



Peacehaven Town Council

Peacehaven Town Council - Complaints Procedure

1. Introduction and duties

- 1.1 It remains the position that the Local Government Ombudsman has no jurisdiction over Parish, Town and Community Councils in England and Wales. The National Association of Local Councils (NALC) in Legal Topic Note 9 has issued guidance (December 2018) for local councils. This policy is based on that guidance.

2. Guidelines

- 2.1 It will not be appropriate to deal with all complaints from members of the public under a complaints procedure. Councils should 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 to council's audit of accounts pursuant to s.16 Audit Commission Act 1998. On other matters, councils may need to consult with their auditor / audit commission. |
| Criminal activity | The police |
| Councillor conduct | A complaint relating to a Councillor's failure to comply with the Code of Conduct must be submitted to the District Council Monitoring Officer. |
| Employee conduct | Dealt with by internal disciplinary procedure |

- 2.2 The code of practice that follows is therefore aimed at those situations where a complaint is made 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. The code of practice is designed for those complaints that cannot be satisfied by less formal measures or explanations provided to the complainant by the Clerk.
- 2.3 In the first instance 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. This code of practice is designed for those complaints that cannot be satisfied by less formal measures. Appendix 1 details the process that all complaints should follow (other than those specifically mentioned under 2.1) and what those informal steps should be.

3. The code of practice

3.1 The aims of the code of practice are:

- To provide a standard and formal procedure for considering complaints either made by complainants directly or which have been referred back to the council from other bodies.
- To ensure that complainants feel satisfied that their grievance has been properly and fully considered.
- To make the process reasonable, accessible and transparent.
- At all times, the rules of natural justice will apply:
 - i. That every person whose civil rights are affected, must have a reasonable notice of the case they have to meet.
 - ii. That they must have reasonable opportunity of being heard in their defence.
 - iii. That the hearing must be by an impartial tribunal.
 - iv. That the authority must act in good faith and not arbitrarily.
 - v. The order should be a speaking order.
- All complaints shall be heard by the council's complaints panel, which shall consist of three (3) Councillors, and shall report its findings to Peacehaven Town Council.

4. Before the meeting

- 4.1 The complainant shall be asked to put the complaint about the council's procedures in writing to the Clerk.
- 4.2 If the complainant does not wish to put the complaint to the Clerk (as it may relate directly to the Clerk), they may be advised to put it to the Mayor in writing, marked private and confidential.
- 4.3 The Clerk/Mayor shall acknowledge the receipt of the complaint within ten (10) working days and advise the complainant when the matter will be considered by the complaints panel.
- 4.4 The complainant will be asked if they want the complaint to be treated confidentially. If the complainant waives confidentiality, the Council must comply with its obligations under the Data Protection Act 1998 to safeguard against the unlawful disclosure of personal data.
- 4.5 The complainant shall be invited to attend the relevant meeting (hearing) and bring with them such representatives as they wish.
- 4.6 Within ten (10) working days, if thought necessary, the complainant shall be invited to a meeting of the panel and can bring with them such representation as they wish.
- 4.7 The meeting will be arranged within ten (10) working days of the invitation letter.
- 4.8 Within five (5) working days of the meeting the complainant shall provide the Clerk/Chair of Council with any new information or other evidence relevant to the complaint and the Clerk/ Chair shall provide the complainant with new information or evidence relevant to the complaint.

5. At the meeting

- 5.1 The complaints panel shall consider whether the circumstances of the meeting warrant the exclusion of the press and public. Any decision on a complaint shall be announced at the next Council meeting in open session.
- 5.2 The Complaints Panel will appoint a Chairman from one of its members.
- 5.3 The panel chairman to introduce everyone and explain the procedure.
- 5.4 Complainant (or representative) to outline grounds for complaint.
- 5.5 Panel members to ask questions of the complainant.
- 5.6 If relevant, the Clerk or other nominated officer, to explain the council's position.
- 5.7 Panel members to ask questions of the Clerk or other nominated officer.
- 5.8 The Clerk or other nominated officer and complainant to be offered the opportunity of having a final word (in this order – i.e. Town Clerk/officer followed by complainant).
- 5.9 The Chair of the panel and the complainant will have the opportunity of summarising their respective positions.
- 5.10 The Chair will inform the complainant that they will receive the decision and the panel's reasons, in writing, within five (5) working days of the complaints meeting (hearing).

6. After the meeting

- 6.1 Decision confirmed in writing within five (5) working days giving reasons for the decision, together with details of any action to be taken by the Council if appropriate. If the complainant is not happy with the decision they should be informed they have the right to appeal the decision in writing within ten (10) working days of the date of the decision letter.

7. Appeal Process

- 7.1 An appeal will be heard by an Appeal Panel consisting of three (3) appointed Councillors who have not been involved in the case. The appeal panel will appoint a Chairman from one of its members.
- 7.2 Generally, within a reasonable period of time, e.g., five (5) working days of receipt of a written appeal, the complainant shall be invited to a meeting of the panel and can bring with them such representation as they wish.

8. Appeal Meeting

- 8.1 The Chair of the panel will introduce everyone and explain how the meeting will proceed.
- 8.2 The complainant (or representative) will outline the grounds for appealing against the decision of the Complaints Panel.
- 8.3 Panel members may ask questions of the complainant.
- 8.4 The Chairman will inform the complainant that they will receive the decision and the panel's reasons, in writing, within five (5) working days of the appeal meeting.
- 8.5 The Appeal Panel may decide to uphold the decision of the Complaints Panel or substitute its own decision.
- 8.6 The decision of the Appeal Panel is final.



Initial steps for managing a complaint

