

BRAMSHOTT & LIPHOOK PARISH COUNCIL

COMPLAINTS POLICY

1. INTRODUCTION

- 1.1 The Council recognises that from time to time members of the public will have complaints about the administration or procedures of the Council or complaints against individual councillors or employees in connection with the business of the Council. This Policy sets out the procedures for dealing with such complaints.
- 1.2 The Council will do their best to settle complaints and satisfy complainants in the interest of the good reputation of the Council. If a complaint cannot be settled by the Council it cannot be referred to any other body for settlement. It must be taken into account that a complainant may well try to enlist the services and backing of other individuals and bodies and pursue the complaint at considerable expenditure of time and other resources to the Council.
- 1.3 The procedures set out below are recommended as a way of ensuring that complainants can feel satisfied that at the very least their complaint has been properly and fully considered. Complaints about policy decisions of the Council shall be referred back to the Council, subject to Standing Order 12.

2. PRINCIPLES

- 2.1 Complaints can be made in person, by telephone, or in writing.
- 2.2 The precise complaint must be stated by the complainant, and the person/body against whom the complaint is made is/are to be informed on receipt of the complaint.
- 2.3 The complaint will be dealt with as quickly as possible. Each step and action under the procedures will be taken without unreasonable delay.
- 2.4 The determination of the outcome/s desired by the complainant should be identified at the earliest opportunity if it was not stated when the complaint was made (experience suggests an apology, an assurance of change so that the “same thing” cannot happen again).
- 2.5 Complaints will be dealt with at the informal stage wherever possible. Basic problem solving, consultation, and negotiation techniques should be used to avoid the use of the formal stages.
- 2.6 An investigation should not be undertaken unless it is absolutely necessary, and normally not until Formal Stage 2 of the procedure.
- 2.7 The person or body to whom a complaint is made must be provided with a copy of any documents or information relating to the complaint. The provisions of the Data Protection Act 1998, and the Freedom of Information Act must be taken into account when dealing with complaints.

- 2.8 The location of any meetings held must be suitable for all parties involved in terms of accessibility, and to allow for those with disabilities.
- 2.9 Legal advice is to be sought in the event of serial facetious, vexatious or malicious complaints from members of the public, prior to writing any letter to the complainant.

3. COMPLAINTS PROCEDURE

3.1 Introduction

3.1.1 The complaints procedure is in three stages:

- Informal Stage - The complaint is made and dealt with informally by the Clerk/Chairman of the Council.
- Formal Stage 1 - Should it not have been possible to deal with the complaint informally, then the complaint is made formally, in writing, to the Clerk/Chairman of the Council and is dealt with directly between the Clerk/Chairman and the complainant.
- Formal Stage 2 - Should it not be possible to deal with the complaint, formally, and directly, then the complaint is passed to the Parish Council to deal with and decide upon.

3.2 Informal Stage

3.2.2 The complainant raises the complaint orally with the Clerk, and the Clerk will informally discuss the matter with the complainant. Should the complaint concern an employee who is not the Clerk, the employee is to be informed immediately, and be given an opportunity to comment on the complaint, and the manner in which it is intended to attempt to settle the complaint. The Clerk will endeavour to find a satisfactory solution.

3.2.2 If the complaint concerns the Clerk or a councillor, then the complaint should be referred to the Chairman of the Parish Council (Vice-Chairman in the absence of the Chairman or if the complaint concerns the Chairman). The Clerk or councillor, as appropriate, is to be informed immediately of the complaint, and be given an opportunity to comment on the complaint, and the manner in which it is intended to attempt to settle the complaint. The Chairman/Vice-Chairman will endeavour to find a satisfactory solution.

3.2.3 If the Clerk or the Chairman/Vice-Chairman of the Council consider that the complaint warrants an investigation rather than just establishing the facts, then an investigation is to be instigated but only in exceptional circumstances for this stage of the procedure. The Chairman of the F&P Committee will arrange for that investigation to be carried out by two councillors usually within 7 working days. The Chairman of the F&P Committee will set out in writing the grounds for the investigation, who and what will be investigated, and the details of how the investigation will be conducted. An officer of the Council or

a Councillor is to clerk any investigative interview. A letter is to be sent to any employee/s or councillors who is/are subject to an investigation inviting them to attend the investigation at an appropriate and reasonable location and time and informing them that they may be represented. The employee/s may be accompanied at an investigation by a representative of the trade union to which they belong (who may or may not be a work colleague), or by a work colleague, friend or adviser not acting in a legal capacity. The employee/s should advise the Council who their representative is to be prior to the start of the investigation. Whilst the representative can speak at the investigation and ask questions, he or she cannot answer questions for the member of staff. The suggested procedure to be followed for such investigations is shown at Annex A (Meeting Procedure). The complainant is to be informed that an investigation is being carried out.

- 3.2.4 An investigation report will be written by the councillors carrying out the investigation and submitted to the Clerk, the Chairman of the Council or the Parish Council as appropriate, with copies provided to any employee or councillor as appropriate.
- 3.2.5 If the complaint is successfully dealt with, the Clerk or the Chairman of the Council will record (file note) that a complaint has been received and dealt with under the Informal Stage with a copy sent to the Chairman of the F&P Committee.
- 3.2.6 If the complainant remains dissatisfied and it has not been possible to satisfy the complainant in full immediately, the complainant is to be asked that the complaint should be put in writing, thereby invoking Formal - Stage 1 of the procedure.

3.3 **Formal - Stage 1**

- 3.3.1 The complainant is to put the complaint, formally, in writing to the Clerk, or if the complaint is against the Clerk to the Council or a councillor it must be put to the Chairman of the Council (or Vice-Chairman in the absence of the Chairman or where a complaint concerns the Chairman). A response letter is to be sent to the complainant, by the appropriate person, informing them that the complaint will be dealt with promptly.
- 3.3.2 On receipt of a written formal complaint, the Clerk to the Council or the Chairman, as the case may be, shall (except where the complaint is about their own actions) try to settle the complaint directly with the complainant, but shall not do so without immediately notifying the person/s complained of and giving them an opportunity to comment on the manner in which it is intended to attempt to settle the complaint. Efforts should be made to settle the complaint at this stage.
- 3.3.3 Where the Clerk to the Council or Chairman receives a written complaint about their own actions, they shall immediately refer the complaint to the Council. The Council are to notify the person/s complained of and give them an opportunity to comment on the manner in which it is intended to attempt to settle the complaint. The

Clerk or the Chairman of the Council will write to the complainant informing them that the complaint has been referred to the Council for action under Formal Stage 2 and that it will be dealt with promptly. Should legal or other professional advice be needed, then the complainant is to be informed, and advised that consideration of the complaint may have to be deferred. In this case, the matter will be dealt with at the meeting after the advice has been received.

- 3.3.4 Should the Clerk or the Chairman of the Council or the Parish Council decide that an investigation is required then the Chairman of the F&P Committee is to instigate the investigation as set out at paragraph 3.2.3 and make a report as shown at paragraph 3.2.4.
- 3.3.5 As soon as any decision has been made by the Clerk or Chairman of the Council, and normally within 5 working days, the decision and the nature of any action to be taken shall be communicated in writing to the complainant. The letter is to seek a response from the complainant within 7 working days that they are content with the outcome of the complaint.
- 3.3.6 The Clerk to the Council or the Chairman shall report to the next meeting of the Parish Council any written complaint disposed of by direct action with the complainant.
- 3.3.7 Should the complainant remain dissatisfied and it has not been possible to satisfy the complainant in full at this stage of the procedure the complainant may invoke the Formal Stage 2 of the complaints procedure.

3.4 **Formal – Stage 2**

- 3.4.1 The Clerk to the Council or the Chairman shall bring any written complaint which cannot be settled under Formal Stage 1 or any complaint that has been referred direct to the Council (see paragraph 3.3.3 above) to the next meeting of the Council. The Clerk to the Council shall notify the complainant of the date on which the complaint will be considered by the Council, normally the next Council meeting and if necessary as urgent business. Should legal or other professional advice be needed, then the complainant is to be informed, and advised that consideration of the complaint will be deferred. In this case, the matter will be dealt with at the meeting after the advice has been received.
- 3.4.2 The complainant shall be offered an opportunity to explain the complaint orally (unless such a matter may be related to Grievance, Disciplinary or Standard Board proceedings that are taking or likely to take place, when such a hearing may prejudice those hearings when the complaint will have to be heard under Exempt Business to exclude any member of the public or press or deferred on appropriate advice received).
- 3.4.3 The Council shall consider whether the circumstances of the complaint warrant the matter being discussed in the absence of the press and the

public. If the matter is a complaint of the Clerk to the Council or an employee such that the Council or the Clerk to the Council believes that the matter may lead to a disciplinary hearing then the matter must be heard with the press and public excluded. In this event, if the complaint is of any employee, even if the matter is being dealt with initially out of the context of a formal disciplinary hearing, then the employee is entitled to have a representative present to act as set out in the Employment Relations Act 1999 s.10.

- 3.4.4 The employee/s may be required, and at their request may attend the Council meeting, and may be accompanied at the meeting by a representative of the trade union to which they belong (who may or may not be a work colleague), or by a work colleague, friend or adviser not acting in a legal capacity. The employee/s should advise the Council who their representative is to be prior to the start of the meeting. Whilst the representative can speak at the meeting and ask questions, he or she cannot answer questions for the employee. The suggested procedure to be followed to deal with complaints being considered at Parish Council meetings is shown at Annex A (Meeting Procedure).
- 3.4.5 The matter before the Council in this case will be to establish whether there is a factual basis to the complaint and the action that should then be taken. The proceedings at this stage cannot be a formal disciplinary hearing, which must be convened on a separate occasion in the proper manner and as set out in the Parish Council disciplinary procedures.
- 3.4.6 As soon as may be after any decision has been made by the Council, and usually within 5 working days, the decision and the nature of any action to be taken shall be communicated in writing to the complainant and where necessary employees/councillors. The letter is to seek a response from the complainant within 7 working days that they are content with the outcome of the complaint. The letter must also advise the complainant of their right to pursue the matter with relevant external agencies, and that the Council will take every reasonable effort to assist them. Legal advice should be taken before responding to the complainant at this stage of the procedure.
- 3.4.7 An employee who is not content with the decision made by the Council in relation to a complaint made against them should raise the matter with the Council using the Grievance Procedure.
- 3.4.8 In the event of a decision being made in which disciplinary action is considered against an employee, the Disciplinary Procedure is to be followed.

Annex A: Meeting Procedure - Complaints.

Approved by Bramshott & Liphook Parish Council

4 June 2007