

KESGRAVE TOWN COUNCIL

Complaints Policy & Procedure



Scope

1. This policy is subsidiary to, where appropriate, Council's Standing Orders Section 14 Code of Conduct Complaints. Complaints regarding Councillors' or non-Councillors with voting rights' alleged breach of Council's Code of Conduct must be referred to East Suffolk Council who will undertake any appropriate investigation and provide recommended actions for Council to consider. <https://www.eastsuffolk.gov.uk/yourcouncil/councillors/complaints-about-the-conduct-of-a-district-town-or-parish-councillor/>
2. It is the policy of Council not to respond to or deal with anonymous complaints.
3. Any comment made indirectly via social media is not considered a formal complaint for consideration under this policy.

Receipt of Complaint and Simple Resolution

4. A complaint is any expression of dissatisfaction either verbal or in writing received by a Councillor or member of staff pertaining to the operations of Council or conduct of Councillors or staff. This includes complaints from residents, non-residents, staff and Councillors themselves.
5. If received verbally, the Town Clerk ("Clerk") is authorised to seek a simple resolution. For example, if the complaint is that the office was not open then the Clerk may point out the opening hours. If the complaint was that the telephone was not answered in good time the Clerk may offer an apology. The Clerk may delegate this level of response to a complaint to the staff member who received it in order to have it dealt with efficiently and expeditiously. Complaints about fellow residents or other matters outside the jurisdiction or control of Council should be politely turned away.
6. All complaints must be recorded in an appropriate log retained in the Council offices. This must be kept subject to Data Protection requirements as to privacy and retention periods.

Investigation

7. If the complaint cannot be resolved simply, the complainant should be asked to put the complaint in writing to the Clerk or if the complaint is about the Clerk, they should be advised to write to the Chair of Council ("Chair").
8. The Clerk (or the Chair as appropriate) shall acknowledge receipt of the complaint in writing and advise the complainant that the matter, subject to paragraph 1 above, will be considered by a committee of Councillors to be convened for the purpose and advise that, depending on the circumstances set out at paragraphs 13 and 14 below, the complainant may be invited to attend a meeting of the committee (and have the option to be accompanied) to make a representation should they wish. The complainant must also be advised that any documentation in support of their complaint must be submitted to the Clerk (or the Chair as appropriate) within five working days of the acknowledgement letter. The letter to the complainant should enclose a copy of this policy for their information.

9. An investigation of the complaint will be undertaken by the Clerk or where appropriate a delegated staff member or Councillor. In the case of a complaint about the Clerk, the investigation will be undertaken by the Chair who may assign the task to a Councillor.
10. A brief investigation report must be prepared within 10 working days of the date of receipt of the written complaint. If prepared by or for the Clerk or a Councillor assigned by the Chair it should be submitted to the Chair. In the case of a complaint about the Chair the report must be submitted to the Vice Chair of Council ("Vice Chair"), noting that any alleged breach of Council's Code of Conduct must be referred to East Suffolk Council in the first instance per 1. above.

Convening a Hearing

11. The Chair (or Vice Chair if appropriate) will without delay appoint a temporary committee of three Councillors, one of whom will be assigned its chair. The written complaint, any admissible supporting documentation and the investigation report should be made available to the committee members without delay with the requirement to convene and consider the matter within 10 working days of receipt of the investigation report. Subject to paragraphs 13 and 14 below, at this stage, the complaint should be regarded as an informal but confidential matter and the meeting will not be open to the public.
12. Subject to paragraphs 13 and 14 below, the chair of the committee may invite the complainant to attend the relevant committee meeting and permit accompaniment by such representative as they wish other than a legal representative. The complainant should be advised that attendance is not compulsory, and that the committee will seek to reach a fair outcome based on the admissible evidence and Council's investigation.
13. The chair of the committee must confer with the Clerk and Chair (or the Chair only if the complaint is about the Clerk and Vice Chair if the complaint is about the Chair) where it is felt that information identified to date during these proceedings indicates a crime may have been committed that ought to be reported to the Police authorities. If the consensus is that it should then these proceedings should be suspended, and the complainant informed. Council should consider whether it would be appropriate to seek legal representation to protect its interests in the matter. The suspension should be lifted, and this procedure continued when and if Council is cleared to do so by the Police authorities concurrent with advice received from any legal representative appointed by Council. Similar considerations may apply where there is evidence of a breach requiring notification to other regulatory authorities such as the Information Commissioner's Office in the case of potential data protection breach.
14. The chair of the committee must confer with the Clerk and Chair (or the Chair only if the complaint is about the Clerk) where it is felt that information that has come to light during these proceedings indicates the possibility of misconduct on the part of a member of staff that may fall to be considered under Council's employee disciplinary procedure. A consideration will be to respect the rights of the staff member under disciplinary procedures before proceeding and communicate with the complainant if appropriate.
15. If in attendance at the meeting, the complainant (or their representative) should be invited to outline the grounds of their complaint referring as they wish to any admissible documents previously submitted.

This is an informal arrangement designed to reach an amicable and fair outcome and as such it is not a court of law and should not be approached as such. Any invitation to attend must be accepted in person not by remote link; no recording of the meeting will be permitted and witnesses are not appropriate nor is legal accompaniment, although a signed statement from a witness may be admissible prior to the meeting where relevant and not anonymised. Notes of the meeting will be recorded and the complainant may take their own notes.

16. Committee members may ask any relevant question of the complainant. Members will behave in compliance with Council's Code of Conduct at all times.
17. The complainant will be thanked for their representation, asked to leave the meeting and be advised that the outcome of their complaint will be communicated in writing within 10 working days. They should be advised that if they are not satisfied with the outcome, they will be entitled to appeal to full Council whose decision will be final.
18. The committee members will discuss the complaint and the investigation report and any admissible documentation from the complainant and confer as appropriate with the Clerk and/or Chair in reaching a decision and recommending any action. Where it is deemed that advice on behalf of Council is required in order to reach a sound decision this should be acquired at reasonable cost where applicable, and the complainant advised in writing where this is likely to delay communication of the outcome of their complaint.

After the Hearing

19. The decision will be communicated by the committee chair to the Chair (or Vice Chair if appropriate) and the Clerk (or solely the Chair if the complaint is about the Clerk) who will write to the complainant accordingly. This may include a recommendation for action that must in all cases be confirmed by Council and the complainant should be advised the date of the meeting this will be considered. The complainant should also be reminded that if dissatisfied with the outcome they have the right to appeal to full Council.
20. Any recommended remedial actions including any proposal for monetary compensation must be agreed by Council at the next practical meeting according to Standing Orders for the provision of relevant papers prior to a Council meeting.
21. Council shall consider whether the circumstances of the meeting on this agenda item warrant the exclusion of the public and the press. The entitlement to privacy of the identity of the complainant and any Councillor or staff member involved shall be a consideration.

Appeal

22. If the complainant wishes to avail of their right to appeal to Council this must be submitted in writing and the appeal heard at the first practical opportunity observing Standing Orders for the provision of relevant papers prior to a Council meeting.
23. The complainant may attend the Council meeting and make a representation and be accompanied for the purpose but not by a legal representative.
24. At this stage, the complaint may be regarded as being a matter of public interest, however, Council shall consider whether the circumstances warrant the exclusion of the public and the press. The entitlement to privacy of the identity of the complainant and any Councillor or staff member involved shall be a consideration.
25. Council must decide to uphold or reject the complaint at the meeting and record the decision in the minutes that are made public. The same considerations as to confidentiality in paragraph 24 apply.
26. The outcome of the appeal should be confirmed in writing to the complainant by the Clerk (or the Chair if appropriate) within 10 working days and any agreed actions undertaken as soon as reasonably practical.

Policy effective from: 21 June 2021

Date for next review: 21 June 2023