COMPLAINTS PROCEDURE

adopted 4th June 2024

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1. INTRODUCTION

Great Ayton Parish Council ('the Council') is committed to providing services efficiently and to as high a standard as possible. However, the Council encourages individuals to bring shortcomings to its notice so that it may:-

- have the opportunity to resolve any issues
- learn from its mistakes so that they may be prevented in future
- review and revise policies and procedures where necessary

Great Ayton Parish Council has adopted the following procedure for dealing with the complaints about the Council's administration or its procedures.

This procedure is fully supported by councillors and officers and provides a process that seeks to:

- be easily accessible and easy to use;
- be fair and objective;
- be based on defined responsibilities;
- be thorough, rigorous and consistent;
- be timely, decisive and capable of putting things right where necessary;
- be sensitive to the special needs and circumstances of the complainant;
- be adequately resourced; and
- generate responses that are proportionate

2. DEFINITION OF A COMPLAINT

In the context of this document a complaint is defined as an expression of dissatisfaction about

- the council's action or lack of action
- the standard of a service

whether the action was taken or the service was provided by the Council itself or a person or body acting on behalf of the Council

or

- as an allegation of administrative fault such as not following procedures or standing orders, inadequate service, no service, delay or making a mistake

A complaint may mention member(s) of the Council or staff. However, any complaint against the Council will 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.

This procedure is applicable to complaints raised by residents, other individuals, organisations (e.g. a business, charity) or unincorporated bodies (e.g. a residents' or allotment tenants' association).

3. VERBAL COMPLAINTS

Anyone aggrieved with the Council should communicate this verbally or in writing.
If a complaint is about procedures, administration or the actions of any of the Council's employees and is notified orally to a Councillor or to the Clerk to the Council, a written record of the complaint will be made, normally by the Clerk noting the name and contact details of the complainant and the nature of the complaint.

In the interests of both the complainant and the Council, the Clerk, on behalf of the Council, will seek in the first instance to try to resolve the matter immediately and informally through the normal channels of communication.

If this is unsuccessful then the complainant is requested to follow the Council's formal complaints procedure outlined below.

However, this procedure is not applicable where other bodies have responsibility for certain types of complaint. These are summarised below:

Type of conduct	Refer to
Alleged financial irregularity	Local electors have a statutory right to object to a Council's audit of accounts (s.16 Audit Commission Act 1998)
Alleged criminal activity	The police
Members' conduct alleged to breach the code of conduct adopted by the council	North Yorkshire Council is responsible for handling complaints that relate to a member's failure to comply with the Council's code of conduct

4. FORMAL WRITTEN COMPLAINTS

The Council's Complaints Procedure requires formal complaints to be submitted in writing, ideally using the standard form for complainants given in Appendix 1, and sent to the following address by post, e-mail or hand delivery:
Parish Clerk
Great Ayton Parish Council
Parish Centre
High Green
Great Ayton
TS9 6BJ
E-Mail: clerk@greatayton-pc.org.uk

If the complainant prefers not to put the complaint to the Clerk to the Council (e.g. because the matter relates to the Clerk) then he or she is advised to write to the Chairman at the above address.

As a minimum complainant is requested to provide the following information:
(i) the complainant's contact details

(ii) as much information as possible relating to the compliant, this should include as a minimum detail of the complaint, including relevant events, dates, location(s), names of relevant members, staff, or contractors of the council.
(iii) whether the complaint should be treated confidentially. If so, the Council will comply with its obligations under the Data Protection Act 1998 to safeguard against the unlawful disclosure of personal data. If the complainant wishes the complaint to be treated confidentially then the identity of a complainant will only be made known to those who need to consider the complaint.

5. HANDLING THE COMPLAINT

The Clerk (or Chairman) will normally acknowledge any formal complaint within five working days of the receipt of the complaint and will:

- Confirm to the complainant if the complaint is to be treated as confidential
- Confirm the next steps of the complaints procedure

The Council's complaints procedure consists of 2 stages, the second of which permits the complainant to appeal the outcome of complaint. Councillors previously involved in the original decision will not participate in the determination of an appeal.

Once submitted each formal complaint against the Council will be properly investigated and will normally be handled either by delegation to the Clerk or by the Council's Complaints Committee exclusively through written communications.

The Clerk or the Complaints Committee of the Council will investigate within a reasonable period of time each complaint, obtaining further information as necessary from the complainant and / or from staff or members of the Council, as appropriate. The period set aside for investigation will be advised to the complainant at the time the complaint is acknowledged.

However, given the nature of a specific complaint, the Council may offer the complainant an opportunity to make verbal representations (accompanied by a friend or representative) to a meeting of the Complaints Committee. It is recognised that such verbal representations by the complainant may lengthen the period for dealing with the complaint.

6. COMPLAINTS COMMITTEE MEETING PROCEDURE

Before the meeting and not fewer than five clear working days prior to the meeting the complainant shall provide the Clerk, or as the case may be, the Complaints Committee with any new information or other evidence relevant to the complaint and the Clerk, or the Complaints Committee, shall provide the complainant with new information or evidence relevant to the complaint.

The Chairman of the Complaints Committee meeting will explain how the meeting will proceed and introduce all attendees. The Committee will consider whether the circumstances of the meeting warrant the exclusion of the public and the press.

The complainant (or his / her representative) should outline the grounds for complaint and, thereafter, questions may be asked by the clerk or by members of the Complaints Committee.

The Clerk or (if the complaint concerns the Clerk) a Committee member will have an opportunity to explain the Council's position and questions may be asked by the complainant.

The Chairman of the Complaints Committee and then the complainant should be offered the opportunity to summarise their respective positions.

The Clerk or other nominated member 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.

The Clerk 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, normally within seven working days..

7. NOTIFICATION OF THE COMPLAINT OUTCOME

The Clerk or the Chairman of the Council will notify the complainant within the period set aside for the investigation or, as appropriate, within 7 working days of the Complaints Committee meeting of the outcome of the complaint and what action (if any) the Council proposes to take as a result of the complaint. In exceptional cases it may be necessary to extend the above timescales. If so, the Council will inform the complainant of this within the specified time period.

The Council's written response will include a full and frank response to the concerns raised by the complainant, the reason reasons for its decision together with details of any action to be taken by the Council if this is appropriate for its decision together with details of any action to be taken by the Council if this is appropriate and an apology where appropriate.

Additionally, the Council will notify the complainant in writing of the right to appeal its decision.

If complainant is dissatisfied with the response to the complaint, he / she may ask for it to be referred to the Complaints Appeals Committee of the Council by informing the Council in writing within 7 working days of the written confirmation of the original decision. Any appeal meeting will follow the same procedure as for the initial meeting and will provide the complainant with the opportunity to explain the grounds for the appeal. Within a further 20 working days of the request the Council will notify the complainant in writing of the outcome of the review of the original complaint.

Any decision on the complaint will be announced at the Council meeting in public.

8. HANDLING VEXATIOUS OR ABUSIVE COMPLAINTS

Most complainants behave in legitimate ways. A very small minority of people make complaints that are vexatious, i.e. persisting unreasonably with one or more complaints, or making complaints in order to make life difficult for the Council rather than genuinely to resolve a grievance.

The Council recognises that it is important to distinguish between people who make a number of complaints because they genuinely believe things have gone wrong, and people who are seeking to subvert the legitimate business of the council. The Council acknowledges that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of each case rather than the way in which they are expressed.

The Council will not necessarily meet a complainant's unreasonable demands, or to answer every single point in an unreasonable letter and will use judgement to separate a complainant's legitimate queries from those that are unreasonable, often within the same complaint prior to responding tactfully and sympathetically. If the complainant's persistence adversely affects the Council's ability to do its work and provide a service to others, the Council will address such behaviour.

Where complaints are identified as vexatious in accordance with the criteria set out in Appendix 1, the Clerk in liaison with three councillors including the Chairman of the Council and, whenever possible, the Vice Chairman and the Chairman of the Employment Committee, will determine what action to take. The Clerk will implement such action and will notify the complainant that the complaint is considered as vexatious and what action will be taken. This notification will be copied to all Councillors and a record kept of the reasons why a complaint has been classified as vexatious.

The council may deal with vexatious complaints in one or more of the following ways:

- In a letter, setting out a code of commitment and responsibilities for the parties involved if the Town Council is to continue processing the complaint. If these terms are contravened, consideration will then be given to implementing other actions as indicated below.
- Decline contact with the complainant, either in person, by telephone, fax, email or any combination of these, provided that one form of contact is maintained which will usually be by conventional post.
- Notify the complainant, in writing that the Council has responded to the points raised and has tried to resolve the complaint but that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The Council will notify the complainant that the correspondence is at an end and the Council does not intend to engage in further correspondence dealing with the complaint.
- Inform the complainant that the Council intends to seek legal advice on unreasonable or vexatious complaints/grievances and behaviour.
- Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint or grievance being considered.

- Any restrictions will be appropriate and proportionate to the nature of the complainant's contacts with the council at that time such as:
- Placing time limits on telephone conversations and personal contacts;
- Limiting the complainant to one form of contact (letter);
- Requiring the complainant to communicate only with one named employee/member;
- If a complaint is currently going through the council's complaints procedure, asking the complainant to enter into a written agreement about their future conduct if the complaint is to be progressed;
- Closing the investigation into a complaint;
- Refusing to register and process further complaints providing the complainant with acknowledgements only;
- Banning a complainant from the Council's premises;
- Involving the police where the complainant is believed to have committed a criminal offence (harassment, assault or criminal damage), where assault is threatened, or the complainant refuses to leave council premises.

The clerk will inform the complainant in writing why a decision has been made to restrict or stop future contact, the contact arrangements and the length of time that these restrictions will be in place.

There will never be a blanket ban for an unspecified period of time unless the Council is legally required to do so following a police investigation. The Council will always try to maintain one form of contact, normally be by way of conventional post (letter). In extreme situations the Council will tell the complainant in writing that they must restrict contact to communication through a nominated advocate known and declared to be acting on their behalf.

In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other residents, the Council's employees, councillors and co-opted members do not suffer any disadvantage or undue stress and the resources of the council are used as effectively as possible.

9. THREATENING AND ABUSIVE COMPLAINANTS AND HARASSMENT

The Council does not expect staff or members to tolerate unacceptable behaviour by complainants which causes or may cause undue stress. The Council believes that harassment is totally unacceptable. The Council will work to prevent any form of harassment from happening in the first instance and where it has already occurred, will work to prevent it from happening again.

Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may also include actions characterised as offensive, intimidating, malicious, insulting or humiliating that attempts to undermine or injure an individual or group of individuals.

Where there is abusive or aggressive behaviour which produces damaging or hurtful effects, physically or emotionally on the staff or members which includes, but not exclusively, verbal abuse (including name calling), bullying, shouting or swearing or threat of any of these behaviours the Council employees or members affected should step away from the situation and the complainant asked to leave the premises where appropriate.

This can mean terminating a conversation whether it is face to face or by telephone, advising that the conversation is being terminated, and in the case of such behaviour in a face-to-face contact in the office or public meeting the complainant should be asked to leave the premises.

All such incidences will be documented. This will, in itself, cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be continued through written communication by post.

Any complainant who threatens or uses physical violence towards staff or members will receive written confirmation that they are being treated as a vexatious complainant and informed of the action that will be taken.

10. LEGAL REFERENCES

Under the Freedom of Information Act 2000 Section 14(1), public authorities do not have to comply with vexatious requests. The Council also has a legal duty under the Health and Safety at Work etc. Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare at work of its employees and members.

11. EXHAUSTION OF THE COUNCIL'S COMPLAINTS PROCEDURE

If the complainant has exhausted the Council's complaints procedure and is not satisfied with the action taken, or believes to have been unfairly treated, the complainant may pursue the complaint through the Ombudsman, who provides an independent national service to investigate complaints about councils. The Ombudsman may be contacted by telephone on 0300 061 0614 or through the website - www.lgo.org.uk. There is a form on the website that can be completed online.

APPENDIX 1 - DEFINITION OF A VEXATIOUS COMPLAINANT

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

- Persist in pursuing a complaint where the Council's Complaints Procedure or the Freedom of Information procedure has been fully implemented and exhausted.
- Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response.
- Are repeatedly unwilling to accept 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.
- Repeatedly do not clearly identify the precise issues which they wish to raise despite reasonable efforts of the Council to address their concerns, and/or where the concerns identified are not within the remit of the Council.
- If the complaint is about essentially the same matter that has already been considered, with only very minor differences, and does not contain any new information. 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.
- Regularly focus on a trivial matter to an extent that is out of proportion to its significance. It is recognised that determining what is a trivial matter can be subjective and careful judgement will be used in identifying frivolous complaints.
- Have threatened or used physical violence towards staff or members at any time.
- Have had an excessive number of contacts with the Council - placing unreasonable demands on staff or members. Discretion will be used in determining the precise of number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
- Have harassed or been personally abusive or verbally aggressive towards staff or members dealing with the complaint. The Council recognise, however, that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. All instances of harassment, abusive or verbally aggressive behaviour will be documented.
- Have harassed or been personally abusive or verbally aggressive towards any Members of the Council (Councillors) or co-opted members whether this has been face-to-face contact or at public meetings.
- Are known to have recorded meetings or conversations without the prior knowledge and consent of other parties involved and / or have impersonated any member of staff or Councillors with the objective of soliciting information for whatever purpose.
- Seeking to coerce, intimidate or threaten staff, Councillors or other people involved, whether by use of language, tone of voice or behaviour, including body language.
- Repeatedly raise grievances which are already proven to be without substance or foundation.