



Brixham Town Council

Complaints Policy

Review History

Adopted: 08.05.2014 Minute Number 1465

Date for next Review: May 2015

Reviewed:

Introduction

The following Complaints Policy (Code of Practice) has been created based on the framework suggested by the National Association of Local Councils (NALC). It was adopted at Council on 08.05.2014, Minute X, and forms part of the Council's Standing Orders.

Pursuant to Local Government Act 1974, the Local Government Ombudsman (LGO) has no jurisdiction over parish and town Councils in England. Consequently, there are no statutory mechanisms in place should complaints be made against local Councils in England.

Brixham Town Council is committed to providing high quality, accessible and responsive services to everyone who lives, works or visits the town and to serve them as effectively and courteously as possible. One of the ways in which the Council can continue to improve its services is by listening and responding positively to any comments or complaints that it may receive and by putting right mistakes.

The Council has adopted a standard procedure to provide a transparent, fair and confidential process for dealing with complaints made about the administration of the Council or its procedures, which will ensure that any complaint is properly and fully considered.

Brixham Town Council will not acknowledge or consider, under any circumstances complaints that are submitted anonymously.

Aim

The Council aims to ensure that:

- a) making a complaint is as easy as possible;
- b) a complaint is taken as a clear expression of dissatisfaction with its service which calls for an immediate response;
- c) a complaint is dealt with promptly, politely and, when appropriate, confidentially;
- d) it responds in the right way - for example, with an explanation, or an apology where it has got things wrong, or information on any action taken etc;
- a) it learns from complaints, uses them to improve its service, and reviews annually its complaints policy and procedures.

Every effort will first be made by the Clerk or Chairperson to resolve complaints to the satisfaction of the complainant informally, or by providing an explanation, before resorting to the formal complaints procedure.

The complaints procedure will not apply:-

To complaints about a member of the Town Council's staff - these will be dealt with internally as an employment matter and appropriate action taken as required. A complaint against a member of the Council's staff could result in disciplinary action; or in cases of gross misconduct dismissal from the Council's employment. The Council will not under any circumstances enter into any correspondence, or discussion, with any complainant about any action taken, formally or informally against any member of its staff. This is expressly to protect the employment rights to which all employees of the Council are entitled.

Where someone feels very strongly that a decision of the Town Council was unlawful, they may apply to the courts for a judicial review of the Council's decision.

An accusation of financial wrong doing should be made as a complaint to the Council's external auditor, who may refer the matter to another body if required, refuse to sign off the accounts or produce a public interest report.

Any matter that raises a suspicion of criminal wrongdoing may be referred to the police.

Where the Council may carry out functions on behalf of another authority, under an agency agreement with Torbay Borough Council, the complaint may be referred to them. In such a situation, the Ombudsman may be involved if the matter is not resolved by the principal authority.

Complaints against policy decisions made by the Council shall be referred back to Council (but note paragraph 36 of the Council's Standing Orders which says that issues shall not be re-opened for six months without a special resolution)

Definition

Brixham Town Council uses the Local Government Ombudsman's (LGO) definition of a complaint, which is accepted by National Association of Local Councils (NALC):

'A complaint is 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.'

In accordance with NALC/LGO guidelines, the Town Council will try to ensure that their complaints system is:

- well publicised and easy to use;
- helpful and receptive;
- not adversarial;
- fair and objective;
- based on clear procedures and defined responsibilities;
- quick, thorough, rigorous and consistent;
- decisive and capable of putting things right where necessary;
- sensitive to the special needs and circumstances of the complainant;
- adequately resourced;
- fully supported by Councillors and officers; and
- regularly analysed to spot patterns of complaint and lessons for service improvement.

Confidentiality

The LGO/NALC advises that the identity of a complainant should only be made known to those who need to consider a complaint. Brixham Town Council will take care to maintain confidentiality where circumstances demand (e.g. where matters concern financial or sensitive information or where third parties are concerned).

Unreasonable and Vexatious Complaints

There will be circumstances when a complainant persists in wishing to proceed when there clearly is no reasonable basis to do so, or when the Council has already taken reasonable action in response, or where some other process, whether through the courts or some other recognised procedure, should or has been taken. The Council may decide that no further action can usefully

be taken in response to the complainant, and inform the complainant so, making it clear that only new and substantive issues will merit a response.

E Mail Correspondence

Offensive or abusive emails sent to staff impact negatively on the day-to-day running of the Council and directly or indirectly the overall well-being of the staff.

Standards of courtesy and reasonableness should characterise all communication from Councillors and members of public, including those who wish to express a concern or pursue a complaint. Councillors support the well-being of the staff and everyone else who has legitimate interest in the work of the Council.

1. Emails received by employees of Brixham Town Council that are considered to be offensive or abusive will be forwarded to the Vice Chairperson (who has the responsibility for Personnel issues) for investigation.
2. Upon investigation (and upholding of the view that the e mail correspondence is offensive or abusive) the Vice Chairperson will contact the correspondent to state that all e mail communication will cease if the correspondent continues to communicate in such a manner.
3. In all of the above circumstances if the correspondent continues Brixham Town Council will seek legal advice and issue an initial letter setting out the unacceptable behaviour and what further action will be taken if it persists. This could range from a harassment claim to a restraining order protecting Brixham Town Council and its employees from the correspondent.

Complaints Handled by the Town Clerk

1. It is hoped that most complaints can be resolved quickly and amicably through this route.
2. Initial complaints can be made by telephone, email or letter. The complaint will be handled by the Clerk.
3. Complaints should always be directed through the Council offices, not through individual Councillors.
4. A complainant may advise a Councillor of the details of a complaint, but individual Councillors are not in a position to resolve complaints.
5. It is expected that most complaints can be resolved through this route. However, the Council appreciates that on occasions if an informal approach had not resolved the complaint, or that the initial complaint is quite serious, then the formal complaints process should be followed.

Complaints Handled by the Town Council

1. The Clerk is responsible for managing the complaints process. The Clerk is the Proper Officer of the Council. However, if a formal complaint is being raised against the Clerk, then the process should still be followed, but the Chairperson of the Council would take the place of the Clerk in managing the process.
2. A formal complaint must be submitted in writing to the Council offices, addressed to the Clerk or Chairperson as appropriate. The complaint should cover as much detail as possible and enclose any relevant supporting documentation.

3. The Clerk or Chairperson will acknowledge receipt of the complaint within five working days.
4. The Clerk or Chairperson will carry out an initial investigation into the complaint and will within ten working days provide the complainant with an update on progress, or a suggested resolution. If the complainant is satisfied with the resolution the complaint is closed.
5. The Clerk or Chairperson will report to the Council, summary details of the complaint and a brief summary of its resolution. This summary report will exclude the names of the complainants and any Council staff involved.
6. If the Clerk or Chairperson is unable to resolve the complaint, or the complainant is not satisfied with the proposed resolution then the matter will be referred to the next Council meeting.

At the Meeting

1. The Council shall consider whether the circumstances of the meeting warrant the exclusion of the public and the press. As far as possible the Council carries out its business in public, matters that involve individual identified members of staff, may require the exclusion of the press and public.
2. The Chairperson shall introduce everyone and explain the procedure to be used in order to consider the complaint made. The meeting will be as informal and friendly as possible, without prejudicing the need to consider properly the matter under discussion. (a) The complainant (or representative) shall be invited to outline the grounds for complaint and members given the opportunity to ask any question of the complainant. (b) If relevant, the Clerk will explain the Council's position and the Council shall ask any questions of the Clerk. (c) The complainant is to be offered the opportunity of a last word as a means of summing up their position. (d) The Clerk is to be offered the opportunity of a last word as a means of summing up the Council's position.
3. The Clerk and complainant shall be asked to leave the room while members decide whether or not the grounds for the complaint have been made. If a point of clarification is necessary, both parties should be invited back. In any case both parties return to hear the decision, or to be advised when the decision will be made.
4. The decision will be confirmed in writing within seven working days together with details of any action to be taken.
5. The announcement of any decision will be made in public, at the next Council meeting.

Complaints against Councillors

The Brixham Town Council complaints policy does not cover complaints against an individual Councillor. If you wish to make a complaint about the behaviour of an individual Councillor you must write to:-

The Monitoring Officer
Torbay Borough Council
Torquay Town hall
Castle Circus
Torquay

TQ1 3DR

The Monitoring Officer can only deal with complaints about the behaviour of a Councillor. It will not deal with complaints about matters that are not covered by the Councillors Code of Conduct. Complaints must be about a Councillor's failure to follow the Code of Conduct.

The Monitoring Officer/Standards Committee will not look at complaints that are about:

- a. People employed by the Council or authority.
- b. Incidents that happened before a member was elected or chosen to serve.
- c. Incidents that happened either before the authority adopted the Code of Conduct or before 5 May 2002, whichever is earlier.
- d. The way an authority conducts or records its meetings.
- e. The way an authority has or has not done something. This may be a matter for the Local Government Ombudsman if the authority has not dealt with the matter properly and it has not been resolved locally.
- f. Decisions of the authority or one of the services it provides.