

# Bradwell with Pattiswick Parish Council

## Complaints Policy

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## COMPLAINTS

### What is a complaint?

A complaint is an expression of dissatisfaction by one or more members of the public or a Councillor about the Parish 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 Parish Council. Complaints can be verbal or written. Complaints may relate to:

- i. Financial irregularity: Refer to the Local elector's statutory right to object Council's audit of accounts pursuant to s.16 Audit Commission Act 1998. On other matters, Councils may need to consult their auditor / Audit Commission
- ii. Criminal activity: any matter of criminal activity will be referred to the Police
- iii. Member conduct: A complaint relating to a member's failure to comply with the Bradwell with Pattiswick Parish Council Code of Conduct or other adopted policies should be dealt with in accordance with the Parish Council's Code of Conduct following the advice of an Independent Person as prescribed in the Localism Act 2011.
- iv. Employee conduct: will be referred to Employment Committee internal disciplinary procedure.

A complaint against the Council may arise for the reasons given above, but may also be triggered by an allegation of administrative fault (e.g. not following procedures or standing orders, inadequate or no service, delay or making a mistake).

The complaints procedure will deal with matters of maladministration, which is if the Parish Council does something the wrong way, fails to do something it should do or does something it should not do. Some examples include:

- Neglect or unjustified delay
- Malice, bias, or unfair discrimination
- Failure to tell people their rights
- Failure to provide advice or information when reasonably requested
- Providing misleading or inaccurate advice
- Inefficiency, ineffectiveness, bad and unprofessional practice or conduct.

Whilst a complaint may be made against the Parish Council, a member or members of the Council or staff are likely to be mentioned or complained about.

This Policy will:

- be publicised on the Parish Council website
- be fair and objective
- not be adversarial
- be based on clear procedures and defined responsibilities
- be thorough and consistent
- be decisive and capable of putting things right where necessary
- be Fully supported by councillors and officers
- ensure compliance with the Data Protection policy

## **Complaints Procedure**

The purpose of a complaints procedure is to put things right if things go wrong.

All complaints about the Council's actions, decisions, procedures or administration should be made in writing and addressed to the Parish Clerk, unless the Clerk is the subject of complaint, in which case the complaint should be addressed to the Chairman.

The Clerk, in consultation with the Chairman, will decide whether it necessary to notify the Council's insurers of a complaint, e.g. where the complainant is seeking redress for personal injury, damage to property or other financial loss, or where the Council may be at risk of being held liable in law to pay damages or to provide another legal remedy.

In the first instance, the Clerk will attempt to resolve the matter informally. If this is not possible because of the serious nature or complexity of the complaint, then the Clerk will consult the Chairman (or Vice Chairman in the absence of the Chairman) of the Council and the Chairman of the Employment Committee if appropriate.

The written response on behalf of the Parish Council will include a full and frank response to the concerns raised by the complainant and an apology where appropriate.

The complaint should be acknowledged within 5 working days of receipt and the complainant will be advised that a full response will be made within 10 working days of receipt. If the investigation requires more time a response explaining the reason for a delay will be sent to the complainant.

The complainant should 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 the Parish Council at a regular Council meeting).

The Clerk will represent the position of the Council. If the Clerk's response will explain or justify the action or procedure complained of, the Clerk may not advise the Council or committee, as they may need to determine the matter themselves. The Clerk will report the subject of the complaint and action taken to the next full meeting of the Parish Council.

If the complainant does not feel their concerns have been answered, the complainant will be invited to attend a meeting to discuss the complaint.

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 Clerk shall provide the complainant with copies of any documentation upon which the Council wish to rely at the meeting and shall do so promptly, allowing the complainant the opportunity to read the material in good time for the meeting.

## **At the Meeting**

If a complaint is personal to the complainant it will be treated as confidential unless the complainant confirms that he/she waives their right to confidentiality.

The Parish Council or Employment or sub-committee will consider whether the circumstances of the meeting warrant the exclusion of the public and the press. Any decision on a complaint will be announced at the Council meeting in public.

The Chairman will introduce everyone present (but not attending members of the public who are not the complainant/s) and explain the procedure.

The complainant should outline the grounds for complaint, following which statement questions may be asked by:

- i. the Clerk or nominated officer, and then
- ii. members.

The Clerk or other nominated officer will explain the Council's position and questions may be asked by:

- i. the complainant, and then
- ii. members.

The Clerk or other nominated officer and then the complainant will be offered the opportunity to summarise their position.

The Clerk or other nominated officer and the complainant will be asked to leave the room while members decide whether the grounds for the complaint have been made. If a point of clarification is necessary, both parties shall be invited back.

The Clerk or other nominated officer and the complainant will be given the opportunity to wait for the decision, but if the decision is unlikely to be finalised at the meeting they will be advised when the decision is likely to be made and when it is likely to be communicated to them.

### **After the meeting**

Once a decision has been made it will be confirmed in writing within seven working days together with details of any action to be taken.

### **Vexatious or Abusive Complaints**

Most complainants behave in legitimate ways, but a very small number of complaints may be vexatious, in that they persist unreasonably with their complaints, or make complaints to make life difficult for the Council rather than genuinely to resolve a grievance.

The Council recognises that it is important to distinguish between people who make complaints because they genuinely believe things have gone wrong, and people who are seeking to subvert the legitimate business of the Council. It is important for the Clerk, or nominated officer, to consider the merits of each case rather than the way in which they are expressed.

If in the judgement of the Clerk or other nominated officer considers the complainant is being unreasonable in their demands to answer every single point in an unreasonable letter, the Clerk or other nominated officer will separate the legitimate queries from those that are unreasonable, often within the same complaint. The Clerk, or nominated officer, will advise the complainant accordingly.

Where a complaint is identified as vexatious, the Clerk, in liaison, with three Councillors (to include the Chairman of the Council and, whenever possible, the Vice Chairman or the Chairman of the Employment Committee), will determine what action to take. The Clerk will implement such action and will notify the complainant(s), that their complaint/grievance is considered as vexatious and what action that will be taken. This notification will be copied to all Councillors and a record kept of the reasons why a complaint has been classified as vexatious.

The Council may deal with vexatious complaints in one or more of the following ways:

- i. Decline contact with the complainant, either in person, by telephone, fax, email or any combination of these, provided one form of contact is maintained which will usually be by conventional post (letter).
- ii. Notify the complainant, in writing that the Council has responded to the points raised and has tried to resolve the complaint/grievance but that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end and the Council does not intend to engage in further correspondence dealing with the complaint.
- iii. If the complainant continues to submit vexatious complaints, the Clerk will inform the complainant that the Council intends to seek legal advice on unreasonable or vexatious complaints/grievances and behaviour.
- iv. The Clerk will advise the complainant that the Council will suspend all contact temporarily with the complainant about the issues relating to the complaint or grievance being considered.

### **Suspending or Restricting Contact**

The Council may also restrict contact with the complainant as follows:

- i. Require the complainant to communicate only with one named employee/member;
- ii. Limit the complainant to one form of contact (letter);
- iii. If a complaint is currently going through the Council's complaints procedure, asking the complainant to enter into a written agreement about their future conduct if the complaint is to be progressed;
- iv. Close the investigation into a complaint if the full Council agrees that no further information will be forthcoming;
- v. Refuse to register and process further complaints providing the complainant with acknowledgements only;
- vi. Ban a complainant from future Council meeting if they are disruptive and preventing the Council from conducting its proper business;
- vii. Involve the police where the complainant is believed to have committed a criminal offence (harassment, assault or criminal damage), where assault is threatened, or the complainant refuses to leave a Council meeting after being requested to leave.

The Clerk will inform the complainant in writing why a decision has been made to restrict or stop future contact, the contact arrangements and the length of time that these restrictions will be in place.

In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other residents, employees of the Council, Councillors and co-opted members do not suffer any disadvantage or undue stress and the resources of the Council are used as effectively as possible.

### **Threatening and Abusive Complainants and Harassment\***

The Council will not tolerate unacceptable behaviour by complainants and believes that harassment is totally unacceptable. The Council will work to prevent any form of harassment from happening in the first instance and where it has already occurred, will work to prevent it from happening again.

If the unacceptable behaviour continues, the Council may consider taking legal action against the complainant.

Where there is abusive or aggressive behaviour which produces damaging or hurtful effects, physically or emotionally on the staff or members which includes, but not exclusively, verbal abuse (including name calling), bullying, shouting or swearing or threat of any of these behaviours the staff or members affected should step away from the situation and the complainant asked to leave the premises where appropriate.

This can mean terminating a conversation whether it is face to face or by telephone, advising that the conversation is being terminated, and in the case of such behaviour in a face-to-face contact in the office or public meeting the complainant should be asked to leave the premises.

All such incidences will be documented. This will cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be continued through written communication by post.

Any complainant who threatens or uses physical violence towards staff or members will receive written confirmation that they are being treated as a vexatious complainant and informed of the action that will be taken.

### **Definition of a Vexatious Complainant**

Complainants (and/or anyone acting on their behalf) may be deemed to be vexatious where contact with them shows that they meet one or more of the following criteria:

- Persist in pursuing a complaint/grievance where the Council's Complaints Procedure or the Freedom of Information procedure has been fully implemented and exhausted.
- Persistently change the substance of a complaint/grievance or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response.
- Are repeatedly unwilling to accept evidence given as being factual or deny receipt of an adequate response despite correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period has elapsed.

- Repeatedly does not clearly identify the precise issues which the complainant wishes to raise despite reasonable efforts of the Council to address their concerns, and/or where the concerns identified are not within the remit of the Council.
  - If the complaint is about the same subject matter that has already been considered, with only very minor differences, and does not contain any new information.
  - Regularly focus on a trivial matter to an extent which is out of proportion to its significance.
  - Have threatened or used physical violence towards staff or members at any time.
  - Using judgement of the Council based on the specific circumstances of each individual case, the complainant has had an excessive number of contacts with the Council thereby placing unreasonable demands on the Clerk or members, the Council will use its discretion to determine the precise of number of contacts applicable under this section.
  - Have harassed or been personally abusive or verbally aggressive towards staff or members dealing with the complaint/grievance. All instances of harassment, abusive or verbally aggressive behaviour will be documented.
  - Have harassed or been personally abusive or verbally aggressive towards any Members of the Council (Councillors and Clerk) or co-opted members whether this has been on a face-to-face contact or at public meetings.
  - Are known to have recorded meetings or conversations without the prior knowledge and consent of other parties involved and/or have impersonated any member of staff or Councillors with the objective of soliciting information for whatever purpose.
  - Seeking to coerce, intimidate or threaten staff, Councillors or other people involved, whether by use of language, tone of voice or behaviour including body language.
  - Repeatedly raise grievances which are already proven to be without substance or foundation.
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## Notes

Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may also include actions characterised as offensive, intimidating, malicious, insulting or humiliating that attempts to undermine or injure an individual or group of individuals.

Under the Freedom of Information Act 2000 Section 14(1), public authorities do not have to comply with vexatious requests. The Council also has a legal duty under the Health and Safety at Work etc. Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare at work of its employees and members.

The terms Parish Clerk and Clerk refers to the Parish Clerk & Responsible Finance Officer (the proper officer of the Council)

Parish Council and Council refers to the Bradwell with Pattiswick Parish Council

Member/s refers to elected or co-opted Councillors of the Bradwell with Pattiswick Parish Council

Nominated or other officer refers to elected or co-opted Councillors of the Bradwell with Pattiswick Parish Council

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## Other bodies

Other bodies have responsibility for certain types of complaints, summarised below:

Type	Should be referred to
Alleged financial irregularity	Local electors have a statutory right to object to a Council's audit of accounts (s.16 Audit Commission Act 1998)
Alleged criminal activity	The police
Members' conduct alleged to breach the Code of Conduct or other policy adopted by the Council	Braintree District Council (the Monitoring Officer) is responsible for handling complaints that relate to a member's failure to comply with the Council's Code of Conduct