



Leigh-on-Sea Town Council

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COMPLAINT'S PROCEDURE

(SECTION 13 OF STAFF HANDBOOK)

ADOPTED 2020 as part of Staff Handbook

REVIEW 2023

13. Complaints

13.1 Introduction

The following Code of Practice in Handling Complaints is based on a model code promoted by the National Association of Local Councils.

These paragraphs i.e. Chapter 13 can be given out to members of the public on request.

From time-to-time members of the public have complaints about the Council's administration or procedures. Local Councils as corporate bodies are not subject to the jurisdiction of the Local Government Ombudsman and there are no provisions for another body to which complaints can be referred. Therefore it is recommended for transparency in local government, and for the benefit of good local administration, that a standard procedure is adopted for considering complaints.

Leigh-on-Sea Town Council will do its utmost to settle complaints and satisfy complainants in the interest of the good reputation of the Council, and to ensure that the complainant feels their grievance has been fully considered, taken seriously and acted upon accordingly.

13.2 Information for the Complainant

It is hoped that any complaints can be satisfactorily resolved at a local level but complainants should bear in mind that even if a complaint is upheld, the Council does not have the authority to formally discipline a Councillor for breach of the Code of Members Conduct.

For complaints about Councillors, the complainant is welcome and encouraged to contact the Town Clerk or the Chairman of the Council to discuss matters informally prior to deciding whether to officially register a complaint. All Councillors are required to observe and act within the parameters of the Members Model Code of Conduct.

The Monitoring Officer acts for the Standards Committee of Southend Borough Council which has responsibility for all Town Councillors within their district, as well as the Borough Councillors. Complaints in respect of Councillors and for breaches of the Model Code of Conduct should be directed to the Monitoring Officer.

The provisions of the Data Protection Act 1998 as well as the Freedom of Information Act 2000 must be borne in mind in dealing with all complaints.

What is deemed not to be a complaint?

- Dissatisfaction of a decision of the Council
- Comments either commendatory or critical where the complainant does not wish to take the matter further
- Matters relating to formal consultation exercises such as planning and licensing applications and local plans.
- Concerns regarding matters which are the responsibility of another body
- Criticisms of a policy adopted by the Council

Other bodies have responsibility for certain types of complaint. These are summarised below:

- Alleged financial irregularity – Local electors have a statutory right to object to a Council's audit of accounts (s.16 Audit Commission Act 1998)
- Alleged criminal activity – The Police
- Members' conduct alleged to breach the Code of Conduct adopted by the Council – Southend Borough Council is responsible for handling complaints that relate to a member's failure to comply with the Code.

13.3 Procedure

All complaints will be deemed to be 'Informal Complaints' unless a written complaint expressly states 'Formal Complaint'.

13.3.1 Informal Complaints

Complaints may be given orally or in writing to any Officer or Councillor but are to be dealt with by the Town Clerk. Where the complaint is about the Town Clerk, the complaint should be notified to the Chairman of the Council.

The complainant should be offered a copy of the Council's Complaints Procedure for Handling Complaints at this stage.

It is hoped that the complaint can be dealt with at an informal local level in consultation with the employee to whom it refers. The response should be given to the complainant within 3 days. If an employee is found to have been at fault during the course of the investigation, this may lead to action under the Capability or Disciplinary processes

If after receiving the response, the complainant remains unhappy, they can escalate the matter to a Formal Complaint.

In the event of a seemingly serial facetious, vexatious or malicious complaint from a member of the public, the Council should consider taking legal advice before writing any letters to the complainant and refer to the Council's Vexatious Complaints Policy.

13.3.2 Formal Complaints

If the complainant feels very strongly about a matter, they may lodge a Formal Complaint with the Council and this should be submitted in writing to the Town Clerk. Where the complaint is about the Town Clerk, the complaint should be notified to the Chairman of the Council.

The letter must state that a Formal Complaint is being made and include the following information:

- Name, address, and telephone number of the complainant
- Who is the complaint about or the full nature of what the complaint is about
- How the issue has affected the complainant
- Copies of any relevant documents
- Details of third parties and their involvement
- What action the complainant believes might resolve the complaint

Receipt of the letter will be acknowledged within 2 working days and the complainant advised that the Town Clerk will investigate the complaint and respond within 10 working days. The complainant should be offered a copy of the Council's Code of Practice for Handling Complaints and a meeting with the complainant may be considered appropriate at this stage.

The Council expects staff to respond positively and professionally to any complaint they receive and act in accordance with the process. Staff should give appropriate assistance and information to an investigation into a complaint. If it is considered that any member of staff might have acted inappropriately then they will be informed of this and that this will be looked into further, if necessary, as an investigation under the Capability or Disciplinary processes.

Any complaint about a Council employee will normally be dealt with as an employment matter in accordance with the employee's Contract of Employment and, if appropriate, by the Council's disciplinary and capability procedures.

13.3.3 Complaints Panel

If the complainant feels that the matter has not been resolved fully after lodging a Formal Complaint to the Town Clerk then they may request in writing that a Complaints Panel be convened to consider the complaint.

On receipt of the written complaint, the Town Clerk will acknowledge the letter and advise that the Complaints Panel will call a meeting to discuss the complaint within 15 working days of receipt of the letter.

The Complaints Panel comprises of the Chairman, the Vice Chairman of Council and the Chairman of the Staffing Committee. The Town Clerk will also be in attendance to represent the Council. If any of the aforementioned are involved in the complaint investigation they will be excluded from the Complaints Panel and another Councillor may be delegated in their place.

The complainant will be notified of the date of the meeting and asked for their comments, evidence and documentation in writing prior to the meeting. They, or their representative, will be able to address the Panel Committee however must leave the room whilst the Panel Committee considers the complaint and its decision and response. The Panel Committee must establish at its meeting whether there is a factual basis to the complaint and, if so, what action should then be taken.

Once a decision has been made the complainant will be advised in writing of the recommendations of the Panel within 5 working days.

The Council may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The complainant will be advised in writing of this delay. The advice will be considered and the complaint dealt with at the next appropriate meeting.

13.3.4 Appeals

The Council will appoint a separate Appeal Panel to whom a complainant may appeal against the decision of the Complaints Panel. The membership of the Appeal Panel will not include any member of the Complaints Panel, nor any Councillor involved in the original complaint. The Town Clerk will be in attendance to represent the Council.

Requests to refer the decision of the Complaints Panel to the Appeal Panel must be made in writing to either the Town Clerk or Chairman of the Council within 10 working days of receipt of the decision letter.

An appeal hearing will be arranged within 20 working days of receipt of the appeal letter. A meeting of the appeal Panel will convene to investigate the whole complaint again. The Appeal Panel must follow the same procedure outlined in this document.

The Chairman will respond in writing within 15 working days. This decision is final and there is no further right of appeal. However, where all parties agree that there would be some merit in referring the matter to a third party for advice, conciliation or arbitration, arrangements will then be made to find a mutually acceptable third party.

13.4 Recording of Complaints

For future reference and in the interest of continually improving the Council's service, also for the sake of transparency of the Council), when complaints have been dealt with under the Complaints Procedure, it will be recorded by the Town Clerk. The name of the complainant will be reported only if they have given their consent to be mentioned. The record should note the nature of the complaint, the reasons for the decisions made and what actions might need to be taken in the future (if any).