

GNOSALL PARISH COUNCIL
(Including the Wards of Moreton and Knightley)

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Code of Practice for handling Complaints
Updated following NALC Legal Topic Note October 2022

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1 Introduction

The Local Government & Social Care Ombudsman (LGO) is responsible for handling complaints against principal authorities and some other public sector organisations which do not include local councils. The LGO has no jurisdiction in respect of a local (parish or town) council except where it is (i) working jointly with a principal authority through a joint committee which includes representatives of the principal authority or (ii) exercising the functions of a principal authority. Therefore, in most circumstances, the LGO has no jurisdiction over parish and town councils in England.

A complaint against a local council may be an expression of dissatisfaction about council action/inaction or about the standard of service, whether provided by the council itself or by a person or body acting on behalf of the council. It may also be triggered by an allegation of administrative fault, such as not following Standing Orders, delay or making a mistake.

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

2 Who is a local council's complaints procedure for?

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. A council's complaints procedure should also be available to other individuals, organisations (e.g. a business, charity) or unincorporated bodies (e.g. a residents' or allotment tenants' association). Anyone aggrieved with a local council is likely to communicate this verbally or in writing. It is generally in the interests of the complainant and the council to try to resolve the matter informally through the usual channels of communication rather than deferring to the council's formal complaints procedure.

A complaint against a council that involves a complaint about the conduct of its employees must be handled in accordance with its complaints procedure. If following the outcome of the complaint, the council decides that there may be a need to take disciplinary action, this should be in accordance with its internal disciplinary procedure. For more information and guidance, see LTN 22 - Disciplinary and Grievance Arrangements.

3 Informal complaints

It is not appropriate to deal with all complaints from members of the public under the formal procedure. It is hoped that less formal measures, or explanation provided to the complainant by the Clerk, will resolve most issues raised. Any informal complaint will nonetheless be reported to the Council for information.

If a complainant is not satisfied with the outcome of a complaint dealt with under the informal procedure, then s/he should put their dissatisfaction and the reasons for it in

writing to the Clerk at the parish Office, Grosvenor Centre, High Street, Gnosall, Stafford, ST20 0EX.

4 **Formal complaints**

The procedure is designed for those complaints that cannot be satisfied by **less** formal measures or explanations provided to the complainant by the clerk or other proper officer or chairman.

It may be that the clerk or other proper officer at the meeting represents the position of the council, if the clerk or other proper officer is putting forward the justification for the action or procedure complained of, he or she should not advise the council or committee.

At all times, 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.

The council's formal complaints procedure should be well-publicised and accessible via the council's publication scheme. It should confirm the following:

- a. The requirement to submit a complaint in writing
- b. The postal address or email to whom it should be submitted.
- c. That receipt of the complaint will be acknowledged in writing within a specific timeframe.
- d. Who will be dealing with the complaint (for example, title of member of staff, a particular committee or sub-committee.)
- e. The timeframe for investigating the complaint.
- f. Whether there is an opportunity for the complainant to make verbal representation (and bring a friend when doing so) and when this will occur.
- g. The timeframe for investigating the complaint.
- h. Whether there is an opportunity to appeal the outcome of the complaint and an explanation of the appeal process.

5 **When is a local council's complaints procedure not appropriate?**

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

Type of conduct	Refer to
Alleged financial irregularity	Local electors have a statutory right to object to a Council's audit of accounts (section 27 (1) of the Local Audit and Accountability Act 2014.
Alleged criminal activity	Police
Members' conduct alleged to breach the Code of Conduct adopted by the Council	If the complaint relates to a failure to comply with the Localism Act 2011, it must be submitted to the Monitoring Officer at Stafford Borough Council.

The code of practice is aimed at those situations where a complaint has been made about the administration of the council or about its procedures. It is not an appropriate forum for a complaint against individuals or employees, other provisions are available to deal with these situations. The Clerk will advise in this situation.

We have no standing Complaints or Appeal Committees. In the event of a complaint, a committee of at least 3 councillors shall be appointed. An Appeals Committee of at least 3 different councillors will also be appointed.

Councillors who are members of the Appeals Committee will not be in attendance during that part of the council meeting that deals with any complaint, and will not take part in any way in the making of any decision.

CODE OF PRACTICE

Receipt of the complaint

1. The complainant will be asked to put the complaint about the council's procedures or administration in writing to the Clerk, who will:
 - acknowledge receipt within 5 working days and
 - ask the complainant whether they wish the matter to be treated as confidential (later confirming their decision)
 - confirm the next steps in the complaints procedure.
2. If the complainant does not wish to put the complaint to the Clerk (or if the matter concerns them) the complainant will be advised to put it to the chair of the council's complaints committee, who will advise the complainant as above.
3. It is unlikely that the complainant will waive confidentiality but even if they do so, the council must comply with its obligations under the Data Protection Act 2018 to safeguard against the unlawful disclosure of personal data.

Investigating the complaint

- 4 The council will need to investigate the facts of the complaint and collate relevant evidence.
- 5 Once the investigation has concluded, the Clerk should invite the complainant to the meeting of a Complaints Committee convened for this purpose and advise that they may bring such representation/ friend as they wish and that the Clerk will also attend the meeting.
- 6 7 clear working days prior to the meeting, the complainant shall provide the council with copies of any documentation, information or other evidence, which they wish to refer to at the meeting. The council shall similarly provide the complainant with copies of any documentation, information or other evidence upon which they wish to rely at the meeting in good time to permit reading ahead of the meeting.

At the meeting

- 7 The council shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press, taking into account the complainant's stated wishes in regard to confidentiality. Any decision on a complaint shall be announced at the council meeting in public.
- 8 The chair of the meeting should introduce everyone and explain how the meeting will proceed.
- 9 The complainant should outline the grounds for complaint and, thereafter, questions may be asked by the clerk or other nominated officer or by members.
- 10 The clerk or other nominated officer (or if the complaint concerns them, another member of staff or a member) will have an opportunity to explain the council's position and questions may be asked by the complainant and members.

- 11 The clerk or other nominated officer, or as the case may be, the complaints committee or sub-committee and then the complainant should be offered the opportunity to summarise their respective positions.
- 12 The Clerk 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.
- 13 The Clerk 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 it is likely to be made and when it is likely to be communicated to them.

After the Meeting

- 14 Within 7 working days, the council should write to the complainant to confirm whether or not it has upheld the complaint. The council should give reasons for its decision together with details of any action to be taken by the council if this appropriate.
- 15 The council should notify the complainant in writing of the right to appeal its decision.