

# Thakeham Parish Council

## COMPLAINTS PROCEDURE (ADOPTED SEPTEMBER 2015)

### 1. General

Thakeham Parish 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 procedure sets out how you may complain to the council and how we shall try to resolve your complaint.

The appropriate time for influencing Council decision-making is by raising your concerns before the Council debates and votes on a matter. You may do this by writing to the Council in advance of the meeting at which the item is to be discussed. There may also be the opportunity to raise your concerns in the public participation section of Council meetings. If you are unhappy with a Council decision, you may raise your concerns with the Council, but Standing Orders normally prevent the Council from re-opening issues for six months from the date of the decision.

### 2. Scope of this policy

a. A complaint, for these purposes, is understood as “an expression of dissatisfaction by one or more members of the public about a council’s action or lack of action, or about the standard of a 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”<sup>1</sup> Complaints may involve an allegation of administrative fault such as not following procedures or Standing Orders, inadequate or lack of service, delay or making a mistake.

b. This policy does not cover:

- Allegations of financial irregularity or criminal activity which are covered via legal processes;
- Complaints by one council employee against another council employee, or between a council employee and the council as employer. These matters are dealt with under the council’s disciplinary and grievance procedures;
- Complaints relating to the conduct of councillors. Complaints against councillors are covered by the Council’s *Code of Conduct for Members* and if a complaint against a councillor is received by the council, it will be referred to the Standards Committee of Horsham District Council. Further information on the process of dealing with complaints against councillors may be obtained from the Monitoring Officer of Horsham District Council.

### 3. Making a complaint

a) The route to make a complaint is via the Clerk, or if your complaint relates to the Clerk, you may write directly to the Chairman of the Council. (Reference in this policy to the complaint being handled by ‘the council’ means either the Clerk or Chairman as appropriate.) Complaints should be communicated in writing or by email to the addresses currently published on the Council’s website.

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<sup>1</sup> National Association of Local Councils Legal Topic Notice 9.

b) On receipt of a complaint, the council will investigate the issues raised. Wherever possible, the council will seek to resolve the matter by informal explanation or action, and to do so within 10 working days normally. However, if an informal resolution is not achieved, and the issues fall within the scope of this procedure, it will be treated as a formal complaint. This will be confirmed within a further 5 working days. The notification letter will include:

- The administrative contact for the process (usually the Clerk);
- Confirmation that the complaint will be treated confidentially in line with the council's obligations under the Data Protection Act 1998. Aspects of this include:
  - assurance that the identity of the complainant will only be made known to those who need to consider the complaint;
  - the normal expectation that the review panel meeting will exclude the press and public (although the complainant may choose to waive this right);
  - that the reporting of the outcome of the complaint to the full council will be anonymised.
- An invitation to attend a review meeting to make representations and to bring a representative if they wish<sup>2</sup>, clarification of the procedures relating to the hearing set out below, and the opportunity to request specific adjustments relating to a disability.

#### **4. Formal complaint review procedure**

##### **4.1 Before the Review Panel meeting**

- a. Seven working days prior to the review meeting, the complainant shall provide the council with copies of any documentation or other evidence relied on.
- b. Having assessed the complainant's written submission, the council shall provide the complainant with copies of any documentation upon which they wish to rely at the review meeting and shall do so promptly, allowing the claimant the opportunity to read the material in good time for the review meeting.
- c. The Chair of Council will nominate a subset of members of the council (which may include himself) to act as the Review Panel for the complaint. The panel will consist of a minimum of three members, one of whom will act as Chair; the meeting can only proceed if at least three Panel members are present.
- d. If the complainant (/representative) is not present at the scheduled start time of the meeting the Panel will decide whether or not to proceed in their absence, having considered the strength of any reasons provided and the state of the evidence available.
- e. The Clerk will normally present the council's position to the meeting (unless the complaint relates to the Clerk, in which case a nominated councillor will take this role and the Clerk will not be involved in the meeting). The council will arrange for an additional person to take a note of the meeting.
- e. The Chair of the Review Panel will decide on any requested adjustments to procedures relating to disability, and on any request to reschedule the meeting. The Chair's decisions will be final.

##### **4.2 The Review Panel Meeting**

- a. At the review meeting, the Chair of the review panel will introduce everyone, explain the procedure, and remind participants that the Panel's consideration of the complaint will operate with the civil law standard of 'balance of probabilities'.

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<sup>2</sup> The review panel meeting is a 'domestic tribunal', for which legally qualified representation is not required or expected. If a complainant chooses to bring legally-qualified representation to the meeting s/he must notify this to the council at least 5 working days in advance, in which case the council reserves the option to engage its own legal advisor, who may attend the meeting, and the council may re-arrange the meeting to involve the advisor. All parties, regardless of legal qualification, must respect and abide by the procedures set out here.

- b. The complainant (or representative) will be invited to outline the grounds for complaint, after which the review panel, and/or the Clerk, may put questions to the complainant.
- c. The Clerk (or nominated councillor) will set out the council's position, after which the complainant and/or the Panel may put questions.
- d. The complainant and the Clerk (or nominated councillor) shall be offered the opportunity to summarise their positions.
- e. The complainant and the Clerk (or nominated councillor) will be asked to leave the room while the Review Panel confers. If a point of clarification is necessary, both parties shall be invited back, and both parties may speak.
- f. The Review Panel will seek to reach a decision on whether the complaint is upheld (with outline reasons on key points). If a decision is reached, the parties will be invited back to hear the decision, which will be confirmed in writing within ten working days. If the Review Panel is not able to reach a decision on the day of the meeting the complainant will be advised when a decision will be reached and communicated, which will normally be within ten working days.

#### **4.3 After the Review Panel meeting**

- a. The council will write to the complainant within the timeframes above to confirm whether or not the complaint has been upheld. The decision letter will give the Review Panel's reasons for its decision, together with details of any action to be taken by the council.
- b. The nature of the complaint and the outcome decided by the Review Panel shall be reported to the next full council meeting in a way that respects the complainant's confidentiality.
- c. The decision and conclusion of the Review Panel process will be final and will exhaust the council's complaint-handling procedure.

#### **5. Complaints relating to other public bodies**

Where a complaint appears to be more properly directed at another local authority or public body, it may be possible for the parish council to assist members of the public to complain to the Local Government Ombudsman (LGO), under sections 26 and 27 of the Local Government Act 1974 ('the Act'). Parish councils are unable to lodge complaints as a public body but this does not prevent individual councillors from making complaints about another local authority or public body in a personal capacity, or, if so requested by member(s) of the public, a parish councillor could represent their complaint to the LGO. General guidance for complaints to the LGO:

- a. complaints must be made in writing, within 12 months of notice of the matters which are subject to the complaint;
- b. 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;
- c. the LGO may not investigate matters which are or have been subject to a right of appeal; and
- d. the LGO may not investigate matters where the complainant has or has had a remedy by way of court proceedings.