



# **WANSFORD PARISH COUNCIL**

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## **COMPLAINTS PROCEDURE**



# WANSFORD PARISH COUNCIL

## COMPLAINTS PROCEDURE



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# WANSFORD PARISH COUNCIL

## COMPLAINTS PROCEDURE



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### 1. Introduction

- 1.1 Wansford Parish Council (WPC) is committed to listening to the views of its Residents in order to improve the Service it provides. Complaints are a simple means for the Residents to voice their concerns about the Council's Service and are an important indicator of where that Service may not be delivering the best performance. The effective resolution of complaints should improve the confidence of Residents and identify service delivery improvements.
- 1.2 This Procedure is based upon Peterborough City Council's (PCC) Corporate Complaints Policy, tailored for use by Wansford Parish Council.
- 1.3 The full PCC Complaints Policy is included at Annex A.

### 2. Objectives

- 2.1 The Objectives of the WPC Complaints Procedure are to:
  - a. ensure everyone knows how to complain and how a complaint will be handled by the WPC.
  - b. ensure that complaints are dealt with consistently across the WPC.
  - c. provide Residents with a fair and effective way to complain about our services.
  - d. ensure that complaints are monitored and used to improve our services.
  - e. Improve public satisfaction and confidence in the way the WPC handles complaints and provides its services.
  - f. Identify a route to the PCC Complaints process for those complaints beyond the WPC's authority.

### 3. Principles

- 3.1 The WPC will ensure that:
  - a. The Residents have a right to:
    - i. be treated fairly and sensitively.
    - ii. be kept informed about what is happening with their complaint, and
    - iii. be advised of the service standards they should expect, the timescale for acknowledging and responding to a complaint. and any right of appeal.
  - b. Our employees will:
    - i. be sensitive to the particular needs of Residents,
    - ii. treat complaints as confidential, where possible, and

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- iii. be accessible and clearly identified.
  - c. Our Procedure will:
    - i. be open, easily accessible and widely promoted to all people who live, work and visit Wansford.
    - ii. be easy to understand and use by all Residents and employees, and
    - iii. set out how to complain and how a complaint should be handled.
- 3.2 A legitimate complaint occurs when WPC has failed to follow its own procedures or has failed to provide a service to a resident when WPC is required to do so. Greater detail on what constitutes a complaint can be found at the Annex A para 4.1 and matters that fall outside of what can be considered can be found at para 5.
- 3.3 If, after due consideration, WPC makes a decision or follows an approach that is contrary to the views of one or more individuals that is not grounds for a complaint.

## 4. Submission of a Complaint

- 4.1 A complaint may be submitted:
- a. Verbally to the Council, the Clerk, the Chairman or any Councillor
  - b. By e-mail to the Clerk or Chairman
  - c. By letter to the Clerk or Chairman
- 4.2 A complaint can be made by:
- a. any person or organisation that receives or is seeking to secure a service from the Council or its contractors.
  - b. a person acting on behalf of an individual or organisation with the complaint; their representative can include a Councillor, Member of Parliament, friend, neighbour, family member, an advice agency or other advocacy group.
- 4.3 The WPC will require authorisation from the individual if a representative will be acting on their behalf. Generally, this should be written consent, but if this is not possible, verbal consent can be accepted where appropriate.

## 5. Procedure

- 5.1 The Complaints Procedure is in three stages:
- a. **Stage One (Investigation)**
    - i. The Council aims to settle the majority of complaints quickly and satisfactorily. The complaint will be investigated by the Chairman or nominated Councillor. The complaint may be resolved **informally** over the telephone or in person. If this is possible then a written response will not be required. The Council will have 3 working days to resolve a complaint informally. A complaint is only resolved informally if the complainant is satisfied with the resolution.
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- ii. If the complaint cannot be resolved informally a written acknowledgement confirming receipt of the complaint should be sent by the Councillor responding to the complaint.
- iii. If the complaint is first received by the Clerk, they will send an acknowledgement. It is expected that this will be by e-mail if the complaint has been made by e-mail or in writing in all other cases. The acknowledgement should be sent within 3 days of the receipt of the complaint (where the matter has not been resolved informally).
- iv. The Council will have 20 working days to investigate a formal complaint. The Councillor completing the investigation will pass their complaint response to the Chairman to review before it is sent to the Complainant. The response should answer the complaint points raised and inform the complainant how they can pursue a complaint if they are not satisfied. The Council should also offer the complainant the opportunity to contact the investigating Councillor to clarify the decision or any points raised in their response.

### **b. Stage Two (Service Review)**

- i. If the complainant remains unhappy with the Stage One response, they can request escalation to Stage Two. It is expected that if contact with the Complainant to discuss the matter has not previously occurred then this will happen at this point.
- ii. An internal procedure note detailing the steps to take when handling a complaint is available to Councillors from the Peterborough City Council Central Complaints Office.

### **c. Stage Three (Escalation)**

In the event that the Complainant and the WPC cannot agree on a resolution the Complainant has the right to escalate their complaint to the PCC Central Complaints Office.

- 5.2 The WPC has the discretion to determine whether a complaint should be considered under this process. Should the complaint be considered beyond the power of the WPC to resolve it may be referred directly to Peterborough City Council for resolution.
- 5.3 The PCC may exercise discretion about the stage at which a complaint may be referred to the Local Government Ombudsman. In some cases, the PCC may consider that a complaint would be best referred to the Local Government Ombudsman without going through any stage of the WPC Complaints Procedure. More detail on the role of the Ombudsman can be found at Annex A para 7.
- 5.4 The Council will strive to respond to complaints within stated timescales. However, this may not be possible in all cases. If more time is required to investigate the complaint, the Residents must be sent a holding letter which should include:
  - a. an apology for the delay.
  - b. an explanation for the delay. and

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- c. the date by which a full response can be expected.

### 6. Remedies

- 6.1 The Council should put things right if they have gone wrong; that is, to provide a 'remedy'. The remedy should fit the harm or injustice to the Complainant. Section 92 of the Local Government Act 2000 gives councils a general power to pay compensation or take other remedial action.
- 6.2 The Council may consult the Local Government Ombudsman guide on possible remedies. The Guide is periodically updated and can be found on their website.

### 7. Unreasonably Persistent Complaints

- 7.1 Complainants can pursue their complaints in a manner that can impede an investigation or can cause a significant resource issue for the Council. In these circumstances, the behaviour of the complainant may be defined as unreasonably persistent. The Council defines an unreasonably persistent complainant as ***'those complainants who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their, or other people's, complaints.'***
- 7.2 Where a complainant is defined as unreasonably persistent, the investigating Councillor will refer the matter to the Chairman to determine the appropriate course of action.

### 8. Data Protection

- 8.1 To process a complaint, the Council will hold personal data about the complainant. This includes data the complainant provides us and information that other people give us, about the complaint, in response to our enquiries. The Council will hold this data securely and only use it to help process the complaint. The identity of the person making the complaint will only be made known to those who need to consider the complaint and will not be revealed to any other person or be made public by the Council. However, it may not be possible to preserve confidentiality in some circumstances, for example, where relevant legislation applies, or allegations are made which involve the conduct of third parties.
- 8.2 Under the Freedom of Information Act 2000, Residents have a right to obtain a copy of their personal data. However, there are exceptions to this right. The Council normally destroys its complaint files six years after the complaint has been closed.

### 9. Other Relevant Documents

- a. Residents Standards
  - b. Data Protection Act 1998
  - c. Dignity at Work Policy
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- d. Equalities & Diversity Policy
- e. Freedom of Information Act 2000
- f. Grievance Procedure
- g. Human Rights Act 1998
- h. Hate Crimes Policy
- i. Health and Safety Policy
- j. Race Equality Scheme
- k. Race Relations (Amendment) Act 2000



**Peterborough City Council**

**Corporate Complaints Policy**

March 2016

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Central Complaints Office (01733) 296331. E-mail: [complain@peterborough.gov.uk](mailto:complain@peterborough.gov.uk)

Corporate Complaints Policy

## 1. Introduction

- 1.1 Peterborough City Council is committed to listening to the views of its customers in order to improve the services we provide. Complaints are a simple means for our customers to voice their concerns about the council's services and are an important indicator of where services may not be delivering best performance. The effective resolution of complaints should improve the confidence of customers and identify service improvements.

## 2. Our objectives

- 2.1 The objectives of the Corporate Complaints Policy are to:

- ensure everyone knows how to complain and how a complaint will be handled by the council;
- ensure that complaints are dealt with consistently across the council;
- provide customers with a fair and effective way to complain about our services;
- ensure that complaints are monitored and used to improve our services; and
- improve public satisfaction and confidence in the way the council handles complaints and provides its services.

## 3. Our principles

- 3.1 The council will ensure that:

### **Our customers have a right to...**

- be treated fairly and sensitively;
- be kept informed about what is happening with their complaint; and
- be advised of the service standards they should expect; the timescale for acknowledging and responding to a complaint; and any right of appeal.

### **Our employees will...**

- be sensitive to the particular needs of customers;
- treat complaints as confidential, where possible; and
- be accessible and clearly identified.

### **Our policy will...**

- be open, easily accessible and widely promoted to all people that live, work and visit Peterborough;
- be easy to understand and use by all customers and employees; and
- set out how to complain and how a complaint should be handled.

## 4. Our definition of a complaint

4.1 A complaint is defined as ***an expression of dissatisfaction by a member of the public about a council action or service, whether the action or service was provided by the council itself or a person or body acting on behalf of the council.*** A member of the public may be dissatisfied because they feel the council has:

- ***failed to provide a service;***
- ***not provided a service to an acceptable standard;***
- ***delayed in providing a service;***
- ***made a mistake in the way it has provided a service or made a decision;***
- ***given incorrect or misleading information;***
- ***been rude, unhelpful or demonstrated inappropriate behaviour;***
- ***provided poor or inadequate facilities;***
- ***failed to act in accordance with the law or the council's own policies; or***
- ***provided a biased and/or unfair service.***

4.2 The council can only consider a complaint about a service or an individual if it has the power or duty to provide or secure the provision of that service for the customer, or employs, directly or indirectly, the individual about whom the complaint is made.

4.3 A complaint should not be overlooked because it is not formally described as a complaint. An enquiry should be processed as a complaint if it is consistent with the council's definition.

4.4 A complaint can be made by:

- any person or organisation that receives or is seeking to secure a service from the council or its contractors;
- a person acting on behalf of an individual or organisation with the complaint; their representative can include a Councillor, Member of Parliament, friend, neighbour, family member, an advice agency or other advocacy group.

4.5 The council will require authorisation from the individual if a representative will be acting on their behalf, this should be written consent in all cases; however if this is not possible verbal consent can be accepted in some cases.

## 5. Complaints that fall outside this policy

5.1 There are complaints which should not be resolved under the Corporate Complaints Policy. Where there is a statutory procedure or a right of appeal to, or review by, a Minister or tribunal or within the council, a complainant should not resolve their dispute through the council's Corporate Complaints Policy. However, the council should consider any aspect of a complaint which was not, or could not be, dealt with by an alternative procedure. The complainant should be informed about the possibility of pursuing their dispute by an alternative procedure and what the implications could be in relation to the council's Corporate Complaints Policy.

5.2 The complaints that fall outside this policy are:

- about a Councillor from a member of the public or an employee;
- about Children's Social Care presented by a user or their representative;
- about Adult Social Care presented by a user or their representative;

- About a council contractor if that contractor has their own complaints process which has been endorsed by the council
- where there is a claim for compensation. The council defines a claim as '**any incidence of injury, loss or damage to a customer which they believe to have been caused by a negligent act or omission by the Council, for which they have expressed a wish to be compensated.**'
- about a school; as schools have their own complaints process
- where the customer has started legal proceedings, taken, or is taking, court action or a tribunal is involved;
- alleging criminal actions;
- about financial impropriety, that is, the improper use of the council's finances;
- from an employee (or ex-employee) about employment or personnel matters, including appointments, dismissals, pay, pensions, discipline, and harassment and bullying;
- from an employee about an internal service provider: for example, Information Communications Technology (ICT) or Human Resources (HR);
- data protection breaches: assessed by the Monitoring Officer and referred to the Information Commissioners office. Aspects of the data protection breach may fall outside of the scope of a referral to the Information Commissioners office. These matters may be investigated as a service complaint.
- FOI reviews: dealt with internally by the Monitoring Officer under an appeal process operated by the Information Commissioners office.
- School attendance fines
- where there is a separate right to appeal:
  - a benefit claims appeal where a claimant (or a third party affected by a decision i.e. Landlord or Landlord's agent) may officially disagree with a decision made by the Local Authority or do not understand the decision that has been made;
  - an appeal against refusal of planning permission under the Town and Country Planning Act;
  - an appeal regarding a Penalty Charge Notice (PCN);
  - housing applicants dissatisfied with a decision that has been made, including a decision to refuse entry to or remove them from the register, may request a review of the decision;
  - a school admission or exclusion appeal dealt with by the Education Appeals Panel.

5.3 Complaints reported after twelve months of the matter arising will only be investigated if there are special circumstances surrounding the delay. This is because it becomes increasingly difficult to ensure a fair investigation if many months have lapsed since the original incident occurred.

## 6. Our procedure

6.1 The Corporate Complaints Policy is based on a two stage procedure:

- Stage One (Investigation)
- Stage Two (Complaint Review)

### **Stage One (Investigation)**

The council aims to settle the majority of complaints quickly and satisfactorily. The complaint will be investigated by the service manager or team leader of the service

being complained about. The complaint may be resolved **informally** over the telephone or in person at council offices if this is appropriate and this is at the discretion of the service manager. If this is possible then a written response will not be required. The council will have 3 working days to resolve a complaint informally. A complaint is only resolved informally if the complainant is satisfied with the resolution. If this is not possible the manager will complete a formal investigation of the complaint and send a written response.

If the complaint cannot be resolved informally a written acknowledgement confirming receipt of the complaint should be sent by the service responding to the complaint.

If the complaint is first received by the Central complaints office they will send this acknowledgement. It is expected that this will be by email if the complaint has been made by email or in writing in all other cases. The acknowledgement should be sent within 3 days of the receipt of the complaint (where the matter has not been resolved informally).

The council will have 20 working days to investigate a formal complaint. The manager completing the investigation will pass their complaint response to their Head of Service to review before it is sent to the complainant. The response should answer the complaint points raised and inform the complainant how they can pursue a complaint if they are not satisfied. The council should also offer the complainant the opportunity to contact the investigating manager to clarify the decision or any points raised in their response.

## **Stage Two (Service Review)**

If the complainant remains unhappy with the Stage One response, they can request escalation to Stage Two. It is expected that if contact with the complainant to discuss the matter has not previously occurred then this will happen at this point. A mediation meeting may also be offered by the Head of Service at this stage. Alternatively an independent review may be carried out by an officer independent of the service complained about, on behalf of the Chief Executive. The Chief Executive or her nominated representative may decide not to offer a Stage 2 review if they are satisfied with the Stage One response already sent by the relevant department.

An internal procedure note detailing the steps to take when handling a complaint are available to officers and managers from their Heads of Service or can be obtained from the Central Complaints Office.

- 6.2 The council have the discretion to determine whether a complaint should be considered under this process. The Complaints Manager in consultation with the relevant Team Manager or Head of Service will determine whether or not a complaint should not be considered under this process. If the complaints manager and service manager have differing views of whether a complaint can be accepted under the corporate complaints policy there will be a right of escalation by the Complaints manager to the appropriate Director who will decide which process the complaint will follow.
- 6.3 The council may exercise discretion about the stage at which a complaint may be referred to the Local Government Ombudsman. In some cases the council may consider that a complaint would be best referred to the Local Government Ombudsman without going through any stage of the Corporate Complaints Procedure. The relevant Director or Head of Service, in consultation with the

Central Complaints Office, may decide at which stage a complaint can be referred to the Local Government Ombudsman. If a complaint is not to be reviewed at both stages this decision will generally need to be endorsed by the Chief Executive or their nominated representative.

- 6.4 The council will strive to respond to complaints within stated timescales. However, this may not be possible in all cases. If more time is required to investigate the complaint, the customer must be sent a holding letter which should include:
- an apology for the delay;
  - an explanation for the delay; and
  - the date by which a full response can be expected.

## 7. The Local Government Ombudsman

7.1 The Local Government Ombudsman investigate complaints about local authorities. The Local Government Ombudsman is independent of the council and has similar powers to a High Court Judge. It can investigate a complaint, order the disclosure of documents, or make findings of 'maladministration.' This means the Local Government Ombudsman is satisfied that there has been an unreasonable delay or departure from a local authority's procedure, which has resulted in injustice, loss, injury or distress to the complainant.

7.2 The Local Government Ombudsman will usually only consider a complaint after it has been through the council's Corporate Complaints Procedure and the customer is still dissatisfied.

7.3 The relevant Director will be notified by the Link Officer or the Central Complaints Office when a case is being investigated by the Local Government Ombudsman

7.4 Further information on The Local Government Ombudsman can be found on their website [www.lgo.org.uk](http://www.lgo.org.uk)

## 8. Hate Crimes

8.1 The Council defines a Hate Crime as **crimes which the victim or any other person perceives to be motivated by hostility or prejudice towards any aspect of a person's identity, namely disability, race or ethnicity, religion or belief, sexual orientation and gender Identity**

8.2 When the council receive a complaint regarding hate crime, it may refer it to the appropriate body for action. Further information on hate crime can be viewed on the council website.

## 9. Remedies

9.1 The council should put things right if they have gone wrong, that is, to provide a 'remedy'. The remedy should fit the harm or injustice to the customer. Section 92 of the Local Government Act 2000 gives councils a general power to pay compensation or take other remedial action.

- 9.2 The council may consult the Local Government Ombudsman guide on possible remedies which is periodically updated and can be found on their website.

## 10. Unreasonably persistent complaints

- 10.1 Complainants can pursue their complaints in a manner which can impede an investigation or can cause a significant resource issue for the council. In these circumstances, the behaviour of the complainant may be defined as unreasonably persistent. The council defines an unreasonably persistent complainant as ***those complainants who, because of the frequency or nature of their contacts with the council, hinder the council's consideration of their, or other people's, complaints.***
- 10.2 Where a complainant is defined as unreasonably persistent, the Complaints Manager will liaise with the relevant Head of Service/Director to determine the appropriate course of action.

## 11. Anonymous complaints

- 11.1 Complaints received anonymously will not be recorded but will be referred to the relevant department for general consideration.

## 12. Data Protection

- 12.1 To process a complaint, the council will hold personal data about the complainant. This includes data the complainant provides us and information that other people give us, about the complaint, in response to our enquiries. The council will hold this data securely and only use it to help process the complaint. The identity of the person making the complaint will only be made known to those who need to consider the complaint, and will not be revealed to any other person or be made public by the council. However, it may not be possible to preserve confidentiality in some circumstances, for example, where relevant legislation applies or allegations are made which involve the conduct of third parties.
- 12.2 Under the Freedom of Information Act 2000, customers have a right to obtain a copy of their personal data. However, there are exceptions to this right. The council normally destroys its complaint files six years after the complaint has been closed.

## 13. Management Information

- 13.1 Complaints are an important management tool which allows us to learn about the services we provide. They are a useful source of information about how the customers see our services and how we are serving our customers. To ensure that the Council can learn from its complaints, the following data should be collected for every complaint received.
- The name and address of complainant.
  - The name of the officer dealing with the complaint.
  - The dates on which the complaint was received and on which it was responded to.
  - The nature of the complaint.
  - The outcome of the complaint
  - How the complaint was received
  - Remedial action carried out in response to the complaint.

- Lessons learnt from the complaint.

13.2 It is important that complaints information is reported and considered on a regular basis and at all levels of the Council. The following methods will be used to report complaints information.

- An annual report to Scrutiny Committee.
- An annual report published on the council's website.

## 14. Responsibility for the policy

14.1 Scrutiny Committee is responsible for monitoring the policy on an annual basis.

14.2 The Chief Executive (or their nominated representative) is responsible for the overall policy and its review on a triennial basis.

14.3 Directors are responsible for investigation and response to LGO complaints.

14.4 Heads of Service are responsible for:

- the overall process of recording, monitoring and reporting of Stage One complaints made against their services

14.5 The support staff to Heads of Service (or a nominee) are responsible for the recording and monitoring of Stage One complaints made against their services.

14.6 The Central Complaints Office is responsible for:

- communicating the policy and its associated procedures;
- Taking complaints from the general public and redirecting them where necessary
- monitoring and co-ordinating Stage Two complaints
- Liaison with the Local Government Ombudsman
- reporting to departmental management teams and Scrutiny Committee, and the general public on the performance of the policy.

## 15. Other relevant documents

- Customer Standards
- Data Protection Act 1998
- Dignity at Work Policy
- Equalities & Diversity Policy
- Freedom of Information Act 2000
- Grievance Procedure
- Human Rights Act 1998
- Hate Crimes Policy
- Health and Safety Policy
- Race Equality Scheme
- Race Relations (Amendment) Act 2000