

# **A guide to making and handling a formal complaint against an individual councillor or the parish council**

The following guide has been formulated from the framework suggested by the National Association of Local Councils. It has been designed to cover complaints against actions of the Council's staff or its administration.

## **Introduction**

Councillors are elected by the general public to represent constituents of the parish. There is a Code of Conduct based on a Model Code of Conduct approved by Parliament to which Councillors must adhere. Councillors should conduct themselves in a way that is beyond reproach. However if anyone believes that a councillor has breached the Code of Conduct this guide explains how to make a complaint and how the complaint will be dealt with.

Littlebourne Parish Council is committed to providing a quality service to the residents of the parish, and to anyone who deals with the Parish Council.

The purpose of a complaints system is to put right what has gone wrong and to learn from it. And to offer the opportunity to complain, and for the issue to be investigated and resolved, whether or not something has actually been done wrong.

Littlebourne Parish Council is committed to conducting its business in a fair, transparent and equitable manner and where complaints arise, the Council will attempt to resolve them by informal discussion.

Littlebourne Parish Council takes all complaints seriously and it is our experience that many complaints can be resolved quickly and effectively on an informal basis. In the event that informal discussion is unable to resolve the complaint a formal complaint may be made.

## **Who you can complain about**

You can complain about elected councillors, or co-opted members, of Littlebourne Parish Council. (A co-opted member is a voting member of the parish council or one of its committees, who was appointed to their position rather than being elected.)

## **Formal Complaints**

The Local Government Ombudsman offers the following definition of a complaint:

“A complaint is an expression of dissatisfaction by one or more members of the public about the 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 council.”

## **Types of complaint**

It is not appropriate for all types of complaint to be dealt with under the council's complaint procedure. In particular this draft procedure is not appropriate for serious complaints relating to the conduct of an individual, which should be redirected and dealt with in the ways suggested in the table below.

Other procedures or bodies should be considered for the following types of complaint:

Type of conduct	Refer to
<b>Financial irregularity</b>	Any complaint about financial irregularity should be referred to the parish council's independent internal auditor – or to the Audit Commission or equivalent.
<b>Criminal Activity</b>	Any complaints concerning criminal activity must be directed to Kent Police
<b>Member conduct</b>	<p>A complaint about a Member's failure to comply with the Code of Conduct must be referred to either the Standards Committee of Canterbury City Council or the Adjudication Panel for England.</p> <p>(A Standards Committee is a panel made up of councillors of the District and Parish Councils and at least three people who are independent of it. They are intended to be above party politics. They can decide if there has been a breach of the Code of Conduct, and if so what penalty to impose. The Standards Committee can suspend a Councillor for up to six months.</p> <p>The Adjudication Panel for England is an independent tribunal that can decide if there is a breach of the Code and if so what sanctions to apply. It has the power to suspend a councillor from a council or particular activities for up to one year, or disqualify them from holding office for up to five years. It is not able to award damages or compensation.)</p>
<b>Employee conduct</b>	An employee conduct issues should be dealt with by the council's internal disciplinary procedure

### Confidentiality

Anonymous complaints will not be accepted. It is also unlikely that a complainant's identity will be kept confidential from the person(s) about which the complaint is being made. In the interests of fairness and natural justice, Littlebourne Parish Council believes councillors who are complained about have a right to know who has made the complaint. They also have a right to be provided with a summary of the complaint.

Similarly if Littlebourne Parish Council needs to re-direct a complaint to the Internal Auditor, Police or Standards Committee the complainant's identity and details will also be disclosed.

AT ALL TIMES THE COMPLAINT SHALL BE DEALT WITH IN CONFIDENCE AND WITH DUE REGARD TO NON-DISCLOSURE OF EXEMPT INFORMATION. Littlebourne Parish Council will respect the Local Government Ombudsman advice that the identity of a complainant should only be made known to those who need to consider the complaint.

At all times, all parties should be treated fairly and the process should be reasonable, accessible and transparent.

### **Stages of the complaint**

<b>Stage 1</b>	<p>A less formal, either verbal or written, explanation offered to the complainant by the Clerk or Chairman.</p> <p>If the complainant remains dissatisfied he/she must state reasons for their dissatisfaction and the complaint process moves to Stage 2:</p>
<b>Stage 2</b>	A full formal written response to the complainant by the Clerk or Chairman
<b>Stage 3</b>	<p>A formal meeting of either full council assembled or a committee of councillors to deal with the complaint</p> <p>See the attached Appendix for the procedures for before, during and after the meeting.</p>
<b>Stage 4</b>	<p>In the event that a complaint cannot be resolved through the internal complaints procedure the complainant should be advised in writing of their right to pursue the matter with either:</p> <ul style="list-style-type: none"> <li>i) The Standards Committee at Canterbury City Council if the complaint is about a Member's failure to comply with the Code of Conduct.</li> <li>ii) The Local Government Ombudsman (LGO) may be able to help the complainant. The complaint must come to the Parish Council first and follow the Council's complaint procedure. All the above stages must be completed first before the LGO will look at the complaint. They do not have to investigate every complaint they receive.</li> </ul> <p>There are three LGOs in England, appointed by Her Majesty The Queen, who investigate matters about most council matters including planning, housing, transport, highways, council tax, and so on. Their service is independent, impartial and free. The LGO has the same powers as the High Court to obtain information and documents. The LGO decision is final and cannot be appealed.</p> <p>The LGO Advice Team may be contacted on 0845 602 1983 8.30am-5pm Monday to Friday; also view <a href="http://www.lgo.org.uk">www.lgo.org.uk</a></p>

#### **Timeframe**

All complaints shall be dealt with as expediently as possible and within a 12 week timeframe for investigation and resolution. If this timeframe cannot be met the complainant shall be informed as soon as possible with reasons for the delay and an indicative resolution date.

#### **Publicity**

This complaint procedure will be publicised on the Parish Council's website. Additionally any resident may contact the Clerk and request that a copy of the document be emailed or posted to them. Councillors have an important role to play in ensuring their constituents are aware of what procedures exist to assist them in raising concerns.

#### **Contacting the Council**

Contact the Clerk: Gail Hubbard, 7 Bifrons Road, Bekesbourne, Canterbury, Kent CT4 5DE.  
 Telephone: 01227 721500 E-mail: [clerk@littlebournepc.org](mailto:clerk@littlebournepc.org). To contact the Chairman or any other Parish Councillor Contact the Clerk for their contact details or see the Noticeboard outside the War Memorial hall or visit the website [www.littlebourne-parish-council.co.uk](http://www.littlebourne-parish-council.co.uk)

## **Appendix – Complaints procedure for Stage 3 complaints**

This appendix gives more detail of how to handle a complaint at Stage 3. The two prior stages, Stage 1 (A less formal, verbal or written explanation by the Clerk or Chairman) and Stage 2 (A full formal written response to the complainant by the Clerk or Chairman) will have been carried out first, but the complainant remains dissatisfied.

Stage 3 involves a formal meeting of either full council assembled or a committee of councillors to deal with the complaint. A sub-committee is considered preferable as this makes the process easier to arrange and is also less daunting for a complainant if they choose to attend in person.

The following outlines the procedures for before, during and after the meeting:

### **Before the meeting**

1. If a formal complaint is to be made the complainant should write to the Clerk giving full details of the complaint about the council's procedures or administration. The Clerk should then formally record and date the complaint and acknowledge the complaint within seven working days.
2. If the complaint is about the Clerk, or if the complainant does not wish to put the complaint to the Clerk (by reason of the complaint being about that officer, or any other reason), then they should be advised that the complaint should be addressed to the Chairman or Vice Chairman of the council, to be recorded and acknowledged as above.
3. With the acknowledgement, the complainant shall be advised when the matter will be considered by the Council or by the committee established for the purpose of hearing the complaint. The complainant should also 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 committee).
4. The complainant shall be invited to attend a meeting and to bring with them a representative if they wish.
5. At least seven clear working days prior to the meeting, the complainant shall provide the council with copies of any documentation or other evidence that they wish to refer to at the meeting. The council shall similarly provide the complainant with copies of any documentation upon which they wish to refer to 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**

6. The Council shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press under the Public Bodies (Admission to Meetings) Act 1960. If it is to be a closed meeting then the Council will advertise it as a closed meeting however, any decision on a complaint shall be announced at the council meeting in public and be subsequently recorded in the Minutes of the next appropriate council meeting.

7. The Chairman should introduce everyone and explain the procedure to be used in order to consider the complaint made. The meeting should be as informal and friendly as possible, without prejudicing the need to consider properly the matter under discussion.
8. The complainant (or representative) shall be invited to outline the grounds for complaint and, thereafter, questions may be asked by (i) the Clerk and then (ii) Members.
9. The Clerk will have the opportunity to explain the council's position and any questions to the Clerk may be asked by (i) the complainant and (ii) Members
10. The complainant should then be offered the opportunity of a last word as a means of summarising their position.
11. The Clerk should then be offered the opportunity of a last word as a means of summarising their position.
12. The Clerk and the complainant should be asked to leave the room while Members decide whether or not the grounds for the complaint have been made. If a point of clarification is necessary, *both* parties shall be invited back.
13. The Clerk and the complainant should be given the opportunity to wait for the decision and hear the decision, but if the decision is unlikely to be finalised on that day then they should be advised when the decision is likely to be made and when it is likely to be communicated to them.

**After the meeting**

14. The decision should be confirmed in writing within seven working days together with the details of any action to be taken.
15. The announcement of any decision should be made in public at the next appropriate Council meeting.
16. The Clerk will add the details to the Council's 'Complaints Recording System' – and any received should also be reported annually to the AGM of the Council.

**Adopted by Littlebourne Parish Council at its meeting of .....**

**Signed .....**

**Chairman**