

# STAPELEY & DISTRICT PARISH COUNCIL

## COMPLAINTS PROCEDURE

### INTRODUCTION

The following procedure, which is based on the framework suggested by the National Association of Local Councils and Legal Topic Note 9E (June 2014), has been adopted for dealing with complaints about the Council's administration or its policies and procedures, or a complaint against the Clerk.

#### (i) **What is the purpose of a Complaints Procedure?**

Residents who live in, or near the Parish Council's area and who are affected by the Council's decisions are likely to be the main users of the Complaints Procedure. It is generally in the interests of the complainant and the Council to try to resolve the matter informally through the normal channels of communication, rather than use of the formal Complaints Procedure.

#### (ii) **What is a complaint?**

Generally, this will be about the Parish Council's procedures or administration. It will be 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) by the Parish Council or a person or organisation acting on behalf of the Council. If you wish to 'complain' about, for example, street lighting or road conditions please note that these form part of the Parish Council's business and should be dealt with through the Clerk.

When a complaint is made against the Council, Members of the Council or staff are likely to be mentioned or complained about. However, a complaint against the Council should be treated as a complaint against the body corporate of the Council and not as a complaint against the Clerk or individual Members of the Council.

Complaints should always be directed through the Clerk (except for complaints about the Clerk, in which case, the Chairman takes the place of the Clerk in managing the process). It may be that the matter you are concerned about could be dealt with in a less formal manner. However, if you wish to use the procedure, please read on.

#### (iii) **Making a complaint**

We cannot please everyone all the time. What we can promise is to listen and to do what we can to deal with your problem.

If your complaint is about procedures, administration or Council's decisions, please report your complaint in writing to the Clerk to the Council ([carol.jones@stapeleyparishcouncil.gov.uk](mailto:carol.jones@stapeleyparishcouncil.gov.uk)) following which a record of the complaint will be made, noting your name and contact details and the nature of the complaint.

The information in your complaint should include the following:

- (a) Details of the complaint including relevant events, dates, names of councillors (if the subject of the complaint) or staff (i.e. the Clerk) or contractors of the Council etc;
- (b) Your contact details.

When your complaint has been received, we will write to you **within seven days** to let you know -

- ◆ **Who** is responsible for dealing with the complaint.
- ◆ **How** it will be dealt with.
- ◆ **When** the complaint is likely to be dealt with.

(iv) **When is the Complaints Procedure not appropriate?**

Alleged financial irregularity	Local electors have a statutory right to object to a Council's audit of accounts (S.126 Audit Commission Act 1998).
Alleged criminal activity	The Police

(v) **What to do .....**

Complaints can be made in any of the following ways –

- 1 Write or e-mail the Clerk to the Parish Council - Carol Jones (e-mail as above and Tel: 01270 812065). If you wish to write a letter rather than e-mail, please contact the Clerk for her address.
- 2 Write to the Chairman of the Parish Council (see website for details)
- 3 If the complaint is about the Clerk, telephone or write to the Chairman.

(vi) **What happens next?**

On receipt of your written complaint, the Clerk to the Council will seek to settle the complaint direct with you by explaining the Parish Council's position which might include setting out the policies and procedures, if this is appropriate. Attempts will be made to resolve the complaint at this stage.

Generally speaking, complainants can expect to receive a response in full within a month of the acknowledgement of the complaint.

(vii) **Data Protection and Confidentiality**

To ensure compliance with its obligations under the Data Protection Act 1998, the identity of the complainant, contact details or other personal data cannot be disclosed unless the complainant consents. Even where a complainant consents, there will be obligations on the Council not to release certain types of information.

(viii) **Complaint about the Clerk**

If the complaint is about the Clerk to the Council, you should write to the Chairman.

The Clerk will be formally advised of the matter and given an opportunity to comment.

Complaints against the Clerk will be dealt with as an employment matter either by the Parish Council as a whole or the Complaints Committee. Such complaints could result in disciplinary action; or in cases of gross misconduct, dismissal from the Council's employment. The matter will be dealt with internally to protect the employment rights to which employees of the Parish Council are entitled.

The complainant will be informed of the outcome to the extent that either the complaint was upheld or dismissed.

(ix) **Complaint about the ethical behaviour of a parish councillor**

Members of Parish Councils sign a declaration to abide by a Code of Conduct and if they breach that code, there are consequences. The Parish Council's Complaints Committee will deal with such complaints. In these circumstances, if the parish councillor about whom a complaint is made, is a Member of the Complaints Committee, he/she will not be permitted to hear the complaint.

You will be informed of the outcome and if you are not satisfied, will be able to complain to Cheshire East Council's Monitoring Officer who will consider the complaint and, if appropriate, refer it to the CEC Standards Committee. Please use the Cheshire East Council website for guidance on how to make your complaint ([www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)).

(x) **Unreasonable and Vexatious Complaints**

There will be circumstances when a complainant persists in wishing to pursue a complaint when it clearly has no reasonable basis, or when the Council has already taken reasonable action in response, or where some other process, whether through the courts or some other recognised procedure, should, or has been taken. These matters will be referred to the Complaints Committee by the Clerk with a summary of the issues and of the attempts made to resolve the complaint. The Committee may, in such circumstances, decide that no further action can usefully be taken in response to the complainant and inform the complainant, making it clear that only new and substantive issues will merit a response.

(xi) **Anonymous Complaints**

Anonymous complaints will be disregarded.

(xii) **How will the procedure operate?**

Complaints about the Council's procedures, administration or policies will be dealt with by the Parish Council's Complaints Committee which has delegated power to deal with all complaints; the outcome of the complaint will be published. The following is the procedure, unless it relates to a complaint about the Clerk, in which case, as noted in (viii) above, it will be dealt with as an employment matter.

- The Clerk will acknowledge receipt of your complaint within 7 working days and will also advise when the matter will be dealt with by the Complaints Committee.
- You will be invited to attend the meeting and to bring any representative if you wish.
- 7 clear working days prior to the meeting, you are requested to provide the Parish Council with copies of any documentation or other evidence which you wish to refer to at the meeting. Similarly, the Parish Council will provide you with copies of any documentation which it wishes to rely on at the meeting.

(xiii) **Procedure at the Meeting**

- The Complaints Committee will consider whether the circumstances of the meeting warrant the exclusion of the press and public.
- The Chairman will introduce everyone and will explain the procedure.
- You, as the complainant, or your representative, will outline the grounds for your complaint.
- Members of the Complaints Committee will ask questions of you or your representative.
- If relevant, the Clerk will explain the Parish Council's position.
- Members of the Committee will be able to ask questions of the Clerk to the Council.
- The Chairman (or the Clerk) will summarise the Parish Council's position and then you will be offered the opportunity of summing up.
- You will then be asked to withdraw from the meeting (together with your representative or anyone accompanying you) whilst Members reach a decision on whether or not the grounds for the complaint have been made.
- If any points of clarification are required, you will be invited to re-join the meeting whilst clarification is sought and then asked to withdraw again.
- You will then re-join the meeting to be advised of the decision of the Committee, together with reasons for the decision, or, if necessary, to be advised when a decision will be made.

- Dependent on the detail of the reasons for the decision, it might be possible to give you the decision only at the meeting, with the detailed reasons following in the decision letter.

(xiv) **After the meeting**

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

(xv) **What to do if you are still not satisfied....**

If you are dissatisfied with the outcome, you can appeal the decision which can be reviewed by the full Parish Council, but will exclude those Members of the Complaints Committee who heard the complaint at first instance.

The appeal will follow the same procedure as the Complaints Committee meeting.

You should note that the Local Government Ombudsman **does not consider** complaints in respect of Parish Councils.

If you are still not satisfied after the full Parish Council has heard the complaint, the Cheshire Association for Local Councils, of which the Parish Council is a member, can act as a conciliator where there are disputes between the Council and members of the public.

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