

# 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. 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.
4. Complaint handling shall take no longer than 12 weeks from receipt to resolution.
5. 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 Hambleton District Council.
6. A complaint relating to a Parish Council employee should be dealt with through the Parish Council’s internal disciplinary and grievance processes.
7. 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

8. 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

9. 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 agenda’s and minutes do not disclose the complainant’s personal data, sensitive or confidential information that relates to an individual complainant or a third party.
10. 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

11. All formal complaints against the council must be communicated in writing.
12. 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.
13. 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.
14. The Clerk 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.
15. The Clerk, and / or Nominated Officer, will need to investigate the facts of the complaint on behalf of the Parish Council and collate relevant evidence.
16. The complainant will be invited to attend the relevant meeting (they may bring a representative with them).
17. 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.
18. The meeting of the Parish Council to considering the complaint will need to exclude the public. This does not preclude the Council from inviting the complainant to speak at a meeting or requesting the attendance of clerk (or other nominated officer) to represent the views of the Council.
19. 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.
20. On commencement of the complaint hearing, the Chairman will introduce everyone present and explain the complaints procedure.
21. 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.
22. If appropriate, the Clerk will explain the Parish Council's position and talk through all of the council's supportive documentation. Questions may be asked by the complainant and the Councillors.
23. Clerk and complainant, in that order, to be offered the opportunity to summarise their position.
24. 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.

25. 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**

26. 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.

27. 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.

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

### **Appeals**

29. 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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