline set and brief action plan of who is to be involved in reviewing the complaint, what information is needed and potential action to be taken.

The Town Clerk will endeavour to respond to the complaint with a resolution within 21 working days of the days of the letter. If necessary the Town Clerk will send a holding letter to the complainant to allow further time to address the issues.

The Town Clerk will provide an update at Full Council Meetings of any complaint received and the outcomes. All personal details will be excluded when reporting the complaint to council so as to ensure confidentiality is maintained.

If the complainant is satisfied with the resolution the complaint is closed.

If a complainant is unhappy with the outcome of their complaint, they have 21 working days from receipt of the outcome letter to notify the Town Clerk of this.

The Town Clerk will then arrange for the complaint to be considered and dealt with by an appointed Complaints Committee. The Complainant will be offered the opportunity to explain the nature of the complaint to the meeting.

5.5 Complaints Committee

The Complaints Committee will consist of three serving councillors, who shall be: the Chair or Deputy Chair of Council, the Chair or Deputy Chair of a council committee relevant to the substance of the complaint, one other councillor with relevant knowledge or experience of the relevant area of service (subject to exclusion via conflicts of interest, disclosable pecuniary interest etc).

The Town Clerk and other relevant officers required to hear the complaint and adequately service the meeting may also be present.

The Complaints Committee has delegated authority from the Town Council to review and decide on appeals made as a result of complaints against the council. The committee is subject to all of the normal meeting notification, agenda and minute requirements, as laid down in the Town Council's Standing Orders. It is expected that the committee will normally be able to meet within fourteen working days of being notified by the Town Clerk.

The meeting will exclude the public and press due to the confidential nature of its business.

5.6 Prior to the meeting

Seven clear working days before the meeting of the committee the complainant will provide the Town Council with copies of all documentation, or other evidence (such as photographs) that they intend to introduce to the review panel meeting. The Town Council will provide the same to the complainant.

The complainant will be notified of all council members and officer attending the meeting and their roles seven days before the meeting. The complainant is entitled to be accompanied by one other person, to offer support, and should notify the Town Clerk seven working days before the meeting.

5.7 At the meeting

The chairman of the committee shall introduce the everyone and explain the procedure to be used in order to consider the complaint made. The meeting should be as informal and friendly as possible, without prejudicing the need to consider properly the matter under discussion.

The committee will review the written material presented.

The parties will be given the opportunity to make representations:

The complainant (or representative) will be invited to outline the grounds for complaint and panel members given the opportunity to ask any question of the complainant.

If relevant, the Town Clerk (and/or other appropriate officer) will explain the council's position and panel members shall ask any questions of the Town Clerk, the complainant and such other persons as they see fit.

The complainant is to be offered the opportunity of a last word as a means of summing up their position.

The Town Clerk is to be offered the opportunity of a last word as a means of summing up their position.

The committee may decide that a recess and /or further meeting is required before a determination can take place, to gather more evidence or for any other reason.

The Town clerk and complainant shall be asked to leave the room while committee members decide whether or not the grounds for the complaint have been made. If a point of clarification is necessary, both parties should be invited back. In any case both parties return to hear the decision, or to be advised when the decision will be made.

The committee will issue a determination and a proposed resolution which shall be final. The final decision will also be notified in writing to the complainant within seven working days of the meeting.

At all times, every individual will be treated fairly and the process will remain reasonable, accessible and transparent.

The decision made by the committee is final and there are no further mean of appealing their decision within the boundaries of this procedure.

Abusive, unreasonable and vexatious complaints policy

1. Introduction

Dealing with a complaint is a straightforward process covered by the Council's complaints procedure above, but in a minority of cases people pursue their complaints in a way that is abusive to staff or can either impede the investigation of their complaint or have significant resource issues for the council. This can happen either as part of making the complaint, while their complaint is being investigated, or once the council has finished dealing with the complaint.

If this occurs as part of the making of a complaint (formal or informal), the incident will be dealt with using this policy.

We will not normally limit the contact which complainants have with council employees. It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It must be recognised that people may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.

2. Harassment

We do not expect staff to tolerate abusive, vexatious or unacceptable persistent behaviour by complainants.

The following behaviours will not be tolerated and apply to all of the access channels including: telephone, face to face, email, web form and social media:

Using abusive or foul language
Multiple contact to the service
Physical assault

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.

Even where an applicant displays abusive, vexatious or unacceptable persistent behaviour they can still make requests for information. These will be assessed according to the relevant access to information legislation, and there are grounds within the Freedom of Information Act to declare a request as vexatious in certain conditions. (Under The FOI Act Section 14 (1) public authorities do not have to comply with vexatious requests)

A user who constantly uses FOI as a tool could cause significant and ongoing distress to an individual and be perceived in a manner to intimidate and oppress that could lead to have a cumulative effect of undermining well-being and health in the workplace.

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.

3. Abusive, unreasonably persistent and/or vexatious: definitions

The Council defines abusive, vexatious or unreasonably persistent complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder our consideration of their or other people's complaints and the provision of services. The description 'abusive', 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.

Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.

Features of an abusive, unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, one single feature on its own does not necessarily mean the person will be considered as being in this category):

An abusive, unreasonably persistent and/or vexatious complainant may:

- have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious);
- refuse to specify the grounds of a complaint despite offers of assistance;
- refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (e.g. staff disciplinary issues; policy decisions);
- refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation);
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint);
- make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced;
- make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints;
- make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails);
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive language;

- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed;
- deny statements he or she made at an earlier stage in the complaint process;
- refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given;
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure;
- persistently approach the council through different routes about the same issue;
- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons;
- refuse to accept documented evidence as factual;
- complain about or challenge an issue based on a historic (more than a year old)
 - and irreversible decision or incident;
- have knowingly recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.

4. Imposing restrictions

We will seek to ensure that the complaint is being, or has been, investigated properly according to the corporate complaints procedure if possible

In the case of an abusive complainant, we may refrain from investigating the complaint until such time as the complainant stops the abusive behaviour.

In the first instance the Council officer will consult with the Town Clerk prior to issuing a warning to the complainant. The service manager or Town Clerk will contact the complainant either in writing, by phone or face to face to explain why this behaviour is causing concern, and ask them to change this behaviour. If a complainant has a disability, reasonable adjustments will be made if necessary. The council officer or Town Clerk will explain the actions that the council may take if the behaviour does not change. All telephone or face to face conversations will be documented.

If the abusive, vexatious or persistent unacceptable behaviour continues, the Town Clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the council in future will be restricted. The Town Clerk will make this decision and inform the complainant in writing of what Restrictions have been put in place and for what period.

Any restriction imposed on the complainant's contact with the council will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- banning the complainant from making contact by telephone except through a third party e.g. councillor/friend acting on their behalf;
- banning the complainant from using some council buildings to access services;
- banning the complainant from accessing any council building except by
- appointment agreed by relevant service manager;
- requiring contact to take place with one nominated single point of contact;
- restricting telephone calls to specified days / times / duration;
- requiring any personal contact to take place in the presence of an appropriate witness and/or advising that the conversation will be recorded;
- letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence);

In extreme circumstances, the Council may involve the Police. Where this is the case, the complainant will be advised that this is the course of action that the Council is taking and why

Examples include:

- abusive and threatening behaviour
- physical abuse
- refusal to leave the premises

When the decision has been taken to apply this policy to a complainant, the Town Clerk will contact the complainant in writing (and/or as appropriate) to explain:

- why we have taken the decision;
- what action we are taking;
- the duration of that action;
- the review process of this policy

The Town Clerk will enclose a copy of this policy in the letter to the complainant.

Where a complainant continues to behave in a way which is unacceptable, the

Town Clerk in consultation with the Councils Legal advisors may decide to refuse all contact with the complainant and stop any investigation into his or her complaint

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Town Clerk after three months and at the end of every subsequent three months within the period during which the policy is to apply. During this period an integrated restorative practice approach will be considered to try and find a positive way forward for all parties involved.

The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action.

5. New complaints from complainants who are treated as abusive, vexatious or persistent

New complaints from people who have come under this policy will be treated on their merits. The Town Clerk will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint.

We do not support a blanket policy of ignoring genuine service requests or complaints where they are founded

(This policy adopted by Hailsham Town Council; September 2017)