

Hartley Wintney Parish Council – Complaints Procedure

Hartley Wintney Parish Council is committed to respond to and deal with complaints in a positive, timely and courteous manner; to resolve problems and conflicts effectively; and to promote effective working practices throughout the Parish Council.

Complaints will be acknowledged within two working days and an initial assessment will, if practicable, take place within 20 working days of receipt of the written complaint.

What is a Complaint?

A complaint is an expression of dissatisfaction, however made, about the Parish Council, its services, its contractors or its staff, by a member of the public. Complaints by staff against colleagues or councillors are dealt with using the grievance policy.

A complaint will be made when a parishioner or customer is unhappy with what the Parish Council has done, or has failed to do, or where they feel they have been treated unfairly or discourteously; it is not a routine request for a service or a complaint about a third party.

How to make a complaint

It is far easier to find out what happened and put things right if a complaint is received as soon as something has gone wrong. As time passes it becomes more difficult to investigate events fully and fairly, and for this reason we will normally only accept complaints made within three months of when things went wrong. If you do not contact us within that time, we will normally take no action on your complaint. But we will consider any exceptional reasons for not meeting this time limit.

We encourage anyone who has a complaint to first speak to a member of Parish Council staff. If the problem can be solved on the spot then there is no need for the issue to go through the formal complaints process. However if the complaint cannot be dealt with immediately or you wish to have a formal response, there are a number of ways you can complain to us:

- By email to the Parish Clerk admin@hartleywintney-pc.gov.uk
- In person at the council office
- By letter or telephone or email
- Via a parish councillor
- Via a representative who has permission to act on your behalf.

Complaints about a Policy or Service

There are times when you may not agree with a council policy. If you want to get a policy changed, the best thing to do is write or email the Parish Clerk

There will be times when we can't or will not deal with your complaint. There are a number of reasons why we might not deal with your complaint. We will not normally look at a complaint if:

- you have left it more than 3 months since knowing about the problem.
- you are not personally affected – for example the issue affects other people in the area but not you personally
- you have not been caused an injustice
- the matter complained about is so trivial that it would not be in the public interest to pursue it further
- the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant
- it appears to reopen a previously concluded complaint or to have a complaint reconsidered
- you have the right of formal appeal or can take legal action and we think it is reasonable for you to do so.
- it is about personnel matters (such as your employment or disciplinary issues)

Our complaints procedure cannot be used to question, review or overturn a Parish Council statutory response to a planning application.

We will also not investigate a complaint if it relates solely to private matters between you and your neighbour, like a dispute about land ownership.

Making a Complaint

a. Complaints about an employee of the Council

Staff: As such complaints are considered to be an employment matter, the complaint will be acknowledged by the Chairman or Vice Chairman in writing within seven days of receipt. If an immediate full reply is not possible an estimate of the time required to give a full response will be

given and the complainant should be assured that the matter will be dealt with and appropriate action taken as required.

b. Contractors: Any such complaints should be referred to the Executive Clerk of the Parish Council.

c. Complaints about a Councillor(s) or breach of the code of conduct.

Any complaint that a member has failed to comply with the Code of Conduct should be addressed to:

The Monitoring Officer
Hart District Council
Harlington Way
Fleet
Hants GU15 4AE

Hart District Council's website describes their process – see <https://www.hart.gov.uk/help-advice-1>

Note: There are a number of internal processes for dealing with complaints depending on their nature which will be made available on request if a complaint is to be pursued.

For publication only as required

A Internal Processes

A Internal Matters of Dispute

In the event that the matter is referred back to Hartley Wintney Parish Council an initial assessment will, if practicable, take place within 20 working days of receipt of the written complaint.

The decision on the initial assessment will be made by the Executive Clerk, in consultation with the Independent Person (IP) appointed under Section 28 of the Localism Act 2011 and the Chairman of Policy Committee.

Before the Executive Clerk considers the complaint, he/she will send the IP and the Chairman of Policy Committee:

- (a) A copy of the complaint.
- (b) A copy of the member's comments in response to the complaint.
- (c) Any other information in the Executive Clerk's possession that he/she considers relevant.

The Executive Clerk's decision on the initial assessment, with reasons, will be given in writing to the member, the complainant within 20 working days.

There will be no right of appeal.

The decision will be available for public inspection.

Decision options at initial assessment

The Executive Clerk, in consultation with the IP and the Chairman of the Policy Committee, may decide to take one of the following options:

- (a) To take no action (See below for circumstances where this may apply Appendix B; or
- (b) To attempt to resolve the matter informally between the complainant and member, either in writing, by face-to-face meeting, or by any other method the Executive Clerk considers appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved, options (a), (c) and (d) will remain open; or
- (c) To arrange a hearing before a Panel of 3 council members drawn from the Policy Committee who have had no previous involvement in any aspect of the complaint and the IP, at which the member and complainant can state their case and, if appropriate, call witnesses. Procedures are set out at Appendix B. The hearing will form a recommendation as to whether the member breached the Code of Conduct and the Executive Clerk will act upon any such recommendation; or
- (d) If the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (c). If the investigator considers that there has not been a breach of the Code, the Executive Clerk will issue a formal finding to that effect.

B NO ACTION will be taken where any of the following apply:

- (a) the Executive Clerk, in consultation with the IP, considers that there is no prima facie evidence that the Code has been breached.
- (b) taking into account the nature of the allegation, the Executive Clerk, in consultation with the IP and the Chairman of Policy Committee, considers that using public funds to examine the matter further would be disproportionate.
- (c) the Executive Clerk, in consultation with the IP and the Chairman of the Policy Committee, considers that the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant.
- (d) the conduct complained about has already been the subject of investigation or enquiry by another public body.
- (e) the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and the Executive Clerk, in consultation with the IP and the Chairman of the Policy Committee, considers that there is nothing further to be gained.
- (f) the Executive Clerk, in consultation with the IP and Chairman of the Policy Committee considers that there is not enough information to take the matter further.
- (g) the complaint was made anonymously.
- (h) the complainant has requested that their identity as complainant be withheld from the member, and the Executive Clerk, in consultation with the IP and Chairman of the Policy Committee considers that the matter cannot reasonably be taken further in these circumstances.
- (i) the member has already apologised for the action that was the subject of the complaint, and the Executive Clerk, in consultation with the IP and the Chairman of the Policy Committee, considers that this is sufficient to dispose of the complaint.
- (j) the Executive Clerk, in consultation with the IP and Chairman of the Policy Committee considers that the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member(s).

C Procedure for Hearings of potential breach of Code of Conduct

General

Hearings will where possible be held within 2 months of the initial assessment decision where there is no prior investigation and within 2 months of receipt by the Executive Clerk of the investigator's report where there has been a prior investigation.

The hearing will be before a Panel of 3 council members drawn from the Policy Committee who have had no previous involvement in any aspect of the complaint. One of the members will be elected Chairman.

The Independent Person [IP] appointed under Section 28 of the Localism Act 2011 may also be present. His/her views will be requested and taken into account by the Panel, but by law he/she cannot vote.

The Executive Clerk will be present as advisor to the Panel. There will normally be no requirement to have a separate legal representative present unless the matter is peculiarly complex.

Both the member and complainant will be invited to appear. They may present their own case or they may be represented.

They may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the Executive Clerk at least 10 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted. The cost of any attendance/representation must be borne by the parties concerned.

All written evidence will be circulated to the Panel, the IP, the member and the complainant at least 5 working days before the hearing.

Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.

The Executive Clerk can speak at any time to advise the Panel on technical matters or ask questions of any party.

Proceedings

1. The complainant can address the Panel and call witnesses (if any).
2. The member can ask the complainant and witnesses questions.
3. The Panel and IP can ask the complainant and witnesses questions.
4. The member can address the Panel and call witnesses (if any)
5. The complainant can ask the member and witnesses questions.
6. The Panel and IP can ask the member and witnesses questions.
7. The complainant can make a closing statement.
8. The member can make a closing statement.

The Panel, the Executive Clerk, the IP, any legal advisor if present will leave the room to another separate room in order to deliberate and formulate their recommendations at hearings.

The Panel's recommendations will be announced orally as soon as possible.

A written report of the hearing and recommendations, with reasons, will be prepared, usually within 10 working days. A copy will be sent to all those present at the hearing.

This process will determine if:

1. The member did comply with the Code of Conduct;

or whether

2. The member did fail to comply with the Code of Conduct, and that:

I. No action need be taken – reasons to be given;

Or

- II. The member should be censured; and one or more of the following:

- (a) The findings of any Hearing be reported to the Full Parish Council for information;
- (b) Recommendation be made to the Parish Council that training be arranged for the member;
- (c) Recommendation be made to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Parish Council;
- (d) Recommendation be made 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
- (e) Recommendation be made to the Parish Council that it 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.

Procedure for hearing complaints about administration, policy or services

The complainant will be asked to put the complaint about the Council's onin writing via post or email to the Executive Clerk.

All such written complaints must be acknowledged within seven days by the Executive Clerk who will be responsible for investigating the complaint and taking appropriate action. If a full response cannot be given within that time the complainant must be advised of the timescale required to investigate the complaint and provide a response. Complaints and the action taken should be advised to the Chairman.

If the matter cannot be resolved by explanation or informal measures, the Chairman may arrange a meeting of relevant Councillors and the Complainant to discuss and agree the most suitable solution. The procedure for this meeting is laid out below. 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.

If a meeting is required then the following procedure should be followed:

Before the Meeting

The complainant shall be invited to attend the relevant meeting and bring with them such representative(s) as they wish.

Seven clear working days prior to the meeting, the complainant shall provide the Council with copies of any documentation or other evidence, which they wish to refer to at the meeting. The Council shall similarly provide the complainant with copies of any documentation upon which they wish to rely at the meeting.

At the Meeting

1. The Council shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press. Any decision on a complaint shall be announced at the Council meeting in public.
2. Chairman to introduce everyone.
3. Chairman to explain procedure.
4. Complainant (or representative) to outline grounds for complaint.
5. Members to ask any questions of the complainant.
6. If relevant, Executive Clerk or other proper officer to explain the Council's position.
7. Members to ask any question of the Executive Clerk or other proper officer.
8. Executive Clerk or other proper officer and complainant to be offered opportunity of last word (in this order).
9. Executive Clerk or other proper officer and complainant to be asked to leave room while Members decide whether or not the grounds for the complaint have been made. (If a point of clarification is necessary, both parties to be invited back).
10. Executive Clerk or other proper officer and complainant return to hear decision, or to be advised when decision will be made.

After the Meeting

Decision confirmed in writing within seven working days together with details of any action to be taken.

General Procedures

- Every effort should be made to resolve a complaint at the earliest opportunity.
- If there is no response within 30 days from the complainant at any Stage of the Procedure, the complaint shall be considered closed.
- Details of all complaints received by the Parish Council shall be provided to all Councillors with advice regarding how they have been resolved.

Additional information

For further information, please contact the Executive Clerk or the Chairman of the Policy Committee.

Amendment Record

- Version 1: Initial Issue as Interim Policy – 3rd March 2013
- Version 2: Initial Issue as Interim Policy – 24th July 2017
Adopted by Full Council – 5th March 2018
- Version 3: Reviewed by Policy Committee – 15th July 2021
Adopted by Full Council – 6th September 2021