



# Bury Parish Council

## COMPLAINTS PROCESS

### SECTION 1 - HOW TO COMPLAIN

#### Objective

The object of this complaint's procedure is to define how to report problems identified with the conduct of Parish Council members, or with the services it provides, and how those reports are managed.

#### Complaint Definition

A complaint is an expression of dissatisfaction by one or more members of the public about the parish Council's action or lack of action or about the standard of a service delivered by the Council.

The complaint may relate to an action taken or a service provided by the Council itself or a person or body acting on behalf of the Council.

#### Aim

The aim of this process is to ensure that complaints are:

1. Well documented and publicised if appropriate.
2. Responses are objective, based on clear procedures and easy to understand by the initiator.
3. Managed by Council staff who are helpful and receptive, not adversarial, and sensitive to the needs and circumstances of the complainant
4. Adequately resourced and fully supported by the elected parish councillors & officers
5. Regularly analysed to spot patterns of complaint and lessons for service improvement

#### How to complain

Verbal complaint – these should be made to the Clerk of the Council and can be either by phone call or in person. This type of complaint would be to report some minor matter or need for repair to property owned or operated by the Council, such as a failed streetlight. A verbal complaint will normally be dealt with directly by the Clerk without any need for a response. You may make a complaint to a councillor but under the legislation governing Parish Council's, a councillor has no authority to act as an individual and must refer the matter to the Clerk.

Written complaint – to register a written complaint please complete a copy of the Council's complaint form (Annex A) with any other information you wish to provide to support your complaint & then return it to the Council's address. This should be addressed to the Clerk unless the complaint concerns the Clerk. In this instance the complaint should be sealed and addressed to the Chair of the Council and clearly marked "Council Chair - Private and Confidential". Written complaints should be for serious matters and once resolved will be recorded in the Council's minutes. However, certain types of Human Resource or other sensitive issues may under certain parts of legislation be exempt from publication. You may also send a letter, fax or email of complaint to your Council, but the Council may ask you to complete their complaints form as this allows the Council to keep a consistent record of communications on complaints.



## Nature of a complaint

Before making a complaint, it is important to contact the Council to ensure the Council is the “Responsible Body” to handle the complaint. It is also important to clearly identify and document the details of the complaint. The way in which a complaint is handled is dependent on the nature of the complaint, and different types of complaint will be handled in different ways. The following table summarises how different types of written complaint may be handled by the Council.

| Nature of the complaint   | Who to complain to   | How to complain   | Who will deal with your complaint   |
|---|--|---|---|
| Council <ul style="list-style-type: none"> <li>• processes</li> <li>• procedures</li> <li>• services</li> </ul> | Contact the Clerk of the Council.<br>The Clerk will provide you with a Complaint Form.               | Complete the form and add any other relevant evidence to support the complaint.<br>You should receive an acknowledgement from the Clerk in writing.   | The Clerk or Council.<br>The Clerk may deal with and respond to the complaint, or the matter may be debated by the Council at a Council meeting and if so the Clerk’s response will be based on the decision of the Council.  |
| Conduct of an Employee  | Contact the Clerk of the Council.<br>The Clerk will provide you with a Complaint Form.               | Complete the form and add any other relevant evidence to support your complaint.<br>You should receive an acknowledgement from the Clerk in writing.<br>However, if the complaint is about the Clerk, the complaint should be sent to the Council Chair, sealed, and marked Private & Confidential. | The complaint may be resolved or escalated and be treated as an internal disciplinary matter to be dealt with under the council’s employee disciplinary procedure. In the event that the matter escalates the Council will provide a copy of the disciplinary procedure on request. |
| Financial Irregularity  | Contact the Clerk of the Council.<br>The Clerk will provide you with a Complaint Form.               | Complete the form and add any other relevant evidence to support your complaint.<br>You should receive an acknowledgement from the Clerk in writing.  | The Clerk/Responsible Financial Officer of the council should endeavour to provide an explanation. If you are not satisfied you can report the matter to the External Auditor.  |
| Conduct of a Councillor   | Contact the Clerk of the Council first in an effort to resolve the matter locally.<br>The Clerk will | Complete the form and add any other relevant evidence to support your complaint. You should receive written   | The Monitoring Officer.<br>Matters may be lengthy if an investigation is undertaken. The matter may be referred for consideration.  |



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|                   | provide you with a Complaint Form. If this fails, contact the Monitoring Officer at the District Council or Unitary Authority. The Monitoring Officer will provide you with a Complaint Form to register a formal complaint. | acknowledgement from the Clerk. Complete the form and add any other relevant evidence to support your complaint. You should receive written acknowledgement from the Monitoring Officer. |  |
| Criminal Activity | Contact the police. They may ask you to complete forms or be interviewed.  | This is a civil matter so complete any forms and provide any relevant written evidence to support your concern.  | The police. Depending on severity, the matter may go to court. |

## SECTION 2 – COMPLAINT HANDLING

### Complaints about the Council

A complaint may be about an action or decision that has been taken collectively by the Council or by a committee or by an employee. This could be about the decision itself or the way that the Council, committee, or employee reached the decision in question or the way that the employee acted.

To enable a complaint to be investigated, a complainant should provide sufficient evidence that the Council, committee, or employee has acted incorrectly, improperly or with maladministration in reaching a decision. It is not sufficient for a member of the public to submit a complaint simply because he or she does not agree with a decision and wishes the Council or committee to reconsider the matter in the hope of a more favourable conclusion being reached.

Where a complaints form has been submitted about a decision or action by the Council, a committee or an employee, the following procedure will be followed:

1. On receipt of the complaint by the Clerk, a written acknowledgement will be sent to the complainant within 5 working days either by letter or e-mail.
2. The Clerk will bring the complaint to the attention of the Chair of the Council and will determine, after consultation with the Chair, whether the complaint should be rejected for one or more of the following reasons –
  - it contains insufficient or no evidence to demonstrate that the decision was reached incorrectly or with maladministration or that the action was inappropriate
  - it is trivial, malicious, or libellous
  - it is anonymous, unless of a serious nature and supported by sufficient evidence
  - where a substantially similar complaint has previously been considered and no new material evidence has been submitted
  - it relates to a decision or action made more than 12 months previously



- it relates to a person who is no longer an employee of the Council or who is seriously ill
  - it relates to allegations concerning an employee's private life.
  - the matter to which the complaint relates is already the subject of disciplinary action by the Council
  - it relates to an individual Member of the Council in which case it will be dealt with under the Members Code of Conduct procedure
3. In the case of a complaint about a decision or action by the Clerk, the above process will be undertaken by the Chair, after consultation with the Vice Chair.
4. Where it is considered appropriate by the Clerk (or the Chair in the case of a complaint involving the Clerk), after consultation with the Chair (or Vice Chair), he/she may seek to resolve the complaint informally without the need for a formal investigation. Such informal resolution may involve –
- an explanation of the decision or action and the reasons why it was taken
  - an offer of an apology
  - remedial action which would normally involve the submission of the matter to the relevant Council or committee for re-consideration
- (In the latter case, the Council's Standing Orders prevent the reversal of any decision within six months of it having been taken, unless there is a special motion with written notice signed by three Members of the Council or by a report or recommendation of a committee.)
5. Where it is considered appropriate by the Clerk (or the Chair), after consultation with the Chair (or Vice Chair), that a formal investigation is appropriate or the complainant is unwilling to accept an informal resolution, he/she will convene a working party comprising two Members of the Council appointed by him/her whose terms of reference will be to undertake an investigation of the complaint and report to a meeting of the Council with their findings and recommendations as to how the complaint may be resolved.
6. A formal investigation of the complaint will involve –
- seeking such information as the working party considers relevant from the Clerk who shall supply the information to the working party
  - seeking further information from or interviewing the complainant
  - interviewing an employee against whom a complaint is made
  - interviewing such other persons as the working party considers necessary to form a judgement as to the complaint
  - ensuring that an employee against whom a complaint is made aware of the complaint and any information relevant to the matter and given an opportunity to respond before the working party reaches its conclusion
  - producing a written report of its investigation for submission to the Council, together with its recommendations as to how the complaint should be resolved
7. Such report and recommendations may conclude –
- that the complaint is unwarranted and that no further action should be taken
  - that the complaint is justified but that no further action should be taken other than an offer of apology to the complainant



- that the decision or action might constitute misconduct on the part of an employee in which case the matter should be dealt with under the Council's disciplinary procedure
- that the decision or action has involved some element of loss on the part of the complainant and a proposal as to what remedial action should be taken

8. The decision of the Council shall be final in such circumstances. The Clerk (or the Chair) shall notify the complainant of a decision taken as soon as practicable.

### **Complaint about a Member**

There are now two forms of interest – disclosable pecuniary interests defined in the Localism Act 2011 and 'other' interests defined by the Parish Council itself. The definitions are contained in the Members Code of Conduct that the Council has adopted.

A breach of the Code of Conduct in terms of disclosable pecuniary interests is a criminal offence with a maximum fine on summary conviction of £5,000 and/or disqualification from the Council for up to 5 years. Action will be taken by the Police in such circumstances and through the courts. Breach of the Code in terms of other interests is not a criminal offence and will be dealt with by the Monitoring Officer of Huntingdonshire District Council.

Huntingdonshire District Council has adopted a protocol to deal with complaints that a Member has breached the Code of Conduct. In the case of a complaint concerning a Member of a parish Council, the Monitoring Officer may refer the matter to the Parish Council in question to see if this can be resolved locally without the need for investigation by himself.

If a person wishes to complain that a Member of the Parish Council has failed to comply with its Code of Conduct, the Clerk will direct that person to the appropriate complaints form available from Huntingdonshire District Council. If the Monitoring Officer refers the complaint to the Parish Council to deal with the matter locally, the following procedure will be followed –

On receipt of the complaint from the Monitoring Officer and after consultation with the Chair, the Clerk will decide within 5 working days whether –

- he thinks that it is not possible that the matter may be resolved locally and, if so, he will refer the matter back to the Monitoring Officer
- he thinks that the matter may be resolved locally in which case he will notify the complainant accordingly

(In the event of the complaint being in respect of the Chair, the Clerk will consult the Vice Chair). If sufficient information in support of the complaint is not provided by the complainant or is not forwarded by the Monitoring Officer, the Clerk will ask the complainant to provide such evidence.

Within 5 working days of receiving a valid code of conduct complaint and supporting evidence, the Clerk will -

- contact the Member the subject of the complaint and provide him or her with a summary of the complaint and evidence
- ask the Member concerned to provide a written response to the allegation(s) and supporting evidence within 5 working days



The Clerk will review every complaint received and, after consultation with the Chair, take a decision as to whether –

- there is no or insufficient evidence to demonstrate a breach of the Code
- the matter may be resolved informally
- the complaint merits formal investigation

In the event of the complaint involving the Chair, the Clerk shall consult the Vice Chair. This decision will normally be taken within 20 working days of receipt of the complaint and the response of the Member concerned. The Clerk will inform the complainant of their decision and the reason(s) for it.

Where the Clerk seeks to resolve the complaint informally without the need for formal investigation, this may involve the Member accepting that their conduct was unacceptable and offering an apology or other remedial action by the Parish Council. Where a reasonable proposal for local resolution is proposed but the complainant is not willing to accept that offer, the Clerk will decide after consultation with the Chair (or Vice Chair) whether the complaint merits formal investigation or should be referred back to the Monitoring Officer. The complainant will be informed of the decision.

If the Clerk decides that a complaint merits formal investigation by the Parish Council, he will decide whether he needs to speak to the complainant to understand the nature of the complaint, to obtain any further documentation required and assess who else needs to be interviewed.

The Clerk will normally speak to the Member against whom the complaint has been made and provide a copy of the complaint and supporting evidence. The Member will be asked to provide an explanation of events and identify what further documentation the Clerk needs to see and who he needs to interview.

At the end of their investigation, the Clerk will produce a draft report and will send copies of the draft report, in confidence, to the complainant and the Member concerned to give both persons an opportunity to identify any matter in the draft with which they disagree or which they consider requires further consideration.

Having received and taken account of any comments made by the complainant and the Member concerned, the Clerk, after consultation with the Chair (or Vice Chair) will conclude –

- that he is satisfied that there is no evidence of a failure to comply with the Code of Conduct and that no further action should be taken
- that the complaint can be resolved by the Member accepting that their conduct was unacceptable and offering an apology or other remedial action by the Parish Council and that this is acceptable to the complainant. If the Member accepts and complies with this course of action, the Clerk will report the outcome to the Monitoring Officer and to the Parish Council and will take no further action. If the complainant does not accept this course of action, the matter will be referred to a hearing
- that the matter should be the subject of a hearing

If the Clerk considers that local resolution is not appropriate or the complainant is not satisfied with the proposed resolution or the Member concerned is not prepared to undertake any proposed remedial action, the Clerk will convene a Hearing Panel which will conduct a local hearing. The Panel will comprise three Members of the Council appointed by the Clerk who have had no connection with the complaint. The Panel will decide whether the Member concerned has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.





At the hearing, the Clerk will present their report, call such witnesses considered appropriate which will normally include the complainant and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct. The Member concerned will have an opportunity to give their evidence, to call witnesses and to make representations to the Hearing Panel as to why he/she considers that he/she did not fail to comply with the Code. Both the Clerk and the Member concerned will have an opportunity to question each other's witnesses at the hearing.

The Hearing Panel may conclude that the Member concerned did not fail to comply with the Code of Conduct and so dismiss the complaint. If the Hearing Panel concludes that the Member did fail to comply with the Code of Conduct, the Chair of the Panel will inform the Member of the finding and the Panel will consider what action, if any, it should take. In

Doing so, the Panel will give the Member an opportunity to make representations to the Panel but will then decide what action to take in respect of the matter.

The Hearing Panel that has heard the evidence and representations has authority to take action to promote and maintain high standards of conduct. It may –

- censure or reprimand the Member
- publish its findings in respect of the Member's conduct
- report its findings to the Council for information
- remove the Member from any or all of the committees or working groups of the Council for such period as is considered appropriate
- instruct the Member to undertake training in the Code of Conduct
- remove the Member from any or all of any outside appointments to which he or she has been appointed for such period as the Panel consider appropriate
- exclude the Member from any premises owned by the Council other than for the purpose of attending meetings of the Council for such period as the Panel consider appropriate

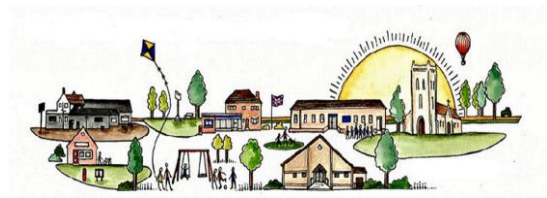
At the end of the hearing, the Chair will state the decision of the Panel as to whether the Member failed to comply with the Code of Conduct and any action that the Panel has resolved to take.

As soon as reasonably practicable thereafter, the Clerk shall prepare a formal decision notice in consultation with the Chair of the Hearing Panel and send a copy to the complainant, the Member concerned, the Parish Council and the Monitoring Officer. The decision notice will be made available for public inspection.

There is no right of appeal against a decision of the Hearing Panel

To register a complaint please complete & return the form below with any other information you wish to provide to support your complaint to your Parish/Town Council.

Please continue your comments on a separate sheet if necessary.



## Annex A - Parish Council Complaint Form

**Name of Parish Council**

Address

Post Code

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| Date   |  |
| Name   |  |
| Address  |  |
| Postcode   |  |
| Daytime phone number   |  |
| Evening Phone number   |  |
| Nature of Complaint - please give details of:  |  |
| 1. What you wish to complain about to the parish council?  |  |
| 2. When & where the situation took place including if possible details such as time, day, date & location? |  |





|   |  |
|---|--|
| <p>3. The names &amp; if possible contact details of any others involved?</p> |  |
| <p>4. In your opinion, what action or decision would resolve the matter?</p>  |  |