



# ANDOVER TOWN COUNCIL

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## COMPLAINTS PROCEDURE & POLICY

Information Source: Ryedale District Council, Association of Council Secretaries and Solicitors, Tameside Council.

### 1. Introduction

1. Complaint procedures are an important part of nearly every commercial or public service organisation. This is because through dealing with and responding to complaints or instances of poor performance or delivery of service an organisation sees its faults and has the opportunity to address and improve them.
2. Depending on the nature of the complaint there will be an occasion when a Town Council cannot resolve a complaint and the complainant may wish to take the matter further.
3. Some complainants are angry and aggrieved, sometimes with good cause. A very small minority make complaints that are vexatious, in that they persist unreasonably with their complaints, or make complaints in order to make life difficult for the Council rather than genuinely to resolve a grievance. This may involve making several complaints about different matters, or continuing to raise the same or similar matters repeatedly. However, most complaints can be resolved satisfactorily.
4. Guidance for dealing with vexatious complainants is set out at paragraph 4.

### 2. The definition of a complaint

A complaint is.....

**“An expression of dissatisfaction about the Council’s action or lack of action or about the standard of a service, whether the action taken or the service was provided by the Council itself or a body acting on behalf of the Council”.**

**A COMPLAINT IS NOT AN INITIAL REQUEST FOR SERVICE.**

### 3. Complaints Procedure

Andover Town Council's procedure for dealing with complaints is as follows:

- 3.1 Stage 1:** In the event of a complaint about Andover Town Council, the matter should be first reported to the Officer responsible for delivering that service, who will respond to the complaint and attempt to find a resolution.
- 3.2 Stage 2:** In the event that this cannot be resolved by the Officer, the matter will be passed to the Town Clerk who will investigate the complaint.
- 3.3 Stage 3: Appeals** If an appeal is made against the decision previously taken by the Town Clerk, the appeal will be reported to the Staffing Sub-Committee or an appointed panel of 3 Members or the Policy and Resources Committee, depending on the nature of the complaint. The decision of the appointed group is final and will be reported to Full Council.
- 3.4** Complaints about a policy decision made by the Council will be referred back to the Council.
- 3.5 Note:** This procedure does not cover complaints about the conduct of a member of the Town Council. Any complaint that a Councillor may have breached the Council's adopted Code of Conduct should be referred, in first instance to the Town Clerk who will liaise with the Monitoring Officer at Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover.

For guidance on how to complain to Andover Town Council, please refer to **Supporting Paper A**.

For guidance for Employees on how to deal with a complaint, please refer to **Supporting Paper B**.

For guidance for Employees on how to record and monitor a complaint, please refer to **Supporting Paper C**.

## 4. Vexatious or Persistent Complainants

Habitual or vexatious complainants can be a problem for Council Staff and Members. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer and Member time and displace scarce human resources that could otherwise be spent on Council priorities. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further that can reasonably be done to assist or to rectify a real or perceived problem.

4.1 The term habitual means 'done repeatedly or as a habit'. Andover Town Council considers 'habitual' as three times or more. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'.

### **4.2. When is a complainant not Vexatious?**

4.2.1 It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. Complainants will often be frustrated and aggrieved and therefore consideration must be made for the merits of the case rather than the attitude.

4.2.2 Even if someone has made a vexatious complaint in the past, it cannot be assumed that the next complaint is also vexatious. Each complaint must be considered, and a decision made as to whether it is vexatious or genuine.

- 4.2.3 Each piece of correspondence must be read and evaluated. If the officer dealing with the complaint is concerned that it could be vexatious the complaint must be referred to the Town Clerk who, in consultation with the Chairman of the Council will decide whether it is vexatious.

### 4.3. Criteria for Determining Habitual or Vexatious complaints

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet **one** of the following criteria:

Where complainants:

- 4.3.1 Persist in pursuing a complaint where the Council's complaints process has been fully and properly implemented and exhausted
- 4.3.2 Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. (Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints).
- 4.3.3 Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- 4.3.4 Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a trivial matter can be subjective and careful judgement will be used in applying this criteria.
- 4.3.5 Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate.
- 4.3.6 Have threatened, used physical violence or intimidation towards employees or Members of the Council at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complainant will, thereafter, only be contacted through written communication. The Council has determined that any complainant who threatens or uses actual physical violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made. If an employee or Member is meeting a complainant, the Chairman of the Council or the Chairman of the Staffing Sub-Committee will also be in attendance.
- 4.3.7 Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax. Judgement will be used to determine excessive contact taking into account the specific circumstances of each individual case.
- 4.3.8 Have harassed or been verbally abusive on more than one occasion towards employees dealing with the complainant. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. *Some complainants may have a mental health disability and there is a need to be sensitive in circumstances of that kind.*
- 4.3.9 Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.

- 4.3.10 Make unreasonable demands on the Council and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practice.
- 4.3.11 Make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:
- ◆ Clearly does not have any serious purpose or value; or
  - ◆ Is designed to cause disruption or annoyance; or
  - ◆ Has the effect of harassing the public authority; or
  - ◆ Can otherwise fairly be characterised as obsessive or manifestly unreasonable
- 4.3.12 Make repetitive complaints and allegations which ignore the replies which Council Officers have supplied in previous correspondence.

## 5. Procedure for dealing with Vexatious Complaints

### **Complaints about the same matter**

#### **5.1 (a) no new information**

- 5.1.1 If the complainant has not exhausted the Council's complaints procedure, they should be referred to the next stage of the procedure.
- 5.1.2 If the complainant does not pursue the complaint to the next stage, and continues nonetheless to correspond, the correspondence must be read by the officer who originally dealt with the complaint. If it raises no significant new matters and presents no new information, the earlier advice should be referred to. The complainant should be warned that the Council will not enter into any further correspondence about the matter, other than as set out above. The decision as to whether or not correspondence is continued will be made by the Town Clerk in consultation with the Chairman.
- 5.1.3 If the complainant still does not take advice, any further correspondence that does not raise any significant new matters or present any new information should simply be filed with no acknowledgement sent.

#### **5.2 (b) New Information**

- 5.2.1 If the complaint contains new information, this must be evaluated by the officer dealing with the complaint. A response should then be sent to the complainant. The letter must include telling the complainant of the next appropriate stage in the complaints procedure.

#### **5.3 (c) Complaints about similar matters**

- 5.3.1 The most difficult vexatious complaints to deal with are often complaints that are slightly different from the original complaint, but about the same broad area of activity. A decision will have to be made as to whether or not the matters are sufficiently different to justify being considered as a new complaint.

#### **5.4 (d) Complaints about different matters**

- 5.4.1 If a complainant keeps making complaints about different matters, each complaint should normally be considered in the usual way under the complaints procedure.

#### **5.5 (e) Trivial complaints**

- 5.5.1 However, if the new complaints are about entirely trivial matters, or matters that have clearly not caused the complainant any injustice, it may be appropriate to close down the complaint at Stage 1. This should only be done with the agreement of Town Clerk in consultation with the Chairman. The complainant should be told this, and there is no need to provide any right to appeal. Subsequent complaints should then simply be noted.

## **5.6 Vexatious complaints made by Telephone**

- 5.6.1 A complaint to the Council does not have to be made in writing. The complainants address and telephone number should be taken, allowing the Council to correspond with the complainant. However, if a complainant keeps telephoning either to discuss an existing complaint or to make a new complaint and this is proving time consuming and disruptive, it may be reasonable to ask them to put their concerns in writing and to discontinue the call. If the problem persists, it may be reasonable to tell the complainant that the Council will, for a set period, not accept telephone calls and only deal with the complainant in writing. This will only be done after discussion with the Town Clerk.
- 5.6.2 If the complainant is told that the Council will only deal with his or her concerns in writing, a letter should be sent to the complainant to confirm this, how long the ban will apply, and the reason for it. At the end of the period the matter should be reviewed, and the ban lifted if appropriate.
- 5.6.3 There will never be a blanket ban for an unspecified period of time.
- 5.6.4 The decision will be made by the Town Clerk in consultation with the Chairman/and/or Council.

## **5.7 Vexatious complaints made by Email**

- 5.7.1 A complaint to the Council may be received via email. The complainants address and telephone number should be taken, allowing the Council to correspond with the complainant. However, if a complainant keeps emailing either to discuss an existing complaint or to make a new complaint and this is proving time consuming and disruptive, it may be reasonable to ask them to put their concerns in a formal letter providing contact details and to discontinue the call. If the problem persists, it may be reasonable to tell the complainant that the Council will, for a set period, not accept emails and only deal with the complainant by letter. This will only be done after discussion with the Town Clerk.
- 5.7.2 If the complainant is told that the Council will only deal with his or her concerns in writing, a letter should be sent to the complainant to confirm this, how long the ban will apply, and the reason for it. At the end of the period the matter should be reviewed, and the ban lifted if appropriate.
- 5.7.3 There will never be a blanket ban for an unspecified period of time.
- 5.7.4 The decision will be made by the Town Clerk in consultation with the Chairman/and/or Council.

## **5.8 Co-ordinating dealings with vexatious complainants**

- 5.8.1 Vexatious complainants often contact many different people within the Council including Members of the Council, and can try and take advantage of the differing responses they may receive. It is important to try and ensure that a vexatious complainant has one main contact within the Council. In such circumstances, the Town Clerk will advise on the best approach, usually by identifying a single point of contact.

## **5.9 Dealing with Habitual or Vexatious Complainants**

The options below can be used on their own or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.

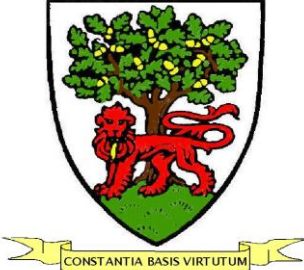
- 5.9.1 A letter to the complainant setting out responsibilities of the Council so that the Council can process the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
- 5.9.2 Decline contact with the complainant, either in person, by telephone or by email or any combination of these, provided that contact is maintained either by letter or fax. This may also mean that only one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this person.
- 5.9.3 Notify the complainant, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.
- 5.9.4 Inform the complainant that in extreme circumstances the Council will seek legal advice on habitual or vexatious complaints.
- 5.9.5 Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual or vexatious, while seeking advice or guidance from its solicitor or other relevant agencies.

## 6. Complaints that cannot be resolved by the Council

Complaints that cannot be resolved by the Council and the complainant wishes to take the matter further include the following:

- ◆ Breaches of the Code of Conduct for the Council may result in an allegation being made to the Monitoring Officer at Test Valley Borough Council. This may be in respect of financial wrongdoing, acting on pecuniary interests, not complying with equality legislation and so on.
- ◆ Any matter that raises a suspicion of criminal wrongdoing can, of course, be referred to the police
- ◆ Complaints under the Freedom of Information legislation, that the Council has not released information in the manner that person believes it should have done, can be referred to the Information Commissioner.

Andover Town Council



# ANDOVER TOWN COUNCIL

# A

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## COMPLAINTS PROCEDURE – HOW TO COMPLAIN

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### 1. Stage 1: Informal Complaint

You can make your complaint in the following ways:

- ◆ By using the Form provided by Andover Town Council
- ◆ By telephone
- ◆ In person at the Council's Office
- ◆ In writing
- ◆ By email
- ◆ Through your Ward Councillor

Please give your full name, address and telephone number to enable the Council to correspond in relation to your complaint.

To make sure that your complaint is dealt with promptly, please include as many details as possible including dates, times, the nature of the complaint, whether you feel the complaint was as a result of direct discrimination. A friend or relative can act on your behalf if you wish. When making the complaint, please make sure that you keep the details of whom you made the complaint to, again including dates and times if possible.

### 2. Stage 2: Formal Complaint

If you are not happy with the outcome of Stage 1 then you can make a formal complaint. At this stage you will need to write to the Council. The Council will then send you a 'Complaint Pack' which will include the Council's Procedure for dealing with complaints and a complaints Form. Please include all the information from your original complaint including any reference numbers, dates and names. Your complaint will be passed to the Town Clerk of the Council who will investigate your complaint. A written acknowledgement of your complaint will be sent to you within 3 working days of being received. Your complaint will then be investigated and where possible, it will be resolved within 15 working days. If however, the Town Clerk needs to seek further advice on the matter and your complaint will take longer to resolve than the 15 working days, you will receive a letter informing you of the situation.

### 3. Stage 3: Appeal Against Decision of the Town Clerk

If you are not happy with the outcome of Stage 3 you may appeal against the decision of the Town Clerk. Your appeal will then be considered by the Policy & Resources Committee, a Panel of three Members or the Staffing Sub-Committee, depending on the nature of your complaint. You will be informed of the outcome of the decision within 10 days of the Meeting of the committee or panel. The decision of the Committee or Panel is final.

### 4. My Complaint is about the Town Clerk

If you wish to complain about the Town Clerk you will be asked to complete a Complaints Form and direct all correspondence to the Chairman of the Staffing Sub-Committee.

### 5. My Complaint is about a Councillor

If you have a complaint about an Andover Town Councillor you must write to the Town Clerk in the first instance who will liaise with the Monitoring Officer at Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover, Hampshire.



# ANDOVER TOWN COUNCIL



# B

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## COMPLAINTS PROCEDURE – HOW TO DEAL WITH A COMPLAINT

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### Complaints Procedure Guidelines - Introduction

#### 1. What is a complaint?

1.1 A complaint is an expression of dissatisfaction, however made, about standards of service, actions or lack of action by the Council or its employees affecting a customer or a group of customers. If the customer believes:

- ◆ The Council has done something badly or in the wrong way
- ◆ The Council has done something it should not have done
- ◆ The Council has failed to do something it should have done
- ◆ The Council has treated them unfairly or discourteously
- ◆ The Council has discriminated against them
- ◆ The Council has acted in a way that is contrary to its policies or procedures

#### 2. What is not a complaint?

Most of the contacts we have with our customers are enquiries or comments. The complaints procedure does not cover:

- ◆ Requests for services
- ◆ Requests for information
- ◆ Appeals against Council decisions which have been made in line with the Council's policies and processes
- ◆ Investigating matters of employee discipline
- ◆ Complaints to the Council's insurers e.g. when the complainant seeks payment of compensation for personal injury or loss of or damage to property.

### Complaints Procedure Guidelines

1. The Stage 1 complaint will come verbally by telephone, by email, in person or by letter. The standard response for dealing with letters should apply i.e. a response will be sent within 10 working days for general complaints and 15 working days for Allotment complaints.
2. It is the practice of Andover Town Council to acknowledge receipt of all communications within 3 working days if a full response is likely to be unavailable within our standard response times.
3. If a complaint about procedures, administration or the actions of any of the Council's employees is notified orally to a Councillor, or to the Clerk to the Council, a written record of the complaint will be made, noting the name and contact details of the complainant and the nature of the complaint on the required form.
4. At Stage 2 the complainant will be sent a Complaint Pack which will include Andover Town Council's Complaints Procedure and a Complaint Form. The Complainant will be asked to complete the form and send it to the Town Clerk who will deal with the Complaint. Acknowledgement of receipt of the complaint will be sent within 3 working days. All other correspondence dealing with that particular complaint will be sent out within 15 working days.
5. If the complainant prefers not to put the complaint to the Clerk of the Council (because the matter relates to the Clerk, for example,) he or she should be advised to write to the Staffing Sub-Committee Chairman.
6. The Staffing Sub-Committee Chairman reserves the right to appoint the Town Clerk to investigate any complaint other than about the Town Clerk.
7. Where the Town Clerk or a Councillor receives a written complaint about the Clerk's actions, he or she shall refer the complainant and the complaint to the Staffing Sub-Committee Chairman. The Town Clerk will be formally advised of the matter and given an opportunity to comment.
8. The Town Clerk will report any complaint that has been dealt with via the Council's Complaint Policy in the Clerk's report to Full Council in Part 2 (Items for Information) of the Council Agenda.
9. Matters relating to Grievance or Disciplinary proceedings that are taking, or are likely to take place, should be dealt with in accordance with the Council's Grievance and Disciplinary Procedures.
10. The Council may consider whether the circumstances of any complaint warrant the matter being discussed in the absence of the press and public, but any decision on the complaint will be announced at the Council meeting in public.
11. The Council may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The advice will be considered and the complaint dealt with at the next meeting after the advice has been received.



## COMPLAINTS PROCEDURE – HOW DO I RECORD A COMPLAINT

Recording a Complaint  
Monitoring a Complaint  
Reporting the Complaint to Council

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### 1. How to record a complaint

- 1.1 Stage 1: You will normally receive a complaint either by telephone, email, letter or in person. Firstly take their name, address and telephone number. Using the Complaints Form for the Office, record, as carefully as possible, the nature of the complaint.
- 1.2 Using the Complaints Form for the Office record all actions that you take to deal with the complaint. Record the date, the action taken and in the right hand column indicate whether there is any paperwork to support your action, and the file reference.
- 1.3 When dealing with a Stage 1 complaint the standard response time must apply i.e. a response must be dealt with within 10 working days for general complaints and 15 working days for Allotments complaints.
- 1.4 Stage 2: If the complainant is not satisfied with the outcome of Stage 1 they can escalate the complaint to Stage 2. The Complainant must be sent a Complaint Pack which will include Andover Town Council's Complaints Procedure and a Complaint Form. You must ask the Complainant to complete the form and send it to the Town Clerk to investigate the Complaint.
- 1.5 Stage 3: If the complainant is still not satisfied with the outcome of the Town Clerk's investigation and conclusion they may appeal. The appeal will be considered by the Staffing Sub-Committee, a special panel of three members or the Policy and Resources Committee, depending on the nature of the complaint. All the papers including the Complaint Form (Office Copy), the Town Clerk's report will be considered by the appropriate committee or panel.
- 1.6 The conclusion of the committee or panel will be final.

1.7 The whole complaint, the procedures followed and the conclusions made will be reported to the next Full Council meeting.



## ANDOVER TOWN COUNCIL

# D

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### COMPLAINTS PROCEDURE – Complaints that cannot be resolved by Andover Town Council.

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Complaints that cannot be resolved by the Council and the complainant wishes to take the matter further include the following:

- ◆ Where someone feels very strongly that a decision of the Town Council was unlawful, they may apply to the courts for a judicial review of the Council's decision.
- ◆ An employee complaint, with or without going through the grievance procedure or a whistle blowing route which goes to an employment tribunal or the courts (such as a personal injury claim)
- ◆ An accusation of financial wrongdoing, where a complaint may be made to the Council's external auditor. Aside from referring the matter to another body if required, the auditor will have the power to carry out such actions as refusing to sign off the accounts or producing a public interest report.