

Burwash Parish Council

Complaint Procedure for Complaints Against the Council – Adopted 08/03/16

Introduction

The complainant should be asked to put the complaint about the council's procedures or administration in writing to the Clerk or other nominated officer. If the complainant does not wish to put the complaint to the Clerk or other nominated officer, he or she should be advised to address it to the Chairman of the council.

Process

1. The Clerk shall acknowledge receipt of the complaint and advise the complainant when the matter will be considered by the council or by the committee established for the purposes of hearing complaints. The complainant should also be advised whether the complaint will be treated as confidential or whether, for example, notice of it will be given in the usual way (if, for example, the complaint is to be heard by a committee).
2. The complainant shall be invited to attend a meeting and to bring with them a representative if they wish.
3. Seven clear working days prior to the meeting, the complainant shall provide the council with copies of any documentation or other evidence relied on. The council shall provide the complainant with copies of any documentation upon which they wish to rely at the meeting and shall do so promptly, allowing the claimant the opportunity to read the material in good time for the meeting.

At the Meeting

4. The council shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press. Any decision on a complaint shall be announced at the council meeting in public.
5. The Chairman should introduce everyone and explain the procedure.
6. The complainant (or representative) should outline the grounds for complaint and, thereafter, questions may be asked by (i) the Clerk or other nominated officer and then (ii), members.
7. The Clerk or other nominated officer will have an opportunity to explain the council's position and questions may be asked by (i) the complainant and (ii), members.
8. The Clerk or other nominated officer and then the complainant should be offered the opportunity to summarise their position.
9. The Clerk or other nominated officer and the complainant should be asked to leave the room while members decide whether or not the grounds for the complaint have been made. If a point of clarification is necessary, *both* parties shall be invited back.
10. The Clerk or other nominated officer and the complainant should be given the opportunity to wait for the decision but if the decision is unlikely to be finalised on that day they should be

advised when the decision is likely to be made and when it is likely to be communicated to them.

After the Meeting

- 11.** The decision should be confirmed in writing within seven working days together with details of any action to be taken.

Complaints Procedure for Complaints Against the Clerk

- 12.** The complainant should be asked to put the complaint in writing to the Chairman of the council.

Complaints Procedure for Complaints Against a Councillor

- 13.** Complaints that a Councillor has breached the Code of Conduct for Members should be referred to:

The Monitoring Officer
Rother District Council
Town Hall
Bexhill On Sea
East Sussex
TN39 3JX

- 14.** To make a complaint against a Councillor, phone Democratic Services on 01424 787835 or go to <http://www.rother.gov.uk/complaints>

Complaining to the Local Government Ombudsman (LGO)

- 15.** Although the LGO has no jurisdiction in respect of parish councils, the parish council can assist members of the public (including, perhaps councillors) to complain to the LGO where appropriate. The legislation is contained within sections 26 and 27 of the Local Government Act 1974 ('the Act').
- 16.** Parish councils are unable to lodge complaints as a public body (section 27(1) of the Act) about another local authority or public body defined at section 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, if so requested by member(s) of the public, a parish councillor could represent them in making complaints.
- 17.** It should be noted that;
 - complaints must be made in writing;
 - complaints must be made within 12 months of notice 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;

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- the Ombudsman may not investigate matters which are or have been subject to a right of appeal; and
 - the Ombudsman may not investigate matters where the complainant has or has had a remedy by way of court proceedings.
- 18.** The most common application of 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 these 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 Procedure for Complaining of Financial Irregularity

- 19.** If the complainant is a local elector, they have the statutory right to inspect and object to the council's audit of accounts (s.16 Audit Commission Act 1998).

Complaints Procedure for Complaints of Criminal Activity

- 20.** Any complaint of criminal activity should be directed to the police.