

# KIRKBY FLEETHAM WITH FENCOTES PARISH COUNCIL

## COMPLAINTS PROCEDURE

### Introduction

1. The Local Government Ombudsman provides the following definition of a complaint:

*“A complaint is an expression of dissatisfaction by one or more members of the public about the council’s action or lack of action about the standard of 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.”*

2. Residents who live in or near a council’s area and who are affected by a council’s decisions are likely to be the main users of a council’s complaints procedure. The complaint’s procedure is also available to other individuals, organisations or unincorporate bodies.

3. The Parish Council will investigate a complaint from a person, or their nominated representative, if it is one of the following:

- a. An expression of dissatisfaction about the failure to provide or meet the expected standard of a service.
- b. Neglect or delay in responding to a contact with the Council.
- c. Failure to observe the Parish Council’s policies or procedures.
- d. Discourteous or dishonest conduct by a member of staff.
- e. Harassment, bias or discrimination.

4. When a complaint is made against the Parish Council, member(s) of the council or staff are likely to be mentioned or complained about. However, a complaint against the Parish Council should be treated as a complaint against the body corporate of the council, not as a complaint against individual councillors or staff.

5. Complaint handling shall take no longer than 12 weeks from receipt to resolution.

6. A complaint relating to an individual Councillor’s failure to comply with the Parish Council’s Code of Conduct must be submitted to the Monitoring Officer at North Yorkshire Council.

7. A complaint relating to a Parish Council employee should be dealt with through the Parish Council’s internal disciplinary and grievance processes.

8. On occasions it may be necessary to notify the Parish Council’s insurers of a complaint immediately so that the council takes instructions as to how best to respond to the complainant. This would be appropriate if a complainant was seeking redress for personal injury, damage to property or other financial loss or where the council is at risk of being held liable in law to pay damages.

### Informal Resolution

9. The Clerk (Proper Officer) must advise the Chairman on receipt of any complaints. It is generally in the interests of the complainant and council to try and resolve the matter informally through the normal channels of communication, rather than deferring to the council’s formal complaints procedure. If together they agree that an unpretentious letter of explanation or apology, if appropriate, from the Clerk will answer the complaint (within 10 working days), then

this shall be the first course of action. However, if the complaint is of a more serious nature and could bring into question the conduct of the Council or Clerk, then the formal complaints procedure should be followed.

### **Data Protection and Confidentiality**

10. To ensure compliance with the Data Protection Act 2018, the council cannot disclose the identity, contact details or other personal data about an individual complainant unless they consent. The council shall ensure that agendas and minutes do not disclose the complainant's personal data, sensitive or confidential information that relates to an individual complainant or a third party.

11. A complaint against a local council is personal to the complainant and will be treated as confidential unless the complainant waives the right to confidentiality.

### **Formal Complaints Procedures**

12. All formal complaints against the council must be communicated in written letter format.

13. As a minimum the letter requires the complainant to confirm the detail of their complaint, including relevant events, dates, resolution they seek, names of relevant members, staff or contractors of the council and their personal contact details.

14. If the complainant does not wish to put the complaint to the Clerk, they will be asked to address the complaint to the Chairman of the Parish Council.

15. The Clerk or Chairman will acknowledge receipt of the complaint and advise the complainant as to when the matter will be considered by the Parish Council. The complainant should be advised whether the complaint will be treated as confidential or whether notice of it will be given at the next Full Parish Council meeting, and confirm the next steps of the complaint's procedure.

16. The formal complaint will be considered at the next meeting of the Council. If more than twenty-one days is to lapse between receipt of the complaint and the next meeting of the Council, the Chairman will convene an extraordinary meeting of the Council to receive and hear the complaint.

17. The meeting item of the Parish Council to considering the complaint will need to exclude the public.

18. If a complainant has threatened legal action against the Parish Council or legal actions have already begun the Council will seek professional legal advice about how best to respond to the complaint.

19. The Clerk, will need to investigate the facts of the complaint on behalf of the Parish Council and collate related evidence.

20. 7 clear working days prior to the meeting:

a. The complainant shall provide the council with copies of any documentation or other evidence, which they wish to refer to at the meeting.

b. The Parish Council shall provide the complainant with copies of any documentation to which they will refer at the meeting, allowing the complainant the opportunity to read the material in advance of the meeting.

21. At the meeting, the Council will consider the complaint and will also include on the agenda the appointment of three members to a committee with delegated power to continue

handling the complaint (if necessary). The committee will have full delegated power to bring the complaint to a conclusion. The Council will also resolve which member will be the Chairman of the Committee.

22. The Council (and/or Committee with delegated power) may appoint an independent person to the committee if it resolves to do so, as an independent impartial arbitrator.

23. After the meeting, the Clerk/Chairman will write to the complainant explaining the outcome of the Council's consideration of the complaint and explaining how to take matters further if they believe this is necessary.

24. If the complainant wishes to pursue the matter, he/she must notify the Council in writing with his/her reasons for wanting to do so and a meeting of the complaints committee will be convened for the purpose of investigating the complaint further.

25. Notice of the committee meeting will be advertised in the usual way to members of the committee, i.e. a summons and with three clear days' notice. A public notice will also be displayed in the usual way, i.e. posted in a conspicuous place in the parish and giving three clear days' notice.

26. Complainants will be asked by formal letter to attend the committee meeting and will be informed that they may be accompanied by another person.

27. On commencement of the complaint hearing, the Chairman will introduce everyone present and explain the complaints procedure.

28. The complainant or their representative will outline the grounds for their complaint, disclose and present evidence supporting their complaint. Questions may be asked by the Clerk and then Councillors.

29. If appropriate, the Clerk will explain the Parish Council's position and talk through all of the council's supportive documentation.

30. Members of the committee will be invited by the Chairman to ask questions of the complainant.

31. The Chairman of the Complaints Committee and then the complainant will summarise their respective positions.

32. Clerk and complainant to be asked to leave the room while Councillors decide whether or not there are grounds for the complaint. If further clarification becomes necessary, both parties are to be invited back into the room.

33. Clerk and complainant return to the room to hear the decision or to be advised when the decision is likely to be made and when and how it is to be communicated to them.

### **Determination of Complaint**

34. If the Parish Council upholds the complaint the council will give the complainant an explanation of the matters complained of. It may decide to apologise to the complainant. It may offer a remedy which, as far as possible, puts the complainant back into the position they would have been in but for the matter complained of. In addition, the council may explain what steps it intends to take to reduce the risks of the matters being complained of repeated.

35. The Clerk/Chairman will write to the complainant within 7 working days to confirm whether or not it has upheld the complaint. The Parish Council will give reasons for its decision together with details of any action to be taken by the council, if this is appropriate.

36. Any decision on a complaint will be announced at the next available Parish Council meeting in public.

37. Minutes of the committee meeting will be kept and will be available to all parties involved in the complaint.

### **Appeals**

38. As a small council with few members, it is impractical to offer a two stage complaints process, accordingly, there is no right to appeal the decision of the Parish Council.

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