

Complaints Sub-Committee

DRAFT Terms of Reference and Procedure

INTRODUCTION

Under S.101(1) of the Local Government Act (LGA) 1972, a local council (ie a Town or Parish Council) may arrange for the discharge of any of its functions to –

- A committee (and any sub-committee); or
- An employee; or
- Another local authority

Note: This does not preclude the Parish Council from performing any functions delegated on its behalf.

At the meeting held on 3 May, the Parish Council agreed to establish a number of Sub-Committees and that draft Terms of Reference for each be submitted to this meeting.

NOTES

1. Complaints against individual members of the Parish Council shall not be considered by this Sub-Committee. Such complaints should be made direct to the Borough Council's Monitoring Officer.
2. S.92 of the Local Government Act 2000 gives councils the power to make payment "in cases of maladministration". The use of the word "maladministration" does not have the same meaning as that applied by the Local Government Ombudsman when considering complaints against principal authorities. "Maladministration" is a broad concept and can include bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude and so on. Parish Councils can (i) make a payment or (ii) provide some other benefit to a complainant, if considered appropriate.

TERMS OF REFERENCE

- (a) The Sub-Committee shall be a standing Sub-Committee (to be re-appointed at the Annual Meeting) comprising **four** parish councillors, with one named substitute¹.
- (b) The Sub-Committee shall have full delegated authority to deal with complaints about the Parish Council or the Clerk, in accordance with the Complaints Policy adopted by the Parish Council in May 2012.
- (c) The quorum shall be three Members;
- (d) Number of meetings in an ordinary year: as and when required.
- (e) Notice of meetings shall be in accordance with public notice requirements as set out in the Public Bodies (Admission to Meetings) Act 1960.
- (f) Notice to complainants shall be in accordance with the adopted Complaints Procedure.
- (g) Meetings shall be open to the public unless the Sub-Committee decides that the press and public should be excluded from the meeting on the grounds that the information to be discussed is of a confidential nature and the public interest would not be served in disclosing the information.

¹ A duly-appointed substitute shall be entitled to exercise of the powers of the appointing Member including the power to propose motions, speak and vote, save that a substitute for the Chairman (of the Sub-Committee) shall not thereby be entitled to preside at the meeting.

In dealing with complaints, it is important in the interests of fairness that Members should hear complaints from the beginning to the end, taking into account all evidence offered. In view of this, where substitution is applied, the appointing Member cannot participate part-way through the process. A substitute, having been appointed, must hear and adjudicate the complaint.

- (h) The rules of natural justice will apply at all times, ie, the right to a fair hearing with the absence of bias whether real or perceived.
- (i) The Chairman of the Parish Council is ex-officio a Member of the Sub-Committee, but may not be elected as Chairman;
- (j) The Sub-Committee shall elect its Chairman at its first meeting. The Chairman shall be re-elected at the first meeting of the new Municipal Year.
- (k) Voting shall be in accordance with the Parish Council's Standing Orders.
- (l) To promote the maintenance of high standards of conduct by Members, whether elected or co-opted, to prevent, or minimise, complaints being made. [Attendance at ChALC training sessions would assist the achievement of this.]
- (m) To deal with formal complaints made against the Parish Council, or the Clerk, in accordance with the Complaints Procedure adopted on 3 May 2012.
- (n) To review the complaints system periodically to ensure that it is -
 - well publicised and easy to use,
 - helpful, fair and objective
 - based on clear procedures and defined responsibilities
 - speedy, rigorous and consistent
 - capable of putting matters right where necessary
 - sensitive to the needs of complainants
 - analysed to ensure that service improvement can be achieved.
- (m) A record of each meeting will be made and the decision of the Sub-Committee published.
- (o) To review the Terms of Reference of this Sub-Committee at the first meeting each year and to make recommendations to the Parish Council in respect of any proposed amendments.