

# Complaints Policy

## **Table of Contents**

1	Introduction
2	Scope
3	Definitions
4	Complaint Process
5	Complaints against a member of staff
6	Vexatious complaints
7	Record Keeping
Appendix A	Complaints Procedure Flow Chart.
References	Information Commissioner Office
Related Policies	Code of Conduct, Disciplinary Policy, Grievance Policy, Standing Orders, FOIA 2000 and Data Protection

## **Version Control**

<b>Version</b>	<b>Date approved</b>	<b>Minute Ref</b>	<b>Website updated</b>	<b>Next Review</b>
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## 1. Introduction

Boyatt Wood Parish Council (BWPC) is a local authority and is not subject to the jurisdiction of the Local Government Ombudsman and there is no independent body to which a complainant can turn for an independent formal assessment of a position.

BWPC is committed to providing quality service to its residents, however from time-to-time, members of the public have complaints about the administration or procedures of the council. BWPC is committed to dealing with complaints in an open and transparent way that is fair and equal to everyone.

This policy and procedure ensure complainants have their complaints and concerns properly considered and resolved. It intends to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.

## 2. Scope

The Complaints Policy applies to BWPC administration and procedures which may include complaints about how BWPC employees have dealt with concerns raised by the public. All complaints will be dealt with in a fair, impartial, reasonable, and consistent manner.

This policy does not apply to

- 2.1 Anonymous complaints, will not be pursued.
- 2.2 Employees making complaints about another employee,  
or  
An employee making a complaint about the council as its employer.  
These matters are dealt with under the Councils Disciplinary and Grievance Policies and Procedures
- 2.3 Code of Conduct complaint against a Councillor, if a complaint against a councillor is received by the council, it will be referred to the Monitoring Officer at Eastleigh District Council. BWPC will consider the findings from the Monitoring Officer if necessary.

The complaint must be referred to the monitoring officer in writing or email.

The Monitoring Officer,  
Eastleigh Borough Council  
Eastleigh House Upper Market Street  
Eastleigh,  
Hampshire. SO50 9YN  
Or email: [Joanne.Cassar@eastleigh.gov.uk](mailto:Joanne.Cassar@eastleigh.gov.uk)

Eastleigh Borough Council Procedure can be found [here](#)

- 2.4 Alleged financial irregularity
- 2.5 Criminal activity
- 2.6 Where there is a legal remedy, or legal proceedings are in place.
- 2.7 The complaint relates to an incident more than 3 months after the act.

### 3. Definitions

**Complaint** - any expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Parish Council or its staff which affects an individual customer or group of customers.

**Habitual** - are those which include the repeated and/or obsessive pursuit of unreasonable complaints and/or outcomes and/or reasonable complaints made in an unreasonable manner. This includes behaviour which is considered (but is not restricted to) being aggressive, intimidating, abusive or offensive. Have the effect of harassing the Council.

**Malicious** – Seeks to cause disruption to Council business by unreasonably pursuing issues in a damaging manner. Pursuing issues that have no serious purpose or value.

**Vexatious** - ‘...manifestly unjustified, inappropriate or improper use of a formal procedure<sup>1</sup>’.

### 4. Complaint Process

BWPC presumes that all complaints are made in good faith and all complaints will be considered on its merits. Complaints about the council’s procedures or administration should always be addressed to the Clerk of the Council by phone, in writing or emailing the Clerk.

The Clerk is responsible for managing complaints and will ensure that all complaints are handled in the most appropriate manner, with the aim of reaching a satisfactory resolution to all parties.

If the Parish Clerk is the subject of the complaint, this can be referred to the Chair of Council. The details can be found on the Council website [www.boyattwood-pc.gov.uk](http://www.boyattwood-pc.gov.uk) who will report the nature of the complaint to the council. [See Appendix A](#)

#### 4.1 Informal Process

Most complaints can be resolved quickly and amicably. Wherever possible, the Clerk will try to resolve your complaint immediately in line with established policies and procedures by

- providing information,
- instigating the appropriate action or
- explaining a decision.

If this is not possible, the Clerk will normally try to acknowledge your complaint within 5 working days. The Clerk will keep the complainant informed of the progress of the complaint and advise of the outcome as soon as possible.

A request for escalation to the formal complaint procedure needs to be made within 14 days of receiving the complaint outcome provided by the Parish Clerk.

If the Clerk upon receipt of a complaint deems it to be sufficiently concerning to escalate directly to the Formal Process, they must notify Chair of Council.

#### 4.2 Formal Process

A formal complaint is considered serious and therefore will only be accepted in writing.

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<sup>1</sup> Information Commissioner vs Devon County Council & Dransfield (2012)

The written complaint should be as comprehensive as possible and include the following if possible.

- Full details of complaint, including any times and dates where applicable.
- Any relevant supporting materials/documents
- Names and contact details of any witnesses.

The Clerk will acknowledge receipt of the complaint within 5 working days.

#### **4.3 Investigation**

The Clerk will investigate the facts of the complaint and may make further contact with the complainant and other parties to ensure the nature of the complaint is fully explored.

Once all the information is gathered it will be assessed to determine the next steps.

This may include a meeting with at least 3 Councillors present – A panel, where the opportunity will be provided for a meeting with the complainant and/or representative.

The Chair of the Panel will lead the meeting, explaining its purpose to review information obtained and if required to ask further questions, to ensure that the complaint is explored as fully as possible, the complainant will also be offered the opportunity to ask questions.

The Chair of the Panel will summarise the respective positions before closing the meeting.

The Clerk will notify the complainant within 20 working days of the outcome of the complaint and of what action (if any) the Council proposes to take resultant from the investigation.

In complex and exceptional cases, the 20 working days' time frame may have to be extended to investigate complaints. Should an extension of time be necessary, complainants will be notified accordingly.

#### **4.4 Referral to Council**

If the Clerk and/or Panel is unable to resolve the complaint, or the complainant is not satisfied with the proposed resolution it will be referred to the next Parish Council meeting for further consideration in a confidential session, which will exclude the Panel members. The name of the complainant will not be shared with members of the council.

The complainant will be advised by the Clerk that all relevant information must be made available to Council for review. They will also be invited to attend the meeting and be available for any additional questions if they wish.

The Council will apply the principles of this policy and ensure that the Policy has been applied appropriately and fairly.

Dependant on the circumstances of the complaint the Council will have the option to make decisions, recommendations and take courses of action, including restrictions on communications with the complainant, which must be fair and proportionate to the situation.

The complainant will be notified within 5 working days of the decision and/or Recommendations made by Council.

#### **4.5 Appeal Process**

Complainants who are dissatisfied with the outcome of the investigation or the decision made at council may appeal within 10 working days of receipt of written notification of the results. This must be in writing clearly explaining the grounds for appeal.

For an appeal hearing to take place, it is advised that additional information or evidence be made available to Council.

Complainants will be notified in writing of the outcome of the Appeal hearing by the Clerk or Chair of Council, within 10 working days after the Parish Council meeting has considered the appeal against the original complaint. They will provide the rational and justification for the decision made.

The decision of the Appeal hearing is final.

## **5. Complaints against a member of staff**

In some situations where a complaint is about the alleged conduct of an officer, an investigation may indicate that a Disciplinary process needs to follow. BWPC will apply its own Disciplinary policy and procedure and be mindful of the officer's rights to confidentiality. Under no circumstances will the complainant be notified of any action taken against staff. This is expressly to protect the employment rights to which all employees of the Council are entitled.

## **6. Vexatious complaints**

Complaints made by individuals or groups of people can occasionally be considered as vexatious, malicious or habitual. Regardless of if the group or individual has made a vexatious, malicious, or habitual complaint in the past, it must not be assumed that any other complaint they make will also be vexatious, malicious or habitual. Each complaint will be dealt with on its own merits, and new genuine complaints will be thoroughly investigated.

Care should be taken that persons making legitimate persistent complaints that their original complaint has not been effectively dealt with, should not be unnecessarily considered to be a vexatious, malicious, or habitual complainant.

Vexatious, malicious, or habitual complaints made to BWPC include requests made under the Freedom of Information Act 2000 and the Data Protection Acts 1998 and 2018.

Vexatious complaints are a time-consuming waste of resources for BWPC's staff and Members. BWPC has signed up to the Civility and Respect Pledge and will not tolerate any form of intimidation, abuse, bully or harassment.

Complainants or anyone acting on their behalf may be deemed as vexatious, malicious or habitual complainant if one or more of the following applies – This is not an exhaustive list nor does a single feature on its own necessarily imply the complainant will be considered in this category.

- a. Have insufficient or no grounds for their complaint and may make a complaint only to annoy, for reasons which are not obvious;
- b. Refuse to specify the grounds of a complaint, despite offers of assistance;

- c. Refuse to co-operate with the complaints investigation process, whilst still wishing for their complaint to be resolved;
- d. Changing the basis of the complaint as the investigation progresses and/or denying earlier statements
- e. Refuse to accept that issues are not within the remit of this Complaints Procedure, despite having the policy and procedure explained to them;
- f. Refuse to accept that the issues which are the subject of their complaint are not within BWPC's remit to investigate, influence or change;
- g. The repeated and/or obsessive pursuit of unreasonable complaints and/or unreasonable outcomes
- h. Harass, abuse or intimidate any member of the council or staff.

### **6.1 Vexatious Process**

In the first instance the Clerk will consult with the Chair of the Council prior to issuing a warning to the complainant. The Clerk will contact the complainant in writing, or by e-mail, to explain why their behaviour is causing concern and ask them to change their behaviour and outline the actions that the Council may take if they do not comply.

If the disruptive behaviour continues, the Clerk will issue a reminder letter to the complainant advising them that the matter will be referred to Council for further consideration.

The Council may deem the complaint to be vexatious, malicious or habitual and may or may not impose communication restrictions on the complainant.

The complainant will be advised of the decision made at Council within 5 working days of the Parish Council meeting, providing the justification and rationale of the decision.

The status of a complainant deemed to be vexatious, habitual or malicious will be reviewed every 3 months.

The complainant will be informed of the result of the review process within 5 working days of the review meeting.

Where BWPC's agreed course of action to stop the vexatious, habitual or malicious behaviour is ineffective and where the complainant's behaviour poses an immediate threat to the health, safety and welfare of members of staff, or constitutes an offence, BWPC will report the complainant to the police without prior notice to the complainant.

### **6.2 Restrictions**

According to the level and nature of the complainant's contact with BWPC the following actions may be taken, this list is not exhaustive.

- Requesting contact in a specific form (e.g. by email only).
- Frequency of contact
- Requesting contact be made to the Clerk only.

- Refusing to accept telephone calls
- Refusing to deal with future correspondence on the same matter if a decision has already been reached.

## **7. Record keeping.**

The Parish Clerk will retain adequate records of all complaints received and actioned with due regard to the requirements of the Freedom of Information Act 2000, the Data Protection Acts 1998 and 2018 and the General Data Protection Regulations 2018.

The records will include,

- Name and address of complainant.
- Nature of the complaint
- Action taken
- Outcome
- Time taken to resolve.

In addition, records of vexatious, malicious and habitual complaints will be retained and the nature of the restrictions imposed on groups/individuals

- When the restriction came into effect and when it ends
- What the restrictions are
- When the complainants were advised.
- Date of next review



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IN COLLABORATION WITH SLCC, NALC, OVW, COUNTY ASSOCIATIONS

Appendix A

Complaint Procedure

