

# AVENBURY PARISH COUNCIL

## COMPLAINTS PROCEDURE

### **Introduction**

Pursuant to Local Government Act 1974, the Local Government Ombudsman (LGO) has no jurisdiction over parish and town councils in England. Consequently, there are no statutory mechanisms in place should complaints be made against local councils in England. This document lays down the procedure that this council will adopt in the event of a complaint being made by a member of the public.

*When complaints policy is not appropriate*

It is not appropriate to deal with all complaints from members of the public under this complaint's procedure. Council will refer the following situations to other bodies or use other procedures in respect of the following complaints.

<b>Financial irregularity</b>	Local elector's statutory right to object to Councils' audit of accounts pursuant to s.16 Audit Commission Act 1998. Council may need to consult the auditor or the Audit Commission
<b>Criminal Activity</b>	The Police
<b>Councillor conduct</b>	If the complaint is related to a failure of a councillor to comply with the Code of Conduct, this must be submitted to the Monitoring Officer, Standards Committee of Herefordshire Council.
<b>Employee conduct</b>	Internal employment procedure (See note below)

**Note:** A formal complaint is a serious matter. A complaint against a member of the Council's staff could result in disciplinary action, or in cases of gross misconduct, dismissal from the Council's employment. The Council will not under any circumstances enter into any correspondence, or discussion, with any complainant about any action taken, formally or informally against any member of its staff. This is expressly to protect the employment rights to which all employees of the Council are entitled.

## ***Policy for when complaints procedure is appropriate***

### **A. Making a complaint**

If a complaint about procedures or administration is notified orally to a Councillor or The Clerk, they should seek to satisfy the complaint fully. If that fails, the complainant should be asked to put the complaint in writing to The Clerk and be assured that it will be dealt with promptly after receipt.

If the complainant prefers not to put the complaint to The Clerk, he or she should be advised to put it to the Chairman.

On receipt of a written complaint, The Chairman or The Clerk (except where the complaint is about his or her own actions), shall try to settle the complaint directly with the complainant. Effort should be made to attempt to settle the complaint at this stage. Complaints about an employee of the Council will be dealt with as an employment matter.

The complainant should be asked to put the complaint about the council's procedures or administration in writing to the Clerk. If the complaint refers to any area in table above, it will be dealt with as shown.

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 or, in the event of a complaint being made about the Chairman, to the Vice-Chairman.

### **B. Council's response**

The Clerk shall acknowledge receipt of the complaint and advise the complainant when the matter will be considered by the council. The complainant should also be advised of the Council's procedure for dealing with the complaint

A Complaints Panel comprising of five councillors will be convened by the Clerk to hear the complaint. The Council aims to hear complaints within 21 days of receipt.

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***

The complainant can either attend the meeting or make written representations. If the complainant wishes to attend the meeting, he or she can bring a representative but must inform the Council advance of this and who their representative will be.

- At the meeting the complainant will be given a reasonable amount of time outline the grounds for complaint and, thereafter, questions may be asked by the Clerk and councillors.
- The Clerk will have an opportunity to explain the council's position and questions may be asked by the complainant and councillors.
- The Clerk and then the complainant should be offered the opportunity to summarise their position.
- The Clerk<sup>1</sup> and complainant should be asked to leave the room while the Panel 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.
- The Clerk and 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.
- The decision should be confirmed in writing within seven working days together with details of any action to be taken.
- Any decision on a complaint shall be announced at the council meeting in public.

### ***Appealing the decision***

**Note: it is not the purpose of the appeals process to re-hear a complaint solely because the complainant disagrees with the Panel's decision. Grounds for appeal must be made in writing. (The Clerk can assist the complainant with this if required) Appeals will be heard if the complainant can show that the original decision was flawed either in the way the process was handled, failed to take all aspects of the complaint fully into account or the decision could be considered unreasonable. The Chairman (or Vice-Chairman in the event of the complaint concerning the Chairman) will decide if an appeal is to be heard on the basis of the written grounds for appeal.**

- Appeals will be heard by full council
  - The council shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press.
  - The Chairman (or Vice-Chairman in the event of the complaint concerning the Chairman) should introduce everyone and explain the procedure.
  - The complainant (or representative) should outline the grounds for appeal and, thereafter, questions may be asked by the Clerk and councillors.
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- The Complaints Panel making the original decision will explain the reasons for the original decision and may be asked questions by the complainant and

councillors.

- The Clerk, the complainant and the Complaints Panel should be asked to leave the room while councillors decide whether or not the grounds for the appeal have been made. If a point of clarification is necessary, both parties should be invited back.
- The Clerk and complainant should be given the opportunity to wait for the decision
- The decision should be confirmed in writing within seven working days together with details of any action to be taken.
- The Council's decision is final.

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<sup>1</sup> Complaints decisions are for councillors alone to make. It is important that the Clerk is not seen to be party to the decision hence the requirement that Clerk leaves the meeting at this point.