

The Clerk to Smisby Parish Council
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Smisby Parish Council

Complaints Procedure – and Code of Practice

A complaint is an expression of dissatisfaction by one or more members of the public about the Parish 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. Complaints can be both verbal and written.

A good complaints system is:

- 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.

Smisby Parish Council will not be able to deal with all complaints from members of the public under the Smisby Parish Council's Complaints Procedure as it may not be appropriate. For example:

Complainants could consider engaging other procedures/bodies in respect of the following types of complaint:

- This procedure is not appropriate for use where a serious complaint is made against the conduct of an individual Councillor - direct the complainant to the Monitoring Officer at South Derbyshire District Council to follow their procedure to make a Standards Board Complaint.

- Financial irregularity - direct the complainant to the Smisby Parish Council's External Auditor under the Local elector's statutory right to object under the Audit Commission Act 1998, the Accounts and Audit (England) Regulation 2011 and the Audit Commissions Code of Audit Practice. On other matters, Smisby Parish Council may need to consult their Internal auditor/External Auditor.
- Criminal activity - direct the complainant to the Police.

Smisby Parish Council Complaints Procedure:

The purpose of the Smisby Parish Council Complaints Procedure is to put things right if things go wrong.

- 1) Firstly the complainant should be asked to put their complaint in writing to the Clerk/Proper Officer outlining their concerns/complaint.
- 2) The Clerk/Proper Officer receiving the complaint should attempt to resolve the matter informally. If this is not possible because of the serious nature or complexity of the complaint then the Clerk/Proper Officer should consult the Chairperson to Smisby Parish Council (or the Vice Chairperson in their absence).
- 3) The Clerk/Proper Officer shall:
 - a. Acknowledge receipt of the complaint in writing within 10 working days.
 - b. Confirm to the complainant if the complaint will be treated as confidential.
 - c. Confirm the next steps in the complaints procedure.
- 4) The identity of a complainant should only be made known to those who need to consider a complaint.
- 5) The written response on behalf of the Parish Council should include a full and frank response to the concerns raised by the complainant and an apology where appropriate.
- 6) The response should be made within 10 working days of receipt wherever possible. If the investigation requires more time or needs to go to a full Parish Council meeting for a decision to be made, then an initial response explaining the reason for a delay should be sent to the complainant within 10 working days outlining when a decision for the complaint should be concluded.
- 7) The Clerk/Proper Officer or Chairperson (or the Vice Chairperson in their absence) will represent the position of the Council. If the Clerk/Proper Officer, Chairperson (or the Vice Chairperson in their absence) puts forward justification for the action or procedure complained of, the Clerk/Proper Officer should only need to update the full Parish Council of the complaint received and the outcomes determined.

- 8) At all times, the rules of natural justice will apply. In other words, all parties should be treated fairly and the process should be reasonable, accessible and transparent.

The following procedure is designed for those complaints which cannot be satisfied by less formal measures or initial explanations provided to the complainant by the Clerk/Proper Officer or the Chairperson (or the Vice Chairperson in their absence).

- 1) Firstly the complainant should be asked to put their complaint in writing to the Clerk/Proper Officer outlining their concerns.
- 2) The Clerk/Proper Officer shall acknowledge receipt of the complaint within 10 working days and advise the complainant when the matter will be considered by way of a Full Parish Council Meeting. 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 the Parish Council).
- 3) The complainant shall be invited to attend a meeting and to bring with them a representative if they wish.

At the Meeting – Non-Confidential matters

- The Parish Council members shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press.
- The Chairperson should introduce everyone and explain the procedure.
- The complainant (or representative) if appropriate, should outline the grounds for complaint and, thereafter, questions may be asked by (i) the Chairperson or Vice Chairperson in their absence, ii) the Clerk/Proper Officer and then (ii), all other members of the Council if appropriate.
- The Chairperson and Clerk/Proper Officer will have an opportunity to explain the Council's position and questions may be asked by (i) the complainant and (ii), members of the Parish Council.
- The Chairperson and or the Clerk/Proper Officer and then the complainant should be offered the opportunity to summarise their position.
- The complainant should be asked to leave the room while the Parish Council decide whether or not the grounds for the complaint have been made. If a point of clarification is necessary, the complainant shall be invited back.
- 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.
- The decision should be confirmed in writing to the complainant within 20 working days together with details of any action to be taken.

At all times, the rules of natural justice will apply. In other words, all parties should be treated fairly and the process should be reasonable, accessible and transparent.

- 1) All formal complaints against Smisby Parish Council must be communicated in writing, by completing the Standard Form for Complaints.
- 2) The complainant must be asked at the outset to confirm if he/she wants their complaint to be treated confidentially. It is sometimes unlikely that a complainant would waive confidentiality, but under any circumstances Smisby Parish Council must comply with its obligations under the Data Protection Act 1998, to safeguard against unlawful disclosure of personal data.

Receipt of a complaint:

- 1) The Clerk/Proper Officer or another nominated officer shall:
 - a. Acknowledge receipt of the complaint in writing within 10 working days.
 - b. Confirm to the complainant if the complaint will be treated as confidential.
 - c. Confirm the next steps in the complaints procedure.

Investigating the complaint:

- 1) Smisby Parish Council will need to investigate the facts of the complaint and collate the relevant evidence.
- 2) Smisby Parish Council's Complaints Procedure permits the complainant to make verbal representation at a meeting if necessary with the Clerk/Proper Officer and the Chairperson to Smisby Parish Council (in the Chairperson's absence this will be the Vice Chairperson to Smisby Parish Council).
- 3) Before the meeting and within 10 working days of the complaint, the complainant shall provide the Clerk/Proper Officer and the Chairperson to Smisby Parish Council with any new information or other evidence relevant to the complaint.

Meetings with the Complainant:

- 1) The Chairperson to Smisby Parish Council (The Vice Chairperson in their absence) will explain how the meeting will proceed
- 2) The Complainant will start by outlining the grounds for the complaint and, therefore questions may be asked by the Clerk/Proper Officer or Chairperson to Smisby Parish Council.
- 3) The Clerk/Proper Officer or Chairperson to Smisby Parish Council will have the opportunity to explain the Council's position and questions may be asked by the complainant.

- 4) The Chairperson (the Vice Chairperson in their absence) will then offer the complainant the opportunity to summarise their position followed by the Chairpersons summary.
- 5) The complainant will then be advised when a decision about the complaint is likely to be made and when it is likely to be communicated to them. This will be dependent on the next available Parish Council Meeting and when the complaint can be discussed further.
- 6) Where a complaint is about the Clerk/Proper Officer or Chairperson to Smisby Parish Council, the complainant should in the first instance, still submit the complaint in writing to the Clerk/Proper Officer of Smisby Parish Council. The Clerk/Proper Officer will then refer the letter submitted to the Chairperson to Smisby Parish Council for consideration if it is about the Clerk/Proper Officer or, to the Vice Chairperson for consideration if it concerns the Chairperson.
- 7) Where a complaint is about the Groundsman or Lengthsman of Smisby Parish Council, the complaint should, in the first instance, be submitted in writing to the Clerk/Proper Officer of Smisby Parish Council. Item 1), 2) 3), 4) & 5) above will be followed if the complainant requests a meeting.

After the complaint has been decided:

- 1) Within 20 working days the Clerk/Proper Officer should write to the complainant with an update of the position and when the final decision will be made or,
- 2) Within 20 working days of holding the requested meeting the Clerk/Proper Officer should write to the complainant to confirm whether or not it has upheld the complaint. The Clerk/Proper Officer should give reasons for the decision made together with the details of any actions taken if appropriate.

The purpose of a complaints procedure is to put things right if things go wrong.

Handling Vexatious or Abusive Complaints

Most complainants behave in legitimate ways. 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 and/or its staff, 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. We acknowledge 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.

It is not necessary to meet a complainant's unreasonable demands, or to answer every single point in an unreasonable letter. Judgement will be required to separate a complainant's legitimate queries from those that are unreasonable, often within the same complaint. Skill will be required to respond 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 Parish Council need to address such behaviour.

Where complaints are identified as vexatious, the Clerk in liaison with three councillors including the Chairman of the Council and, whenever possible, the Vice Chairman will determine what action to take. The Clerk will implement such action and will notify the complainant(s), that their complaint/grievance 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 Parish Council is to continue processing the complaint/grievance. If these terms are contravened, consideration will then be given to implementing other action 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 (letter).
- * Notify the complainant, in writing that the Council has responded to the points raised and has tried to resolve the complaint/grievance but that 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 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.

Restricting Contact

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 and Meetings;
- * 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 or Meetings.

The Clerk/Proper Officer 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 should never be a blanket ban for an unspecified period of time unless the Council are legally required to do so following a police investigation. The council should always try to maintain one form of contact which will 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, our 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.

Threatening and Abusive Complainants and Harassment

We do 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 staff or members affected should step away from the situation and the complainant asked to leave the premises or meeting 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 must 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.

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/grievance where the Council's Complaints Procedure or the Freedom of Information procedure has been fully implemented & exhausted.

- * Persistently change the substance of a complaint/grievance 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 which is out of proportion to its significance. It is recognised that determining what is a trivial matter can be subjective and careful judgement must 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 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/grievance. The Council recognise, however, that complainants may sometimes act out of character in times of stress, anxiety or distress and should 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 on a 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.

Letter of complaint to be sent to: Mrs Caroline Crowder
Parish Clerk
Smisby Parish Council
C/O 19 Highgrove Drive
Chellaston
Derby
DE73 5XA

Via Email: smisbyparishclerk@gmail.com

- 1) On receipt of the written complaint, the Clerk/Proper Officer should try and settle the complaint directly but not before notifying the person complained of and giving them the opportunity to explain their actions or circumstances.
- 2) Where a complaint is about the Clerk/Proper Officer or Chairman of Smisby Parish Council, the complainant should in the first instance, still submit the complaint in writing to the Clerk/Proper Officer of Smisby Parish Council at the details as stated above), the Clerk/Proper Officer will then refer the letter submitted to full Council for consideration.
- 3) The Clerk/Proper Officer or Chairman should report any written complaints that have already been dealt with at the next available Parish Council Meeting.

- 4) The Clerk/Proper Officer shall take any written complaint that has not been settled to the next available Parish Council Meeting. The Complainant will receive an acknowledgement from the Clerk/Proper Officer in writing and advice will be given to the complainant as to when the Parish Council will consider the matter so that the complainant may attend the meeting.
- 5) The Parish Council will consider whether the circumstances of the complainant warrant the exclusion of the public and press. The Parish Council will however inform both parties of the final decision.
- 6) As soon as a decision has been made, the complainant will be informed in writing from the Clerk/Proper Officer.
- 7) The Parish Council reserves the right to defer making a decision on a complaint if it needs to wait for legal advice or further information.

Updated with new contact details for the clerk 26th February 2020

Reviewed and agreed by council: 10th March 2020

Reviewed and agreed by council: 9th March 2021