



BARNSTAPLE TOWN COUNCIL

COMPLAINTS PROCEDURE

1. Introduction

Complaints received from members of the public about the administration or procedures of Barnstaple Town Council are not subject to the jurisdiction of the Local Government Ombudsman. However, for the transparency in local government and for the benefit of good local administration, Barnstaple Town Council has adopted a formal procedure for considering complaints.

It is essential that complaints are dealt with positively. The Town Council is anxious to hear people's comments and committed to making full use of complaints information to contribute to continuous service improvement

The Town Council's Complaints Policy applies to the following three areas of complaint:-

1. Complaints about a Town Council service or function
2. Complaints about a member of staff
3. Complaints about an Town Councillor

2. Definition of a complaint

A complaint is any expression of dissatisfaction, however made, about the standard of service, action or lack of action by the Town Council, its elected members or staff, which affects an individual customer or group of customers.

What the Complaints Procedure will deal with:-

- Neglect or unjustified delay
- Malice, bias, or unfair discrimination
- Failure to provide advice or information when reasonably requested
- Providing misleading or inaccurate advice

- Inefficiency, ineffectiveness, bad and unprofessional practice or conduct.

What the complaints procedure will not deal with

- Complaints for which there is a legal remedy or where legal proceedings already exists.
- Complaints about employment matters these will be dealt with by the Town Council's internal grievance procedure.
- Complaints about an incident or matter which took place longer than 12 months ago.

3. Equal Opportunities

The Town Council is committed to equal opportunities. Complaints/feedback will be used to highlight discriminatory practices, and to promote equality of opportunity.

Complaints by members of the public of discrimination and/or harassment against the Town Council will be dealt with through the complaints procedure unless it is a complaint that should be dealt with through a statutory procedure.

4. Stages of the Procedure

The Stages of the procedure are designed to provide the complainant with a thorough and fair means of redress and to provide a framework for offices to work within. However, there may be occasions when a complainant makes an approach in a different manner and it is important that the procedure does not in itself become a barrier to effective communication.

It is vital however, that the Town Clerk remains clear of the process, until required at any second stage to ensure that his/her contribution is completely independent.

5. Informal Complaints

During the course of daily business, minor complaints are made to officers regarding the service we provide. The appropriate officer or Town Clerk will usually deal with these. It is not appropriate for every comment received to be treated as a formal complaint. Every effort should be made to deal with these problems immediately, either by providing information, instigating the appropriate action or explaining a decision.

6. Procedure to follow for Handling Formal Complaints

Stage 1 A complainant may notify a complaint orally to a Councillor or the Proper Officer of the Council (Town Clerk), This will be recorded as a complaint and passed to the appropriate officer to investigate.

If the complainant remains unsatisfied with the response they shall be requested to put his/her complaint in writing to the Proper Officer of the Council. An acknowledgement will be sent within 2 working days

If a complainant indicates that he/she would prefer not to put the complaint to the Proper Officer of the Council then he/she should be advised to put it to the Chairman of the Council (The Mayor). An acknowledgement will be sent within 2 working days.

Stage 2 The Proper Officer of the Council or the Chairman of the Council, shall try to settle the complaint directly with the complainant within 14 working days of receipt of complaint, but shall not do so without notifying the person complained of and giving him/her an opportunity to comment on the manner in which it is intended to attempt to settle the complaint.

If the investigation of the complaint is likely to take more than 14 working days, the complainant will be notified together with a reason for the extended investigation period.

Where the Proper Officer to the Council receives a written complaint about his/her own actions, he/she shall immediately refer the complaint to the Mayor as Chairman of the Council.

Stage 3 The formal response to the complaint must also advise the complainant that, if having received a full response to the complaint, the issue remains unresolved, the complainant has the right to request , within 28 working days, that the matter should be referred to

- a) The Committee responsible for the service or function.
- b) The Staff Committee in the case of a member of staff
- c) The Mayor and two other councillors

A decision made by (a), (b) or (c) shall be considered final and the complaint will be considered closed.

If the complainant does not respond within 28 working days, the complaint may be considered closed.

Stage 4 If the Complainant responds and requests the matter to be referred to the relevant committee, the Staff Committee, or the Mayor, as detailed above, the Proper Officer of the Council shall consider whether the circumstances attending any complaint warrant the matter being discussed in the absence of the press and the public. If the matter is such that the Town Council or the Proper Officer believes that the matter may lead to a disciplinary hearing then the matter must be heard with the press and public excluded.

If the complaint is against any employee, even if the matter is being dealt with initially out of the context of the 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. 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.

If the complaint is against any elected member the Mayor and two other councillors will decide whether the matter is such as to be an infringement of the Town Council's Code of Conduct.(Model code of conduct (Parish Councils) Order 2012). If this is felt to be the case, the complaint will be forwarded to the District Council's Monitoring Officer for investigation and recommendation.

If the complaint against an elected member does not breach the Town Council's Code of Conduct, but is felt by the Mayor and two other councillors to be contrary to the spirit of the Town Council's Acceptable Behaviour Policy (see appendix 1) a recommendation may be made to a meeting of Full Council on how the elected member might make restitution.

Stage 5 The Complainant will be notified, in writing, of the final decision within 14 working days of the meeting.

7. Unreasonable and Vexatious Complaints

In the event of serial facetious, vexatious or malicious complaints from a member of the public the council will consider taking legal advice before writing any letters to the complainant. If new evidence is provided it will be evaluated in case the subject matter is sufficiently different from any previous facetious, vexatious or malicious complaint as to justify consideration as a new complaint.

8. Anonymous Complaints

Anonymous complaints should be referred to the Proper Officer of the Council, and may be acted on at his/her discretion, according to the type and seriousness of the allegation.

9. Contacts

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ACCEPTABLE BEHAVIOUR PROTOCOL

Introduction

Corporate Governance has been defined as “the system by which the organisation is controlled”. It looks at the procedures associated with decision-making, provision of services and overall control of the Town Council and seeks to provide a framework that gives clear direction within the Council together with transparency and accountability to the community. To achieve this objective, the Town Council must ensure that robust systems are in place which: -

- Reflect diversity and equal opportunities in all systems, practices and services
- Govern the way in which decisions are made and implemented
- Protect the Council’s assets and resources.

As part of the mechanism for achieving this objective, the following protocol has been devised for Town Council elected members and staff in order to ensure an equitable and supportive working environment through mutual respect and acceptable behaviour at all times.

The protocol firstly sets out the core principles of acceptable behaviour within Barnstaple Town Council for both elected members and staff. It then defines unacceptable behaviour and identifies strategies and methodology to deal with any breaches of the acceptable behaviour protocol.

Core Principles

Barnstaple Town Councillors and Town Council staff will: -

- At all times treat each other with courtesy, respect and dignity.
- Be aware of the effect of their individual behaviour on others and only make reasonable and manageable demands.
- Communicate with each other in a clear and honest manner.
- Welcome honest feedback and constructive criticism.
- Value the existing skills of the individual and support each individual’s personal and professional development.

Unacceptable Behaviour

Barnstaple Town Council will not condone any behaviour from elected members or staff, which is a source of discrimination, harassment or bullying towards another elected member, or member of staff.

Discrimination is defined as a failure to afford equal opportunities in the workplace on the grounds of disability, gender, race, religion, age, sexual orientation or marital status.

Harassment is defined as conduct which is unwanted and offensive and affects the dignity of an individual or group of individuals.

Bullying is defined as behaviour which either consistently, or in a single instance, comprises actions, criticism or personal abuse which humiliates, frightens, undermines or demeans the individual or group of individuals.

Some examples of unacceptable behaviour are given below, but it should be noted that this list is neither exclusive nor comprehensive.

- Using aggressive or threatening language, ridiculing or ignoring an individual or group of individuals.
- Making unacceptable demands on an individual's time and resources.
- Making inappropriate comments about an individual's appearance, disability, private life, race, gender or sexuality.
- The use of pin-ups, posters or electronic display, e.g. pornographic pictures, cartoons, etc., which cause offence to any group, race, gender or creed.
- Encouraging or coercing others to discriminate, bully or harass an individual or group of individuals.
- Inappropriate physical contact and making unwanted sexual advances.
- Excluding an individual or group of individuals from workplace activities or discussion because of age, disability, gender, race or sexual orientation.

Strategies for managing unacceptable behaviour

Barnstaple Town Council expects that elected members and staff will comply with the Acceptable Behaviour Protocol at all times. The Council, however, recognises that corporate governance principles demand that robust management systems are in place to deal with any risk to the business of Council. A breach of the Acceptable Behaviour Protocol could present such a risk and therefore the following strategies are in place to manage and resolve any breach of the Protocol:-

Step 1. Informal Resolution.

Any person who has experienced unacceptable behaviour, or has been accused of unacceptable behaviour, should first attempt to resolve the matter through informal discussion. A **member of staff** or **volunteer** should raise the matter with the **Town Clerk**. An **elected member**, or the Town Clerk, should raise the matter with the **Mayor**.

The Mayor, or Town Clerk, will attempt to resolve the matter through mediation and discussion with all parties, and by identifying any changes in behaviour necessary to overcome the problem together with a timescale for review.

In addition, the Town Council employs the services of an Occupational Health practitioner. A referral to Occupational Health may be made, if it is felt appropriate, to assist in the resolution of the problem.

Step 2. Formal Procedures

If the Informal Resolution strategy is not successful, an employee has recourse to the formal Grievance and Disciplinary Procedures of the Town Council. Details of the application of the Grievance and Disciplinary Procedures can be found in the Town Council's document dated November 2004.

Elected members are bound by the requirements of the Model Code of Conduct (Parish Councils) Order 2012 to behave in an appropriate and acceptable manner at all times. If the Informal Resolution strategy is not successful, the Mayor, in consultation with the Town Council, will decide whether the formal procedures for resolution should include the involvement of the District Council's Monitoring Officer and Standards Committee.

Review Process

Barnstaple Town Council will review its Acceptable Behaviour Protocol on, at least, an annual basis. Changes in legislation and good practices may necessitate an earlier review, when appropriate. At all times the Town Council will promote acceptable behaviour both within the organisation and in the Town Council's relationship with the community.

The review will be carried out by the Corporate Governance Working Party to ensure that the principles of corporate governance are maintaining, and where necessary, enhanced.