



Briercliffe with Extwistle Parish Council

Complaining about a Parish Council service

We try our best to get things right, but sometimes we may get it wrong. If you feel we have:

- done something badly or wrong
- failed to do something we should have done
- treated you unfairly or rudely

Then make a complaint to us and we will try to put it right.

Valid complaints are important to us as they help us improve.

The most convenient way is to complete an online complaints form. But you can also:

- Phone us on 07721 078634
- Write to us at: Complaints, Briercliffe with Extwistle Parish Council, 842 Padiham Road, Burnley BB12 6NN.

Please provide as much detail as possible to help us investigate the matter fully. Tell us where you think we went wrong, and what action you think the Council can take to put things right. You can get someone else to complain on your behalf.

Please note that we do not normally accept complaints about matters that happened more than 12 months ago.

The complaints procedure will not be used for those matters for which there is a right of redress through the courts or another body. For example, if you are dissatisfied with the administration of the Council you should complain to the Council. But if you are dissatisfied with a legal decision of the Council then you should appeal to the Secretary of State.

How we deal with complaints

Stage 1

The first thing we will do is try to put things right straight away. If necessary, the Clerk or the Chair of the relevant service area will investigate and if required will contact you within 10 working days to let you know the outcome. If your enquiry is complex, and we cannot provide a full response within that time, we will contact you to explain any delay and tell you when you can expect a full response. Our target is to do this within 30 working days. When you get a full response, you will also get a reply paid form asking you if you are satisfied, and explaining your right of appeal. If the Clerk or Chair of the Committee considers the issue to be more serious, a Complaints Committee will be convened.

Stage 2- Appeals

If you are dissatisfied with the outcome of your first stage complaint, you can appeal, even if this decision was taken by a Complaints Committee. You can use any of the contact methods described above to make your appeal: via the website, telephone, or in writing. If you were given a case number during stage 1, please quote this in making your appeal. Appeals are investigated by the Parish Council as a whole. The Clerk will contact you within 10 working days to let you know the outcome. If your enquiry is complex, and we cannot provide a full response within that time, we will contact you to explain any delay and tell you when you can expect a full response. Again, our target is to do this within 30 working days.

Stage 3- the Ombudsman

If having been through the Council's complaints procedure you are still not satisfied, you can take your complaint to the Local Government Ombudsman. The Ombudsman is a national, independent investigator. Usually, the Ombudsman does not accept complaints that have not been the subject of the Council's own complaints process first. When we contact you with the outcome of the appeal, we will remind you of your right to refer your complaint to the Ombudsman.

Local Government Ombudsman

Beverley House

17 Shipton Road York

YO30 5FZ

Tel: 01904 380200 Fax: 01904 380269

BRIERCLIFFE WITH EXTWISTLE PARISH COUNCIL – COMPLAINTS PROCEDURE



1. The following procedure will be adopted for dealing with complaints about the Council's administration or its procedures. Complaints about a policy decision made by the Council will be referred back to the Council, or relevant Committee, as appropriate, for consideration.
2. This procedure does not cover complaints about the conduct of a Member of the Parish Council. Complaints about Member of the Council are dealt with separately, (See Appendix A).
3. If a complaint about procedures, administration or the actions of the Council is notified orally to a Councillor, or to the Clerk, a written record of the complaint will be made, noting the name and contact details of the complainant and the nature of the complaint.
4. The complainant will be asked to put the complaint in writing (letter/e-mail/standard or online form) to the Clerk to the Council at 842 Padiham Road, Burnley BB12 6NN. The complaint will be dealt with within 10 days of receipt. Refusal to put the complaint in writing does not necessarily mean that the complaint cannot be investigated, but it is easier to deal with if it is in writing.
5. If the complainant prefers not to put the complaint to the Clerk to the Council (because the matter relates to the Clerk, for example,) he or she should be advised to write to the Chair of the Council.
6. (a) On receipt of a written complaint, the Clerk to the Council (except where the complainant is about his or her own actions) or Chair of Council (if the complaint relates to the Clerk), will seek to settle the complaint directly with the complainant. This will not be done without first notifying any person complained about and giving him or her an opportunity to comment. Efforts should be made to resolve the complaint at this stage.

(b) Where the Clerk to the Council or a Councillor receives a written complaint about the Clerk's actions, he or she shall refer the complaint to the Chair of the Parish Council. The Clerk to the Council will be formally advised of the matter and given an opportunity to comment.

(c) Where the Clerk or the Chair deem the matter to be of a serious nature, for example may require Police intervention, may cause financial detriment or may result in the termination of a tenancy agreement, the complaint should be referred to a Complaints Committee.
7. The Clerk to the Council (or Chair) will report any complaint disposed of by direct action with the complainant to the next meeting of the Council. The Chair of a Complaints Committee will report any complaint disposed of by the Committee to the next meeting of the Council
8. The Clerk to the Council (or Chair) will report any complaint that has not been resolved to the next meeting of the Council. The Clerk will notify the complainant of the date on which the complaint will be considered and the complainant will be offered an opportunity to explain the complaint to the Council orally.
9. Matters relating to Grievance or Disciplinary proceedings that are taking, or are likely to take place, should be dealt with in accordance with the Council's grievance and disciplinary procedures.
10. The Council may consider whether the circumstances of any complaint warrant the matter being discussed in the absence of the press and public, but any decision on the complaint will be announced at the Council meeting in public.
11. The Council may consider in the circumstances of any particular complaint whether to make any without liability payment or provide other reasonable benefit to any person who has suffered loss as a result of the Council's maladministration. Any payment may only be authorised by the Council after obtaining legal advice on the propriety of such a payment.
12. As soon as possible after the decision has been made (and in any event not later than 10 days after the meeting) the complainant will be notified in writing of the decision and any action to be taken.

13. The Council may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The advice will be considered and the complaint dealt with at the next meeting after the advice has been received.

BRIERCLIFFE WITH EXTWISTLE PARISH COUNCIL – COMPLAINTS COMMITTEE

Where it is deemed necessary to convene a Complaints Committee the follow process will be followed.

1. The Complaints Committee is to consist of the Chair and Vice-Chair of the relevant Committee, plus 1 other person, who does not necessarily have to be a Councillor. The appointment of the third person will be delegated to the Clerk in consultation with the Chair and Vice Chair of the Complaints Committee. The Clerk will attend all Committees to provide advice and administrative support only and will not be party to any decisions taken, except where the complaint is against the Clerk, where a Locum Clerk will be appointed for the purposes of the Complaints Committee only.
 - a) For procedural, administrative and general Parish Council complaints, the Committee will consist of the Parish Council Chair, Vice-Chair and one other Councillor or the Borough Council solicitor.
 - b) For Financial complaints other than complaints about legal financial decisions taken by the Council, the Committee will consist of the Chair and Vice-Chair of Finance Committee plus one other Councillor or a Borough Council Finance Officer.
 - c) For Complaints about Strategic Planning Issues other than legal decisions taken by the Council, the Committee will consist of the Chair and Vice-Chair of Strategic Planning Committee plus one other Councillor or a Borough Council Officer.
 - d) For Allotment and Garage complaints the Committee will consist of the Chair and Vice-Chair of the Allotment Committee and a Representative of the Allotment Society.
 - e) For complaints around Working Group issues that would normally fall within section (a) above, the Clerk will have delegated authority to set up a Complaints Committee of the Chair and Vice-Chair of the Working Group plus one other relevant person. Delegation will be in consultation with the Parish Council Chair and Vice-Chair. For example, complaints about play areas may be dealt with by the Chair and Vice-Chair of the Recreation and Leisure Working Group plus an Officer from the Borough Councils Parks Department.
2. The Clerk will convene a meeting of the Complaints Committee at a suitable venue agreed by the Chair and Vice Chair. The Committee is a formal Council meeting and as such would be open to the Press and Public, but due to the confidential nature would consider exclusion of the press and public as the first item.
3. The Committee will invite the complainant to the meeting to outline their complaint and provide further information. This may be daunting for the complainant and the date, venue and set up of the meeting must consider the circumstances of the complainant. Complainants must not be dissuaded from complaining by fear of the complaints process and failure or refusal to attend will not prevent the complaint progressing.
4. The Complaints Committee may consider inviting further people, either as witnesses, experts or, as the Complainee, where a complaint is against another person. This may require an adjournment of the meeting to re-convene on another day.
5. The decision of the Complaints Committee shall be binding on the Parish Council as a stage 1 complaints decision due to the fact that there is an appeal process to the Full Council if the Complainant is not satisfied.

BRIERCLIFFE PARISH COUNCIL

ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE OF CONDUCT FOR MEMBERS

Introduction

1. This procedure applies when a complaint is received that a Member, Co-opted Member has or may have failed to comply with the Code of Conduct for Members.
2. The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member.”
3. No Member or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.
4. Making a complaint

A complaint must be made in writing by post or email to: –

The Parish Clerk
Briercliffe Parish Council
842 Padiham Road
Burnley
BB12 6NN

OR

briercliffeparishcouncil@yahoo.co.uk

or by completing the online form via the Parish Council website.

The Clerk will acknowledge receipt of the complaint within 5 working days of receiving it and, at the same time, write to the Subject Member with details of the allegations and inform the Borough Council’s Monitoring Officer (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Clerk). The Subject Member may, within 5 working days of receipt, make written representations to the Clerk which must be taken into account when deciding how the complaint will be dealt with. Representations received after this time may be taken into account, at the discretion of the Clerk, but will in any event not be considered after the Borough Council’s Monitoring Officer has issued his Complaint Initial Assessment.

5. Complaint Initial Assessment

The Borough Council’s Monitoring Officer will review the complaint and, after consultation with the Independent Person and the Parish Clerk, take a decision (a Complaint Initial Assessment) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.

If the complaint fails one or more of the following tests, it will be rejected:

- The complaint is against one or more named Members or co-opted Members of the Parish Council within its district;
- The Subject Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code of Conduct under which the subject Member was operating at the time of the alleged misconduct.

If appropriate, the Borough Council's Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:

- Whether a substantially similar allegation has previously been made by the Complainant to Standards for England, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
 - (i) the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
 - (ii) whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response;

6. Additional Information

The Borough Council's Monitoring Officer may require additional information to come to a decision and may request information from the Subject Member. In appropriate cases, the Borough Council's Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the authority (in appropriate cases) make a reasonable offer of local resolution, but it is rejected by the Complainant, the Borough Council's Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If the complaint identifies criminal conduct or breach of other regulations by any person, the Clerk and the Borough Council's Monitoring Officer are authorised to report this to the Police or other prosecuting or regulatory authorities.

7. Confidentiality

If a Complainant has asked for their identity to be withheld, this request will be considered by the Borough Council's Monitoring Officer at the Complaint Initial Assessment stage.

As a matter of fairness and natural justice, the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Borough Council's Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

If the Borough Council's Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her

identity being disclosed. The Borough Council's Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member

8. Investigation

The Borough Council's Monitoring Officer will appoint an Investigating Officer where a complaint merits formal investigation. The Investigating Officer may be a Borough Council officer, an officer of another Council, or an external investigator.

The Investigating Officer will follow guidance issued by the Borough Council's Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost-effective use of Council resources and shall be interpreted in line with these principles.

The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to a Borough Council's Monitoring Officer decision on Confidentiality.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Borough Council's Monitoring Officer and the Parish Clerk.

9. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct

The Borough Council's Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is satisfactory, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct.

The Borough Council's Monitoring Officer will write to the Complainant and the Subject Member and to the Clerk of the Parish Council with a copy of the Confirmation Decision and the Investigating Officer's final report.

If the Borough Council's Monitoring Officer is not satisfied that the investigation has been conducted satisfactorily, the Investigating Officer may be asked to reconsider their report and conclusion.

10. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct

The Borough Council's Monitoring Officer will review the Investigating Officer's report and will then either send the matter for Local Hearing before the Hearings Panel or, after consulting the Independent Person, seek Local Resolution.

11. Local Resolution

If the Borough Council's Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person, the Parish Clerk and the Complainant and seek to agree a fair resolution. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Member accepts the suggested resolution, the Borough Council's Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Parish Council for information, but will take no further action. If the Complainant or the Subject Member refuses Local Resolution in principle or to engage with the agreed outcome, the Borough Council's Monitoring Officer will refer the matter for a Local Hearing without further reference to the Complainant or the Subject Member.

12. Local Hearing

Where, in the opinion of the Borough Council's Monitoring Officer, Local Resolution is not appropriate or the Complainant and/or Subject Member refuse to co-operate, then the Borough Council's Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a Local Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

13. Constitution of the Hearings Panel

The Hearings Panel is a Sub-Committee of the Borough Council's Standards Committee. The Council has decided that it will comprise at least 1 of the Independent Members co-opted to the Standards Committee and 5 Members of the Council, drawn from at least 2 different political parties and will include at least 1 of the Parish Members co-opted to the Standards Committee.

The Independent Person is invited to attend all meetings of the Hearings Panel and their views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

14. The Independent Person

The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of Council at a meeting of the Full Council.

A person is not eligible for appointment if they:

- 14.1 Are, or have been within the past 5 years, a Member, co-opted Member or officer of the Council;
- 14.2 Are or have been within the past 5 years, a Member, co-opted Member or officer of a parish council within the Borough, or
- 14.3 Are a relative or close friend, of a person within paragraph 14.1 or 14.2 above. For this purpose, "relative" means –
 - 14.3.1 Spouse or civil partner;
 - 14.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 14.3.3 Grandparent of the other person;
 - 14.3.4 A lineal descendent of a grandparent of the other person;
 - 14.3.5 A parent, sibling or child of a person within paragraphs 14.3.1 or 14.3.2;
 - 14.3.6 A spouse or civil partner of a person within paragraphs 14.3.3, 14.3.4 or 14.3.5; or
 - 14.3.7 Living with a person within paragraphs 14.3.3, 14.3.4 or 14.3.5 as husband and wife or as if they were civil partners.

15. Action the Hearings Panel may take where a Member has failed to comply with the Code of Conduct

Where a Hearings Panel find that a Member has failed to comply with the Code of Conduct, the Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 15.1 Publish its findings in respect of the Member's conduct;
- 15.2 Report its findings to Council and to the Parish Council for information;
- 15.3 Recommend to the Parish Council that the Member be censured;
- 15.4 Recommend to the Parish Council that he/she be removed from any or all Committees or Sub-Committees of the Parish Council;

- 15.5 Recommend to the Chair of the Council that the Member be removed from any positions held within the Council including Chair or Vice –Chairs;
- 15.6 Instruct the Clerk to or recommend that the Parish Council arrange training for the Member;
- 15.7 Recommend to the Parish Council that the Member be removed from all outside body appointments to which they have been appointed or nominated by the Parish Council);
- 15.8 Recommend to the Parish Council that it withdraws facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 15.9 Recommend that the Parish Council exclude the Member from the Council’s offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

16. Revision of these arrangements

The Council may by resolution or delegation to the Clerk agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

17. Appeals

Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no right of appeal against a decision of the Borough Council’s Monitoring Officer or of the Hearings Panel.