



## **COMPLAINTS PROCEDURE**

**2023**

## **Introduction**

Wendover Parish Council is committed to providing a quality service for the benefit of the people who live or work in its area or are visitors to the locality. Complaints are valuable because they provide a chance to put things right if there has been an error, and to make sure that the same mistake is not repeated.

It is essential that complaints be dealt with positively. The Council is anxious to hear people's comments and committed to making full use of complaints information to contribute to continuous service improvement. Important information about areas for improvement can be obtained both from a single complaint and from patterns of complaints, highlighted by detailed monitoring. If you are dissatisfied with the standard of service you have received from Wendover Parish Council or are unhappy about an action or lack of action by us, this Complaints Procedure sets out how you may complain to the Council and how we shall try to resolve your complaint.

The Local Government Organisation confirms that a good complaints system is:

- well publicised, easily accessible and easy to use;
- helpful and receptive;
- not adversarial;
- fair and objective;
- based on clear procedures and defined responsibilities;
- thorough, rigorous and consistent;
- decisive and capable of putting things right where necessary;
- sensitive to the special needs and circumstances of the complainant;
- adequately resourced;
- fully supported by councillors and officers;
- provides responses that are proportionate; one size does not fit all;
- timely; and
- regularly analysed to spot patterns of complaint and lessons for service improvement

Wendover Parish Council is committed to following these principles.

## **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 was taken or the service provided by the council itself or a person or body acting on behalf of the council.'

### **What the complaints procedure will deal with:**

The complaints procedure will deal with matters of maladministration, which is if the Parish Council does something the wrong way, fails to do something it should do or does something it should not do. Some examples include:

- neglect or unjustified delay
- malice, bias, or unfair discrimination
- failure to tell people their rights

- 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 exist
- complaints about employment matters, complaints by one Council employee against another Council employee, or between a Council employee and the Council as employer as the Council operates alternative procedures to deal with grievances or disciplinary matters against staff.
- complaints against Councillors. Complaints against individual Councillors will be referred to the Monitoring Officer of Buckinghamshire Council. Further information about this process may be obtained from the Monitoring Officer of Buckinghamshire Council.

When a complaint is made against a local council, member(s) of the council or staff are likely to be mentioned or complained about. However, a complaint against a council should be treated as a complaint against the body corporate of the council, not as a complaint against individual employees or member(s) of the council.

For clarity, a complaint against a council that involves a complaint about the conduct of its employees must be handled in accordance with its complaints procedure. If following the outcome of the complaint, the Council decides that there may be a need to take disciplinary action, this should be in accordance with the Council’s disciplinary procedure.

**Equal Opportunities**

The Council is committed to equal opportunities. Complaint’s 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 Parish Council will be dealt with through the complaints procedure unless it is a complaint that should be dealt with through a statutory procedure.

**Data Protection Act 2018 (also known as GDPR)**

The Data Protection Act 2018 must be complied with when dealing with a complaint and the complainant’s personal details. By making a formal complaint with the Parish Council, individuals are deemed to be giving consent for their personal data to be used in accordance with the Data Protection Act 2018 and the Parish Council’s Information and Data Protection Policy. Personal information provided will only be used for the purpose for which it has been given and may be shared with a third party if the Parish Council deems that it will assist in resolving the issue raised.

## **Stages of the Procedure**

### **General Principles**

1. Complaints sometimes arise due to a misunderstanding or a misconception. It is recommended that in the first instance the complainant discusses their concerns informally with either the Clerk or the Chair of the Council or the source of the complaint[()]. Such action does not prevent the complainant following the formal complaints procedure as set out below.
2. The appropriate time for influencing Council decision-making is by raising concerns before the Council debates and votes on a matter. This may be done by writing to the Council in advance of the meeting at which the item is to be discussed. There may also be the opportunity to raise concerns in the public participation section of Council meetings.
3. If anyone is unhappy with a Council decision, they may raise their concerns with the Council, but Standing Orders prevent the Council from reversing decisions for six months from the date of the decision (Section 7.a), unless there are exceptional grounds to consider this necessary and the special process set out in the Standing Orders is followed.
4. The following stages of the procedure are designed to provide the complainant with a thorough and fair means of redress and to provide a framework for officers to work within.
5. The LGO recommends that any process takes no longer than 12 weeks from receipt to resolution. Clearly, some flexibility may be required to deal with lengthier and more complex complaints, and this should be explained to the complainant as the investigation proceeds.

### **Everyday problems, queries and comments**

6. The Council receives queries, problems and comments as part of its day-to-day running, and they should not all be regarded as complaints. These are routine and expected and are generally resolved quickly to the customer's satisfaction.
7. If someone is dissatisfied with the original service or response they received and wishes to take the matter further then the issue should be recognised as a complaint.

### **Informal Complaint**

8. During the course of daily business, minor complaints are made to officers about the services we provide. Staff at the Clock Tower will usually deal with these.
9. It is not appropriate for every comment 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.

### **Formal Complaint (Stage 1)**

10. Anyone who is dissatisfied with informal resolution may wish to make a formal complaint directly or may be unsatisfied with the outcome of an informal complaint and may wish to take the matter further. Any move to a formal complaint must be made in writing. This will be recorded as a complaint and passed to the appropriate officer to investigate, normally the Clerk.

11. An investigation will be carried out to:
  - see if there is a case to answer
  - make sure everyone is treated fairly
  - gather evidence from all sides
  - help the Council to see what should happen next
12. At any stage the Council and Complainant can review if the formal process needs to continue, or the issue can be taken to an informal resolution.

### **Recommended steps of the stage 1 investigation**

13. Any accommodation required by the Complainant for them to make their complaint will be discussed and reasonable adjustments incorporated into the steps of the investigation. This will be an accommodation that enables a Complainant to engage with the process, where they would normally be unable to engage because of a medical or mental health condition or other issue covered by the Equality Act 2010 (Disability) Regulations 2010. Where this procedure refers to reasonable accommodation it is this interpretation that is being referenced.

### **Before processing a complaint**

14. The complaint, any evidence and the desired outcome will be requested from the complainant in writing. A receipt acknowledging the complaint will be made in writing within 5 working days. It will outline the process and the timeframe.
15. The complainant must be asked at the outset to confirm if they want the complaint to be treated confidentially. Even if complainant waives their right to confidentiality, the council must comply with its obligations under the Data Protection Act 2018 to safeguard against the unlawful disclosure of personal data.
16. The council's Complaints procedure should be made accessible to the complainant. In any event, it should be well publicised and accessible via the council's website. A council's complaints procedure should confirm the following information.

### **The investigation**

17. The investigating officer will need to investigate the facts of the complaint and collate relevant evidence.
  - a) The Complainant will be offered the opportunity to provide all their information and evidence in writing. Any evidence offered by the Council will be collected and shared with the Complainant. Some information will need to be redacted to ensure compliance with the obligations of the Data Protection Act 2018. At this stage this information shall also be marked as confidential for the complainant only.
  - b) The complainant and the investigating officer will be given an opportunity to read the evidence and ask further questions or request further information. Where additional information from third parties is required this shall be treated as confidential information and only shared with the Complainant with express consent.
  - c) The investigation will, at this stage, be conducted exclusively through written communications unless an accommodation is required for accessibility.

## **The Complaint outcome**

18. The investigating officer will review the complaint, it will consider all the evidence presented and the legal obligations, policies and standing orders that guide how the Parish Council should operate and what remedy is required to resolve the complaint.
19. The complaint should be broken down where relevant so that it can be considered in parts. Each part will either be upheld, upheld in part or dismissed.
20. The investigating officer will then decide on any required remedy where a complaint is upheld or upheld in part. In principle the remedy should seek to offer a remedy which, as far as possible, puts the complainant back in the position they would have been but for the matters complained of.
21. If the matters complained about have caused the complainant to suffer financial loss, the investigating officer may want to offer financial compensation. This will need to be approved through the Complaints Committee and Councils payment approval processes.
22. Any offer or acceptance of financial compensation should confirm the council's payment is full and final settlement of the dispute and any claims which the complainant has against the council and without admission of legal liability.

## **After the complaint has been decided**

23. Within the timeframe specified in the council's complaint's procedure, the investigating officer should write to the complainant to confirm whether it has upheld the complaint. This should give reasons for its decision together with details of any action to be taken, if this appropriate.
24. The Complaints Committee will be informed of the outcome only and not the details of the investigation. Likewise Council will note that a complaint has been considered, the outcome and that a response issued to the Complainant. There shall be no public report.

## **Timescales**

25. The Council will aim to keep to the following timescales:
  - Complaint Acknowledged and Summary of process/complaints policy notified 5 working days
  - Investigation completed 21 working days
  - or progress reports issued 21 working day intervals

## **Appeal**

26. If the complainant is not satisfied with the Investigating Officer's response, they should be advised of their right to have the complaint referred to the Council's Complaint Committee. The complaint should confirm in writing why they remain unhappy within 10 working days of receiving the original investigation/outcome as per stage 1.

## **Complaints Committee (Stage 2)**

27. Any accommodation required by the Complainant for them to make their complaint will be discussed and reasonable adjustments incorporated into the steps of the investigation.
28. As soon as reasonably practicable the Complaints Committee should convene. The committee will review the complaint and respond accordingly.

29. The outcome of all formal complaints dealt with by the Complaints Committee will be reported to the full Council.

#### **Before the Complaints Committee Meeting**

30. The Complainant shall be invited to attend a meeting and to bring with them a companion if they wish.
31. Unless specifically agreed as a reasonable accommodation, the companion shall be there to make notes, support and advise the Complainant. They shall not engage in the debate unless specifically asked a question, and their response shall be limited to the scope of the question asked.
32. As this is an internal process the companion shall not be a legal representative or advocate unless agreed in advance as a reasonable accommodation.
33. The complainant must be asked to reconfirm if they want the complaint to be treated confidentially. Even if complainant waives their right to confidentiality, the council must comply with its obligations under the Data Protection Act 2018 to safeguard against the unlawful disclosure of personal data.
34. The council's Complaints procedure should be sent again to the complainant.
35. The Complainant will be given an opportunity to provide additional material to that provided in the investigation. This information will be provided at least seven clear working days prior to the meeting. The Council shall provide the complainant with copies of any documentation upon which they wish to rely at the meeting and shall do so promptly, allowing the claimant the opportunity to read the material in good time for the meeting.
36. If there are other persons who can provide relevant information then they shall be called and scheduled to provide that information. They should be called into the meeting when required and leave after providing that information.

#### **At the Complaints Committee Meeting**

37. The Committee shall consider whether the circumstance of the meeting warrant the exclusion of the public and press. It is standard practice to hold the Complaints Committee in confidential session as most complaints will require discussing sensitive personal information including: Staff performance, actions of individual councillors, commercially sensitive information, details of payments, and personal details of the complainant. It would be considered exceptional for a meeting to be held in public. Any decision on a complaint and the minutes of the meeting shall be public record.
38. The Chair should introduce everyone and explain the procedure.
39. The Complainant (or representative) should outline the grounds for complaint and, thereafter, questions may be asked by (i) the Clerk or other nominated officer and then (ii) members.
40. The Clerk or other nominated officer will have an opportunity to explain the council's position and questions may be asked by (i) the complainant and (ii) members.
41. The Clerk or other nominated officer and then the complainant should be offered the opportunity to summarise their position.
42. The Clerk or other nominated officer 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 in.

43. The Clerk or other nominated officer and the complainant should be given the opportunity to wait for the decision but if the decision is unlikely to be finalised on that day, they should be advised when the decision is likely to be made and when it is likely to be communicated to them. See timescales above.

### **Timescales**

44. The Council will aim to keep to the following timescales:
- Panel convened within 21 working days of request for appeal
  - Investigation completed 21 working days thereafter
  - or Progress Reports issued 21 working day intervals

### **Resolution and Remedies**

45. The aim in dealing with all complaints is to reach a resolution for the complainant, whether it is the remedy they were originally seeking or not. Where a complaint is found to be at all justified, consideration may need to be given to the question of an appropriate remedy (the Complaints Committee to make any final decision regarding remedy). An explanation or an apology will always be needed and should come from the Chair of the Complaints Committee.
46. The Complainant will receive a letter outlining a summary of the complaint, the process followed, the outcomes agreed by the Complaints Committee, and any remedies that may be offered. This letter shall be marked strictly private and confidential. The minutes of the Complaints Committee shall be published in line with other committee minutes. There will be no need to publish a separate report.

### **Right of Appeal to a Stage 2 Complaints Committee Outcome**

47. The decision of the Complaints Committee should be considered the final stage of the internal process. The Complainant has a right to review in the following circumstances, but only if it would have significantly changed the outcome. Those circumstances are:
- That Council did not follow significant parts of the Complaints Procedure
  - That declarations of interest were not properly made and as a result the outcome would have been significantly different.
  - That significant new information is now available that was not available at the time.
48. The appeal will only be considered if it is made in writing to the Chair of the Council who should have remained independent to the process. The Chair of Council can dismiss the appeal based on it not meeting the criteria set out above and at that stage this will be considered the end of any internal complaints process and the Council will not respond to any further communication regarding that complaint.
49. Should the Chair choose to review the process a meeting should be called, with a summons to all Councillors who had not been involved in the earlier stages of the complaint.
50. The meeting can make one of the following recommendations:
- That the appeal is rejected
  - That the reason for the appeal would not make a significant difference to the current outcome.
  - That the Complaints Committee should sit and hear the complaint again and take into consideration the information presented at the appeal.

51. On rejecting the appeal, or saying it would not make a significant difference, the Complainant should be informed that this is the end of the complaints process and the Council will not respond to any further communication regarding this complaint.
52. Should the Complaints committee sit and hear the complaint again it should follow the procedure as set out in Stage 2, however there is no right of appeal to the outcome of this Complaints Committee and the decision made there is the end of the complaints process and the Council will not respond to any further communication regarding that complaint

### **Conflicts of Interest**

53. In handling and resolving the complaint, the Clerk or other nominated officer and Council members shall pay due regard to any conflicts of interest which may exist or arise while doing so. Such conflicts of interest would normally preclude their involvement in the decision-making process.

### **Unreasonable and Vexations Complaints**

54. Habitual or vexatious complainants can be a problem for Parish Council staff and councillors. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer and Councillor time. While the Parish Council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can be done to assist or to rectify a real or perceived problem.
55. The Council has adopted the Local Government Ombudsman's definition and identified characteristics for unreasonable or unreasonably persistent complainants "For us, unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's complaints".
56. The Parish Council will take steps to protect its staff from members of the public who are behaving in a way which is considered abusive and/or vexatious.
57. The Parish Council will decide if it considers a Complainant's behaviour or actions to be vexatious. In such circumstances, the Parish Council reserves the right to determine the appropriate restrictions it may apply to any individual or group of individuals, which may ultimately include exclusion from Parish Council meetings.
58. Should a complaint be deemed as vexatious then the Complainant will be informed and the Council will not respond to any further communication about that complaint.

### **Anonymous Complaints**

59. Anonymous complaints should be referred to the Clerk, and may be dismissed at their discretion, according to the type and seriousness of the allegation.

### **CONTACTS**

Clerk to Wendover Parish Council  
Address: The Clocktower  
High St  
Wendover  
Bucks  
HP22 6DU  
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