

TOFT PARISH COUNCIL POLICY FOR HANDLING COMPLAINTS

These will be updated as and when necessary in line with any current legislation.

CODE OF PRACTICE FOR LOCAL COUNCILS IN HANDLING COMPLAINTS

It is noted that it remains the position that the Local Government Ombudsman has no jurisdiction over parish, town and community councils. This is the Council's Policy if complaints are received about administration or procedures.

Complaints about an employee of the council (i.e. the clerk or Other) should be dealt with as an employment matter. The complainant should be assured that the matter will be dealt with internally as such and appropriate action taken as required. It is noted that in Wales, a code of conduct is incorporated into the contract of employment. Similar provisions are due to be introduced in England.

For complaints relating to the Code of Conduct the following shall apply.

'Complaints Procedure governing any breach of the Code of Conduct which takes effect from July 1st 2012.'

a) General.

1. Any and all complaints are to be made in writing to the Parish Clerk
2. Upon receipt of a written complaint the Clerk will advise the complainant that the councillor(s) against whom the complaint(s) is made will be given 5 working days to offer a response and that response will be copied to the complainant within 24 hours of such receipt.
3. The complainant will be given 48 hours to consider the response after which time the Clerk will ask whether the complainant is satisfied or whether an additional letter of apology from the councillor(s) would resolve the matter or whether further action is required.
4. If the complainant remains dissatisfied then the Clerk shall inform the Parish Chairman (or Vice-Chair if the Chair is the subject of complaint) of such and the Chairman shall convene a meeting of the Standards Committee within 10 working days.
5. The Standards Committee shall comprise of a Chairman (not necessarily the Chair of the Council but one appointed to the role by the Council) ; two other Parish Councillors and two independent persons with an understanding of the Code (such persons might be parish councillors from neighbouring villages) who shall receive £50 each for their time/expenses.
6. The Standards Committee shall deliberate impartially and decide whether or not there is a case to answer. If "no case to answer" the complainant shall be so advised by the Clerk together with notice that they have a right to approach the District Council Monitoring Officer (Monitoring.Officer@scambs.gov.uk). If "a case to answer" then the Standards Committee shall decide upon one or other of the following sanctions:
 - A letter of apology or
 - A letter of apology plus additional training; or
 - Censure by the Parish Council

[Such will be advised by the Clerk to both the complainant (who will still have the right to seek the Monitoring Officer's opinion) and to the Councillor(s) who, having accepted the complaints procedure, is deemed to have accepted the sanction.]

- b) Complaints pertaining to: "breach of Regulations (as laid down by Government and carrying criminal penalties)".
 1. Part a) paragraphs 1. & 2. Apply
 2. Upon receipt of the response the Clerk shall advise the Chairman (or Vice-Chairman) of the need to convene a meeting of the Standards Committee (composition as in a) 5.) within 10 working days, and at such time the Clerk will also send copies of the complaint and response to the Monitoring Officer (MO) explaining that: " .. the findings and recommendations of the (PC's) Standards Committee shall be advised to them (the MO) for approval or correction or advice of "other action required" before either the complainant or councillor is notified .. "
 3. The complainant and councillor shall only be notified of the outcome if approval is gained from the MO. If the MO recommends another course of action – if criminal proceedings, for example, are likely – then Toft Parish Council will take whatever action is advised.

The code of practice within the following guidance is aimed at those situations where a complaint has been made about the administration of the council or about its procedures. It is not really an appropriate forum for a complaint against individuals, as the provisions available above should cover these situations.

For the benefit of good local administration, Toft Parish Council has adopted a standard and formal procedure for considering complaints either made by complainants direct or which have been referred back to the council from other bodies. The procedure below is recognised as a way of ensuring that complainants can feel satisfied that at least their grievance has been properly and fully considered.

The council view the adoption of a complaints procedure as an efficient way of dealing with complaints received and a means of preserving the good reputation of the council through a transparent process. If the council fail to deal with complaints directly, they may have to utilise other resources in dealing with outside bodies, which the complainant has engaged to further highlight their dissatisfaction.

It is noted from the NALC guidelines that under the Local Government Act 2000, the standards committee of the principal authority is empowered to promote and maintain high standards of conduct by the members of the parish town or community council. Whilst this does not necessarily affect Complaints about maladministration and procedure, the local council may consider it good practice to notify the standards committee that a local code for such Complaints has been adopted. Every effort must be made not to confuse this procedure with that available for Complaints against individual members.

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. The code can be adapted to suit local circumstances and this Legal Topic Note represents a suggested practice.

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 will be treated fairly and the process should be reasonable, accessible and transparent.

CODE OF PRACTICE

Before the Meeting

1. The complainant will be asked to put the complaint about the council's procedures or administration in writing to the clerk as proper officer for these matters.
2. If the complainant does not wish to put the complaint to the clerk they may be advised to put it to the chairman of the council.
3. The clerk shall acknowledge the 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.
4. The complainant shall be invited to attend the relevant meeting and bring with them such representative as they wish.
5. 7 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 council shall similarly provide the complainant with copies of any documentation upon which they wish to rely at the meeting.

At the Meeting

6. 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.
7. Chairman to introduce everyone.
8. Chairman to explain procedure.
9. Complainant (or representative) to outline grounds for complaint.
10. Members to ask any question of the complainant.
11. If relevant, clerk or other proper officer to explain the council's position.
12. Members to ask any question of the clerk or other proper officer.
13. Clerk or other proper officer and complainant to be offered opportunity of last word (in this order).

14. Clerk or other proper officer and complainant to be asked to leave room while Members decide whether or not the grounds for the complaint have been made. (If a point of clarification is necessary, both parties to be invited back).

15. Clerk or other proper officer and complainant return to hear decision, or to be advised when decision will be made.

After the Meeting

16. Decision confirmed in writing within seven working days together with details of any action to be taken.