



## Appendix1(viii)



# New Romney Town Council Complaints Procedure

## Part One: Complaints Against the Council

### Introduction

- 1 Unlike other tiers of local government, the Local Government Ombudsman has no jurisdiction over parish and town councils. Consequently, there are no statutory mechanisms in place should complaints be made against the Town Council.
- 2 It will not be appropriate to deal with **all** complaints from members of the public under a complaints procedure. For example:

Type of Conduct	Refer to
Financial irregularity	Local elector's statutory right to object to Council's audit of accounts pursuant to s.16 Audit Commission Act 1998. On other matters, the Council may need to consult its Auditor/ External Audit Provider
Criminal activity	The Police
Member conduct	A complaint relating to a Member's failure to declare a Disclosable Pecuniary Interest or Other Significant Interest or failure to adhere to the adopted Code of Conduct in any other way should be referred to the Monitoring Officer of the relevant principal authority
Employee conduct	Internal disciplinary procedure

- 3 New Romney Town Council defines a complaint as being "an expression of dissatisfaction by one or more members of the public about the 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".
- 4 The Town Council has the *legal* power to make reparation in the case of proven mal-administration.
- 5 The procedure set out below is not appropriate for use where a complaint is made against an individual. Serious complaints relating to the conduct of an individual can be dealt with in the ways suggested above or through the processes as set out in Part Two of this Complaints Procedure. The procedure below is designed for those complaints that cannot be satisfied by less formal measures or explanations provided to the complainant by the Town Clerk or Town Mayor.
- 6 The Town Clerk *will explain the Town Council's case*. As the Town Clerk puts forward justification for the action or procedure complained of, he or she should not advise the *appropriate Committee or Council*, as it needs to determine the matter itself.
7. In all cases all parties should be treated fairly and the process should be reasonable, accessible and transparent.

## THE COMPLAINTS PROCEDURE ITSELF

### Initial Stage

- 1 In all cases the Town Clerk will try to resolve the complaint informally *with the complainant*. The Town Clerk will retain a record.
- 2 If the complainant remains unsatisfied s/he should be asked to put the complaint about the Council's procedures or administration in writing to the Town Clerk.
- 3 If the complainant does not wish to put the complaint to the Town Clerk, s/he should be advised to address it to the Town Mayor.
- 4 The Town Clerk will acknowledge receipt of the complaint within 10 weekdays and advise the complainant when the matter will be considered by the appropriate Committee. The complainant should also be advised whether the complaint is likely to be treated as confidential or not.
- 5 The complainant will be invited to attend the meeting and to bring with them a representative if they wish.
- 6 At least 10 weekdays prior to the meeting, the complainant will provide the Council with copies of any documentation or other evidence relied on. At least 20 weekdays prior to the meeting the Council will provide the complainant with copies of any documentation upon which it wishes to rely at the meeting.

### At the Committee Meeting

- 7 The Chairman of the meeting shall consider whether the complaint warrants the exclusion of the public and the press.
- 8 The Chairman will introduce everyone and explain the procedure.
- 9 The complainant (or representative) will outline the grounds for complaint and, thereafter, questions may be asked both by the Town Clerk and by Councillors.
- 10 The Town Clerk will have an opportunity to explain the background to the complaint and questions may be asked both by the complainant and by Councillors.
- 11 The Town Clerk, and then the complainant, will be offered the opportunity to summarise how each sees the issue.
- 12 Both the Town Clerk and the complainant will be asked to leave the room while Councillors decide whether or not the grounds for the complaint have been made. If a point of clarification is necessary, both parties will be invited back.
- 13 Both the Town Clerk and the complainant will be given the opportunity to wait for the decision but, if the decision is unlikely to be finalised on that day, they will be advised when the decision is likely to be made and when it is likely to be communicated to them.

## **After the Committee Meeting**

- 14 The recommended decision of the appropriate Committee will be confirmed in writing within five weekdays together with details of any action to be taken by the Town Council.
- 15 All decisions on complaints will be minuted and available to the public through Town Council Minutes.

## **Appeal Procedure**

- 16 If the complainant remains unsatisfied s/he has the right of appeal, in writing, to a meeting of the Full Council prior to the ratification of the Minutes of the appropriate Committee. The process mirrors that described in clauses 7 to 15 above.

## **Part Two: Complaints Against an Individual Council Member**

### **Introduction**

1. In accordance with the Localism Act 2011, and in order to help maintain public confidence in New Romney Town Council, its adopted Code of Conduct requires that Town Council Members are committed to behaving in a manner that is consistent with "The Seven Principles of Public Life".

However, it should be noted that these principles do not create statutory obligations for Members and do not form part of The Code itself. It follows, therefore, that the Town Council cannot accept allegations that the principles have been breached and, in turn, cannot enforce any sanction on a Councillor who does not uphold one of the principles. Furthermore, as a Town Council, there is no statutory sanction for breaking the adopted Code of Conduct itself and the Council has no power to suspend or disqualify a Member.

Consequently, there are no statutory mechanisms in place should complaints be made against an individual Member and the Town Council has no powers to enforce any action against a Member - only to make recommendations to the Member.

2. A complaint relating to a Member's conduct which does not relate to declarations of DPI's or Other Significant Interests or to failure to adhere to the adopted Code of Conduct in any other way, but to general conduct only, will be submitted to the Town Council's Personnel Committee.
3. A complaint against a Council Member might come from a member of the public, a Town Council Officer or another Town Council Member.
4. In all cases all parties should be treated fairly and the process should be reasonable, accessible and transparent.
5. The procedure below is designed for those complaints that cannot be satisfied by less formal measures or explanations provided to the complainant by the Town Clerk.

## THE COMPLAINTS PROCEDURE ITSELF

### Initial Stage

- 1 In all cases the Town Clerk will try to resolve the complaint informally *with the complainant*. The Town Clerk will retain a record.
- 2 If the complainant remains unsatisfied s/he should be asked to put the complaint about the individual Council Member in writing to the Town Clerk.
- 3 If the complainant does not wish to put the complaint to the Town Clerk, s/he should be advised to address it to the Chairman of the Personnel Committee.
- 4 The Town Clerk will acknowledge receipt of the complaint within 10 weekdays and advise the complainant of the procedures and processes that will be undertaken in investigating the complaint.
- 5 The Town Clerk will notify the individual Member of the complaint against him / her and advise the Member of the procedures and processes that will be undertaken in investigating the complaint.
6. A meeting of the Personnel Committee will be convened, at which time, the Town Clerk will put the complaint to the Personnel Committee and a Complaints Panel will be elected to meet with both parties.

### Investigating the Complaint

7. The complainant will be invited to attend a meeting with the appointed Complaints Committee which will consist of a maximum of three Personnel Committee Members, of which one will be the Chairman of the Personnel Committee. The complainant will have the opportunity to explain the details of the complaint and Members of the Complaints Panel will have the opportunity to ask any relevant questions. The Town Clerk will retain a record of the meeting.
8. The individual Member against whom the complaint has been made will be invited to attend a meeting with the appointed Complaints Panel as detailed in step 7 above. The complaint will be explained to the Member, who will have the opportunity to respond to the complaint and Members of the Complaints Panel will have the opportunity to ask any relevant questions. The Town Clerk will retain a record of the meeting.
9. A further meeting of the Personnel Committee will be convened, at which time the Complaints Panel will report back to the Personnel Committee and, following discussion and having given the matter due consideration, the Personnel Committee will make its recommendations to Full Council, which may include any or all of the following:
  - Advice or recommendations for the Member on future conduct
  - Recommendations for relevant training for the Member
  - Amendments to relevant Council Policies / Procedural Documents
  - Drafting of a new Policy / Policy Statement
  - Open letter of censure
  - Referral to the Monitoring Officer

### **Following Investigation of the Complaint**

10. At the next meeting of the Full Council following the above detailed procedures, the recommendations of the Personnel Committee will be considered by the Council.
11. Within 10 weekdays following the Full Council meeting, the complainant will be notified of the findings of the Personnel Committee (ratified), including any recommendations made to the Member against whom the complaint had been made or actions to be undertaken by the Council as an outcome of the investigation into the complaint.
12. Within 10 weekdays following the Full Council meeting, the Member referred to in step 11 above will be notified in writing of any recommendations made and advised of any actions to be undertaken by the Council as an outcome of the investigation into the complaint.