

## Complaints Policy

### The Procedure

Diss Town Council is committed to providing a quality service for the benefit of the people who live and work in its area or are visitors to the locality. If you are dissatisfied with the standard of service you have received from this council or are unhappy about an action or lack of action by this council, this Complaints Procedure sets out how you may complain to the council and how we will try to resolve your complaint. The Flowchart below explains how your complaint will be received, handled, and resolved.

Follow diagram at Annex A.

### Definition:

A complaint is defined as: An expression of dissatisfaction by one or more members of the public about council administration, service, or procedure (whether provided directly by the council or by a contractor or partner) that requires a response. There is no difference between a 'formal' and an 'informal' complaint. Both are expressions of dissatisfaction that require a response.

### Introduction

Diss Town Council is committed to providing a quality service for the benefit of the people who live and work in its area or are visitors to the locality.

Pursuant to Local Government Act 1974, the Local Government Ombudsman (LGO) has no jurisdiction over Parish and Town Councils in England. Consequently, there are no statutory mechanisms in place should complaints be made against local councils in England.

Diss Town Council therefore feels that to improve communications and services to its residents, a fair, clear, and concise guide on the handling of complaints will guarantee that a transparent system provides a platform to ensure that all complaints are treated with the same respect and importance that they deserve.

Whilst the Town Council will attempt to deal with all complaints itself, there are times when the Council will need to defer to another body to take the complaint forward to a satisfactory resolution. The Council will consider engaging other procedures/bodies in respect of the following types of complaint:

Type of Conduct	Refer to
Financial Irregularity	Complaints about financial irregularity should be referred to the Council's auditor, whose name and address can be obtained from the Town Clerk. Local elector's right to object Council's audit of accounts pursuant to s.16 of the Audit Commission Act 1998. On other matters, the council will refer to its auditor of the Audit Commission
Criminal Activity	Any complaints which involve criminal activity will be referred to the Police.
Member Conduct	A complaint relating to a member's failure to comply with the council's Code of Conduct must be referred to the Monitoring Officer for the Standards Committee of South Norfolk District Council.
Employee Conduct	Any complaint which involves the conduct of a council employee will be handled by the council's internal disciplinary procedure.

Although the LGO has no jurisdiction over Town and Parish Councils, it is useful for the Council to understand the jurisdiction of the LGO in order to assist members of the public to complain to the LGO where appropriate. The legislation is contained within the Local Government Act 1974 (the Act) s26 and 27. The key points are:

Town Councils are unable to lodge complaints as a public body (s 27(1) of the Act) about another local authority or public body defined in s 25 of the Act, but this does not prevent individual Councillors from making complaints about another local authority or public body in their personal capacity. In their official capacity, a Town Councillor, if so requested by Members of the public, could represent them in making complaints. Please note:

- Complaints must be made in writing.
- Complaints must be made within 12 months of the matters which are subject to the complaint.
- Complainants must first give the authority in question notice of the complaint and give them an adequate opportunity to investigate and reply to the complaint. This usually entails exhausting that authority's complaints procedure.
- The Ombudsman may not investigate matters which are or have been subject to a right of appeal.
- The Ombudsman may not investigate matters where the complainant has or has had a remedy by way of court proceedings.

The most common application of the last two points (e.g., the Ombudsman's lack of jurisdiction where the subject matter of the complaint is subject to a right of appeal or court proceedings) is in respect of judicial review. Many councils claim that the Ombudsman does not have jurisdiction in certain cases due to the availability of judicial review. In certain circumstances the Ombudsman can rely on section 26 (6) of the Act which states that:

*'A Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person affected to resort or have resorted to it.'*

### **Complaints Procedures for Local Councils**

The LGO has provided guidance on the subject of complaints procedures. A copy of the full guidance can be viewed on the LGO website: <https://www.lgo.org.uk/make-a-complaint/fact-sheets/other-topics/parish-councils> Whilst most of the guidance is aimed at higher level authorities the guidance is useful and forms a good basis at Town and Parish level.

The Town Council's complaints system is:

- Well publicised and easy to use.
- Helpful and receptive.
- Not adversarial.
- Fair and objective.
- Based on clear procedures and defined responsibilities.
- Quick, thorough, rigorous, and consistent.
- Decisive and capable of putting things right where necessary.
- Sensitive to the special needs and circumstances of the complainant.
- Adequately resourced.
- Fully supported by Councillors and Officers; and
- Regularly analysed to spot patterns of complaint and lessons for service improvement.

The identity of a complainant will only be made known to those who need to consider the complaint and the Council will promise to maintain confidentiality where possible and if circumstances demand. The Council operates a three stage complaints procedure whereby issues are resolved by:

- Front line staff; then
- Management; then
- Senior management/Members.

Good practice dictates that a deadline is set for the handling of any complaint and the Council will not leave this open ended. Some flexibility is required to deal with lengthier and more complex complaints, and this is reflected in the Council's complaints procedure.

1. Every effort should first be made by the Town Clerk or Council Leader to resolve complaints to the satisfaction of the complainant by less formal measures or explanations provided within 30 days before resorting to the formal complaints' procedure.
2. Where the complainant is not satisfied with the outcome at point 1, they will be invited to attend a meeting of the Executive Committee to resolve the matter to mutual satisfaction with any outcomes reported to the next Full Council meeting.
3. It should be noted that the procedure is not appropriate for a complaint made against an individual.
4. The Code of Practice below will be employed to ensure that any complaint is properly and fully considered.

## **5. Before the Meeting**

- 5.1 The person making the complaint (complainant) should be asked to put the complaint about the Council's procedures or administration in writing to the Town Clerk.
- 5.2 If the complainant does not wish to put the complaint to the Town Clerk, they may be advised to put it to the Council Leader.
- 5.3 The Town Clerk or Council Leader shall acknowledge receipt of the complaint and advise the complainant when the matter will be brought to the attention of the Executive Committee.
- 5.4 The complainant shall be invited to attend the relevant meeting and bring with them such representative(s) as they wish.
- 5.5 Seven clear working days prior to the meeting, the complainant shall provide the Council with copies of any documentation or other evidence, which they wish to refer to at the meeting. The Town Council shall similarly provide the complainant with copies of any documentation upon which it wishes to rely at the meeting.

## **At the Meeting**

- 6.1 The Executive Committee must consider whether the circumstances of the meeting warrant the exclusion of the public and press. However, any decision on a complaint shall be minuted and announced at the next Full Council meeting in public.

- 6.2 Chairman to introduce everyone and explain the procedure
- 6.3 Complainant (or representative) to outline grounds for complaint.
- 6.4 Members to ask any questions of the complainant.
- 6.5 If relevant, the Town Clerk or Council Leader to explain the Council's position.
- 6.6 Members to ask any questions of the Town Clerk or Council Leader.
- 6.7 Town Clerk or Council Leader and complainant to be offered the opportunity of last word (in this order)
- 6.8 Town Clerk or Council Leader and complainant to be asked to leave the room while members decide whether or not the grounds for complaint have been made. (If a point of clarification is necessary, both parties to be invited back).
- 6.9 Town Clerk or Council Leader or other proper officer and complainant return to hear decision, or to be advised when a decision will be made.

#### **After the meeting**

- 7.1 The Executive Committee to report its conclusions and any action recommended to the next Full Council meeting.
- 7.2 Decision confirmed in writing within seven working days together with details of any action to be taken.

#### **Maladministration**

Whilst Parish Councils are not under the jurisdiction of the LGO the Council is aware that section 92 of the Local Government Act 2000 gives councils the power to make payment 'in cases of maladministration'.

The relevant text of section LGA 2000 s92 follows:

92 Payments in cases of maladministration etc.

(1) Where a relevant authority consider –

- a) That action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to, mal administration, and
- b) That a person has been, or may have been, adversely affected by that action

Maladministration can be defined by the LGO as apparent 'maladministration' or service failure. This can include:

- Delay.
- incorrect action or failure to take any action.
- failure to follow procedures or the law.
- failure to provide information.
- inadequate record-keeping.
- failure to investigate.
- failure to reply.

- misleading or inaccurate statements.
- inadequate liaison.
- inadequate consultation; and
- broken promises

This list is not exhaustive, and maladministration is a broad concept. It has been described as bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude etc. For more information on maladministration and the LGO's advice on the matter please go to:

<https://www.lgo.org.uk/information-centre/about-us/our-legal-framework>

The Council's complaints procedure is a document which specifically refers to complaints about administration, services, and procedures, but may involve the conduct of a member of staff or officer of the Council. In this case the complaint will be dealt with under the Council's Disciplinary Procedure as detailed in the introduction section of this document.

At all-time the rules of natural justice will apply. In other words, all parties should be treated fairly, and the process should be reasonable, accessible, and transparent.

### **Management of unreasonable complainant behaviour**

In a minority of cases complainants will act in a way that is unreasonable. Because of the nature or frequency of their contact with the Council, a small number of complainants can hinder the consideration of their own and other complainants' cases. This may be because of unacceptable behaviour in their dealings with the Council, or because of unreasonably persistent contacts that distract staff from their work but add nothing to the Councils knowledge or understanding of the case under consideration.

The Council will differentiate between persistent complainants and unreasonably persistent complainers. People bringing complaints back to the Council are 'persistent' because they feel the Council have not dealt with their complaint properly and are not prepared to leave the matter there. Some complainants may have justified complaints may pursue them in inappropriate ways. Others may pursue complaints which appear to have no substance.

### **Examples of unreasonable actions and behaviour**

The LGO outlines experiences of actions and behaviours which have come to its attention. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonable, persistent behaviour that interferes with the investigation, consideration, and timing of a suitable resolution of the complaint.

Examples include

- refusing to specify the grounds of a complaint, despite offers of help.
- refusing to co-operate with the complaint's investigation process.
- refusing to accept that some issues may not fall within the scope of the procedure.
- insisting on the complaint being handled in ways that are not compatible with the agreed complaints procedure or with good practice.
- making unjustified comments about staff who are trying to deal with the issues and seeking to have them replaced.
- changing the basis of the complaint as the investigation proceeds.
- denying or changing statements the complainant made at an earlier stage.
- introducing trivial or irrelevant information at a later stage.
- raising numerous but unimportant questions; insisting they are all answered.
- covertly recording meetings and conversations.
- submitting falsified documents from themselves or others.
- pursuing parallel complaints on the same issue with a variety of organisations.

- making excessive demands on the time and/or resources of staff with lengthy calls, emails to council staff, detailed letters every day and expecting immediate responses.
- refusing to accept the decision; repeatedly arguing point with no new evidence.

These examples will act as trigger points which will activate this section of the policy, which could result in the restriction of access to council staff.

The decision to designate a complainant's behaviour as unreasonable and restrict access to council staff will only be made if the Council is satisfied that:

- the complaint is/has been investigated fully and properly.
- the decision that has resulted is the correct one.
- communications with the complainant have been adequate; and
- the complainant cannot provide any significant new information that may affect the Council's decision on the complaint.

If it becomes necessary that the complainant's behaviour is unreasonable and results in the need to restrict contact, the following steps will be considered:

- offering the complainant, a meeting with a senior staff member to explore the resolution of the complaint and explain why their current behaviour is seen as unreasonable.
- share the Council's agreed policy with the complainant and warn that restrictive actions may need to be applied should their behaviour continue.
- advise the complainant to find a suitable advocate to act on their behalf

### **Options for action**

Any actions taken should be appropriate to the nature and frequency of the complainant's contacts. The objective is to manage the complainant's unreasonable behaviour in order to bring the complaint to the quickest resolution, without further distractions. Options include:

- placing limits on the number and durations of contact with staff.
- offering a restricted time slot for any necessary calls.
- limit contact to one medium (telephone, email, letter etc.)
- appoint one member of staff with whom the complainant can communicate.
- ensure that any face-to-face contact takes place with a witness present.

If a decision is taken to restrict access, the complainant will be sent a letter which will explain:

- why the decision was taken
- what impact this will have on the complainants contact with the Council
- how long the restrictions will last; and
- what the complainant can do to have the decision reviewed.

The member of staff to whom the complaint has been allocated is required to keep adequate records of all correspondence, face to face meetings and check to ensure that no important significant facts or evidence is overlooked.

A review date will be specified when the decision to restrict is imposed. Restrictions should be lifted at this point unless there are valid grounds to extend the restrictions.

## **Unacceptable Behaviour**

The Council will not tolerate abusive, deceitful, offensive, threatening, or other forms of unacceptable behaviour from complainants. When it occurs, the Council will take proportionate action to protect the wellbeing of our staff and the integrity of our complaints system.

In these cases, the Council will implement the agreed Bullying and Harassment Procedure.

