

# WARBOYS PARISH COUNCIL

## Complaints Procedure

Warboys Parish Council adopted a complaints procedure at a meeting held on 13th May 2013 which was revised and amended as follows at a meeting held on 13th August 2018.

### **1. Complaints**

#### 1.1 Complaints may be about -

- a decision or action of the Council or its employees;
- an allegation that a Member of the Council has breached the Council's Code of Conduct for Members;

1.2 Because of the nature of the issues involved, different procedures have been adopted for the two potential types of complaint. The overriding principle is that any investigation and decision will be undertaken by persons who have not been involved in the decision or action that is the subject of the complaint. Clearly that is not possible where the decision maker is the Council but every effort will be made to ensure that any investigation and subsequent decision in relation to the complaint is fair. The rules of natural justice will be applied and if the complaint refers to an individual, that person will be made aware of the complaint and offered an opportunity to respond before any decision on the complaint is reached.

1.3 There is a distinction between a formal complaint and a query about an action by the Council or an individual. A simple explanation or apology may often be sufficient to resolve an approach by a member of the public without resorting to a formal investigation. Defining that distinction is rather more difficult, although it is usually clear as to what can be settled informally and what should be the subject of a formal investigation.

### **2. Complaints Form**

2.1 A person who wishes to complain about any action or decision of the Council will be required to submit a completed complaints form.

2.2 A person who wishes to make an allegation that a Member has breached the Code of Conduct should use the complaints form available from Huntingdonshire District Council and return that form to the Monitoring Officer at Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN.

### **3. Complaints about the Council**

3.1 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.

- 3.2 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.
- 3.3 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:-
- (i) 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.
  - (ii) The Clerk will bring the complaint to the attention of the Chairman of the Council and will determine, after consultation with the Chairman, 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.
  - (iii) In the case of a complaint about a decision or action by the Clerk, the above process will be undertaken by the Chairman, after consultation with the Vice Chairman.
  - (iv) Where it is considered appropriate by the Clerk (or the Chairman in the case of a complaint involving the Clerk), after consultation with the

Chairman (or Vice Chairman), 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; or
- 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.)

- (v) Where it is considered appropriate by the Clerk (or the Chairman), after consultation with the Chairman (or Vice Chairman), that a formal investigation is appropriate or the complainant is unwilling to accept the informal resolution referred in paragraph 3.3(iv), 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.
- (vi) 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 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.
- (vii) 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.

(viii) The decision of the Council shall be final in such circumstances.

3.4 The Clerk (or the Chairman) shall notify the complainant of a decision taken as soon as practicable.

#### **4. Complaint about a Member**

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

4.2 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 under arrangements made by Huntingdonshire District Council in accordance with the Act.

4.3 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.

4.4 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 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 –

- (i) On receipt of the complaint from the Monitoring Officer and after consultation with the Chairman, the Clerk will decide within 5 working days whether –
- he thinks that it is not possible for the matter to be resolved locally and, if so, he will refer the matter back to the Monitoring Officer; or

- 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 Chairman, the Clerk will consult the Vice Chairman.

- (ii) 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.
- (iii) 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; and
  - ask the Member concerned to provide a written response to the allegation(s) and supporting evidence within 5 working days.
- (iv) The Clerk will review every complaint received and written response if provided by a Member and, after consultation with the Chairman, take a decision as to whether –
  - the matter may be resolved informally; or
  - the complaint merits formal investigation and should be dealt with by the District Council.

In the event of the complaint involving the Chairman, the Clerk shall consult the Vice Chairman. 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 his decision and the reason(s) for it.

- (v) Where the Clerk is of the opinion that the complaint may be resolved informally without the need for formal investigation, this may involve the Member accepting that his/her 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 refer the complaint back to the Monitoring Officer. The complainant will be informed of the decision.

4.5 The report of the Monitoring Officer after investigation of the complaint will be considered at the next full meeting of the Council. The Council will implement any recommendations made by the Monitoring Officer as a result of his investigation of the complaint.