

Complaints Committee Terms of Reference

1. The function of this Committee is to deal with 'complaints' from the general public, against either the Parish Council as a body; or members of it, or its staff. It is also tasked with determining the appropriate method of dealing with each complaint, including those complaints by the Parish Council against others.

2. The NALC guidance for the handling of complaints, on which the Terms of Reference for this Committee have been based - give specific guidance on this decision in respect of :

- (i) Financial irregularity – Refer to local elector's statutory right to object to Council's audit of accounts pursuant to Section 16 Audit Commission Act 1998. On other matters, councils may need to consult their auditor or the Audit Commission.
- (ii) Criminal activity - Refer to the Police directly
- (iii) Member conduct. – In England: if the complaint relates to a failure to comply with the Code of Conduct, this must be submitted to the Standards Board (after Section 185 of the Local Government and Public Involvement in Health Act 2007 (when it comes into effect). Complaints about members' conduct must be made to the standards committee of the relevant principal authority [T&MBC]. (In Wales this would be made to the Public Services Ombudsman)
- (iv) Employee conduct – Refer to appropriate Internal disciplinary procedure

Definitions of the jurisdiction of the Local Government Ombudsman (LGO) are also given for guidance of both the Committee and for its members to assist the public. In summary these are:

- (i) The LGO has no jurisdiction in respect of Parish Councils
- (ii) Parish Councils are unable to lodge complaints, as a public body, about another local authority or public body, but this does not prevent individual councillors from making complaints in their 'personal' capacity. They may also, in their official capacity, represent members of the public in making complaints if so requested.

3. Councils need to be clear that they have, in fact, received a complaint; rather than a request for a service or a request for an explanation (of a decision), The following is submitted as a definition for the proposed Complaints Committee & associated Procedure:

“An expression of dis-satisfaction 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 or not the action was taken or the service provided by the council itself, or by a person or body acting on its behalf.”

Please note:

- complaints must be made in writing
- complaints must be made within twelve 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 adequate opportunity to investigate and reply to the complaint. (This usually entails completing that authority's complaints procedure)
- the Ombudsman may not investigate matters which are, or have been, subject to a right of appeal;
- the Ombudsman may not investigate matters where the complainant has, or has had a remedy by way of court proceedings

4. It is envisaged that BGPC Complaints Committee should consist of at least 3 (and possibly 5) councillors, dependent upon the nature of the complaint. Thus avoiding the need for FULL council assemblies, and is less daunting for complainants who choose to attend a meeting in person.

[None of these can be the Council Chairman or Vice Chairman in the first instance, as they will form higher level referees]

5. The procedure will be time-scale driven and clearly some flexibility within the overall procedure is required to deal with lengthier and more complex complaints.

6. 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.

7. The purpose of the procedure is to provide remedies if things do go wrong, and to advise the full Council of the findings of the Complaints Committee with a recommendation as to action required to prevent re-occurrence.

8. The resultant and “approved” Complaints Procedure should become part of BGPC Standing Orders. It should be; easy to use, well publicised, fair and objective, applied consistently and be quick, thorough and rigorous. Also that it is fully supported by the Councillors.

[The identity of a complainant should only be made known to those who need to consider a complaint; and certainly where matters of financial, sensitive information, and where third parties are involved.]

10/10/08

Adopted by BGPC 04.04.11 item 193(vi)

COMPLAINTS PROCEDURE

Before the Meeting

1. The Complainant – should be asked to put the complaint about the BGPC'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 BGPC
3. The Clerk shall acknowledge receipt of the complaint and advise the complainant when the matter will be considered by the Complaints Committee and when they will report to full council. (if possible give the date, venue and time of the next BGPC Meeting. The complainant should also be advised whether or not the complaint will be treated as confidential.
4. The Complainant shall be invited to attend the meeting of the Complaints Committee, and bring a representative with them if they wish.
5. Seven clear days prior to the meeting the complainant shall provide to BGPC copies of any documentation or other evidence relied on. BGPC shall provide to the complainant with copies of any documentation upon which they wish to rely at the meeting and shall do so promptly, allowing the complainant the opportunity to read the material in good time for the meeting.

At the Meeting

6. BGPC shall consider whether or not the circumstances of the meeting warrant the exclusion of the press and /or public. Any decision on a complaint shall be announced at the full council meeting in public. [after the Complaints Committee has given its recommendation to full council]
7. The Chairman of the Complaints Committee 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, (ii) the Committee Chairman and then (iii) Members.
9. The Clerk, or Committee Chairman, 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 (or Chairman) and then the complainant should be offered the opportunity to summarise their respective positions
11. The Clerk and the complainant should be asked to leave the room while members decide whether or not the grounds for complaint have been satisfied. 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 Committee's deliberation, and (if possible) the nature of the Committee recommendation to full council. Always with the proviso that "it is only a recommendation to full Council and still subject to a vote by the Members". The date, time & place of the next Council meeting being advised at the same time.

After the Meeting

13. The decision should be confirmed within seven working days (of the next BGPC Meeting) together with details of any action taken or remedy to be put in hand.