

# ST HELENS PARISH COUNCIL



## COMPLAINTS PROCEDURE

### PURPOSE

The purpose of a complaints procedure is to put things right if things go wrong. It is to be noted that parish councils have the power (i) to make a payment or (ii) to provide some other benefit where action amounts to or may amount to maladministration. 'Maladministration' is a broad concept. It has been described as including 'bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude and so on'.

A good complaints system 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 service improvement.

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.

It will not be appropriate to deal with all complaints from members of the public under a complaints procedure. The Council will consider engaging other procedures/bodies in respect of the following types of complaint:

Type of conduct	Refer to
Financial irregularity	Local elector's statutory right to object Council's audit of accounts pursuant to s.16 Audit Commission Act 1998. On other matters, councils may need to consult their auditor / Audit Commission
Criminal activity	The Police
Member conduct	In England a complaint relating to a member's failure to comply with the Code of Conduct must be submitted to the standards committee of the relevant principal authority. In Wales, any complaint about member conduct should be made to the Public Services Ombudsman.
Employee conduct	Internal disciplinary procedure

This formal procedure is designed for those complaints which cannot be satisfied by less formal measures or explanations provided to the complainant by the Clerk or Chairman.

**Habitual or Vexatious Complainants will be managed as per Appendix A to this Procedure.**

## **DEFINITION**

'A complaint is an expression of dissatisfaction by one or more members of the public about the council's action or lack of action 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.'

## **CONFIDENTIALITY**

The identity of a complainant should only be made known to those who need to consider a complaint. The Council will take care to maintain confidentiality where circumstances demand (e.g. where matters concern financial or sensitive information or where third parties are concerned).

## **TIMESCALES**

The following timescales will apply, unless circumstances suggest that the process of inquiry or natural justice would be better served by extension:

Initial acknowledgement to complainant	1 week (subject to staff availability)
Initial response based on preliminary inquiry	1 month from first acknowledgement
Committee or Council meeting if initial response rejected	2 months from first acknowledgement
Decision communicated in writing	7 days from decision being reached.

## **FORMAL PROCEDURE**

### **Before the Meeting**

1. The complainant should be asked to put the complaint about the Council's procedures or administration in writing to the Clerk.
2. If the complainant does not wish to put the complaint to the Clerk, he or she should be advised to address it to the Chairman of the Council.
3. The Clerk shall acknowledge receipt of the complaint and advise the complainant when the matter will be considered by the Council or by the Committee established for the purposes of hearing the complaint. The complainant should also be advised whether the complaint will be treated as confidential or whether, for example, notice of it will be given in the usual way (if, for example, the complaint is to be heard by a Committee meeting in public).
4. The complainant shall be invited to attend a meeting and to bring with them a representative if they wish.
5. Seven clear working days prior to the meeting, the complainant shall provide the Council with copies of any documentation or other evidence relied on. The Council shall provide the complainant with copies of any documentation upon which they wish to rely at the meeting and shall do so promptly, allowing the claimant the opportunity to read the material in good time for the meeting.

### **At the Meeting**

6. The Council shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press. Any decision on a complaint shall be announced at the Council meeting in public.
7. The Chairman should introduce everyone and explain the procedure.
8. The complainant (or representative) should outline the grounds for complaint and, thereafter, questions may be asked by (i) the Clerk and (ii), Members.
9. The Clerk will have an opportunity to explain the Council's position and questions may be asked by (i) the complainant and (ii), Members.
10. The Clerk and then the complainant should be offered the opportunity to summarise their position.
11. The Clerk and the complainant should 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 shall be invited back.
12. The Clerk and the complainant should be given the opportunity to wait for the decision but if the decision is unlikely to be finalised on that day they should be advised when the decision is likely to be made and when it is likely to be communicated to them.

### **After the Meeting**

13. The decision should be confirmed in writing within seven working days together with details of any action to be taken.

## APPENDIX A

### HABITUAL OR VEXATIOUS COMPLAINANTS POLICY

#### Introduction

1. This policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be “habitual or vexatious” and ways of responding to these situations.
2. In this policy the term habitual means “done repeatedly or as a habit”. The term vexatious is recognised in law and means “denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant”. This policy is intended to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.
3. The term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 and reference to the complaints procedure is, where relevant, to be interpreted as meaning requests under those Acts.
4. Habitual or vexatious complainants can be a problem for Council staff and members. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer and Member time and displace scarce human resources that could otherwise be spent on Council priorities. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

#### Habitual or Vexatious Complainants

5. For the purpose of this policy the following definition of habitual or vexatious complainants will be used:

The repeated and/or obsessive pursuit of

- a. Unreasonable complaints and/or unrealistic outcomes; and/or
  - b. Reasonable complaints in an unreasonable manner.
6. Prior to considering its implementation the Clerk will send a copy of this policy to the complainant to give them prior notification of its possible implementation.
  7. Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out at Schedule A below, the Clerk, following discussion with relevant Members, will bring a report to a full Council meeting to seek agreement to treat the complainant as a habitual or vexatious complainant and for an appropriate course of action to be taken. Schedule B below details the options available for dealing with habitual or vexatious complainants.
  8. The Clerk will notify complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. The Clerk will also notify the St Helens Ward Member/s that a constituent has been designated as a habitual or vexatious complainant.

9. Once a complainant has been determined to be habitual or vexatious, their status will be kept under review at quarterly intervals for one year and monitored by the Clerk with reports being given to the Council Members as required. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.

#### **Schedule A – Criteria for Determining Habitual or Vexatious Complainants**

10. Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet one of the following criteria:

Where complainants:

- a) Persist in pursuing a complaint where the Council's complaints process has been fully and properly implemented and exhausted.
- b) Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed.
- c) Are repeatedly unwilling to accept documented 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.
- d) Repeatedly do not clearly identify the precise issues which they wish to be investigated despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate.
- e) Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a trivial matter can be subjective and careful judgement will be used in applying this criteria.
- f) Display aggressive behaviour towards staff or members which may be expressed in verbal abuse or threatening, threatened or actual physical harm. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made
- g) Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax. Judgement will be used to determine excessive contact taking into account the specific circumstances of each individual case.
- h) Are known to have recorded meetings, or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- i) Make unreasonable demands on the Council and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practice.

- j) Make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint;
- clearly does not have any serious purpose or value; or
  - is designed to cause disruption or annoyance; or
  - has the effect of harassing the public authority; or
  - can otherwise fairly be characterised as obsessive or manifestly unreasonable.
- k) Make repetitive complaints and allegations which ignore the replies which Council Officers have supplied in previous correspondence.

### **Schedule B – Options for Dealing with Habitual or Vexatious Complainants**

11. The following options can be used singularly or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.
- a) A letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
- b) Decline contact with the complainant, either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact is maintained. This may also mean that only one named Member or officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this person.
- c) Notify the complainant, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.
- d) Inform the complainant that in extreme circumstances the Council will seek legal advice on habitual or vexatious complaints.
- e) Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual or vexatious, while seeking advice or guidance from its solicitor or other relevant agencies.

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