



Malton Town Council Complaints Procedure

Introduction

1. In dealing with complaints Malton Town Council refer to the NALC legal Topic Note LTN9.
2. This policy is intended to assist the Town Council to deal with complaints. The Council will consider engaging in other procedures/bodies where the complaint concerns financial irregularity, criminal activity, member conduct or employee conduct, the Council will determine which approach is appropriate.
3. The purpose of this procedure is to put things right if things go wrong.
4. Although the LGO (Local Government Ombudsman) has no jurisdiction in respect of Town councils, it might be useful for Town councils and the public to know that the Town Council can assist members of the public (including, perhaps councillors) to complain to the LGO where appropriate. The legislation is contained within sections 26 and 27 of the Local Government Act 1974 ('the Act') guidelines are available in LTN9 on how this process works.
5. The Town Council will publicise the Complaints Policy on the website and a copy can be obtained by contacting the Clerk.
6. The Town Council uses the following LGO definition to determine if a complaint has arisen:

'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.'

Confidentiality

The Town Council understands that the identity of a complainant should only be made known to those who need to consider a complaint. In some circumstances it might not be feasible for the Town Council to deal with complaints outside some sort of committee structure but, nevertheless, the 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).

Stages

The Town Council has a 2-stage complaints procedure whereby issues are resolved by:

- front line staff (The Clerk) or any of the Town Councillors; then
- by the Chair or Vice Chair

Time Targets

The Town Council will confirm receipt of a complaint within 14 working days of receipt. In the first instance the Town Council will aim to deal with the complaint within 28 working days where possible. Clearly, some flexibility is required to deal with lengthier and more complex complaints.

Remedies

The purpose of this procedure is to put things right if things go wrong. Section 92 of the Local Government Act 2000 gives councils the power to make payment 'in cases of maladministration.' (Section 92 applies to local councils and the use of the word 'maladministration' is not linked to the use of the word by the ombudsman in this context). The full text of section 92 is as follows:

- '92. (1) Where a relevant authority consider
- (a) that action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to, maladministration, and
 - (b) that a person has been, or may have been, adversely affected by that action
- the authority may, if they think appropriate, make a payment to, or provide some other benefit for, that person.

It is to be noted that Town councils have the power to: -

- (i) to make a payment or
- (ii) to provide some other benefit where action amounts to or may amount to maladministration.

'Maladministration' is a broad concept. It has been described as including 'bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude and so on'. The 'and so on' is important. Lord Denning said 'It would be a long and interesting list, clearly open-ended, covering the manner in which a decision is reached or discretion is exercised...' (R v Commissioner for Local Administration ex parte Bradford City Council [1979] 1 QB 287).

The Procedure

Under certain circumstances the Town Council may wish to establish a committee to deal with a complaint. This avoids the need for the full council having to assemble and also makes the process less daunting for a complainant if they choose to attend a meeting in person.

Where a complaint is made against an individual or a serious complaint is made relating to the conduct of an individual the Town Council will deal with the matter in line with LTN9. The procedure is designed for those complaints which cannot be satisfied by less formal measures or explanations provided to the complainant by the Clerk (or other nominated officer) or chairman.

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.

In most circumstances where the complaint has not been dealt with using the two stages the Town Council will endeavour to resolve the matter through a Problem Solving Meeting.

Problem solving meetings:-

Before the Meeting

1. The complainant should be asked to put the complaint about the council's procedures or administration in writing to the Clerk or other nominated officer.
2. If the complainant does not wish to put the complaint to the Clerk or other nominated officer, he or she should be advised to address it to the chairman of the council.

3. The Clerk or other nominated officer shall acknowledge receipt of the complaint and advise the complainant when the matter will be considered by the council or by the committee established for the purposes of hearing complaints. The complainant should also be advised whether the complaint will be treated as confidential or whether, for example, notice of it will be given in the usual way (if, for example, the complaint is to be heard by a committee).
4. The complainant shall be invited to attend a meeting and to bring with them a representative if they wish.
5. Seven clear working days prior to the meeting, the complainant shall provide the council with copies of any documentation or other evidence relied on. The council shall provide the complainant with copies of any documentation upon which they wish to rely at the meeting and shall do so promptly, allowing the claimant the opportunity to read the material in good time for the meeting.

At the Meeting

6. 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.
7. The chairman should introduce everyone and explain the procedure
8. The complainant (or representative) should outline the grounds for complaint and, thereafter, questions may be asked by:-
 - (i) the Clerk or other nominated officer and then
 - (ii) Members.
9. The Clerk or other nominated officer will have an opportunity to explain the council's position and questions may be asked by
 - (i) the complainant and
 - (ii) Members.
10. The Clerk or other nominated officer and then the complainant should be offered the opportunity to summarise their position.
11. The Clerk or other nominated officer and the complainant should 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 shall be invited back.
12. The Clerk or other nominated officer and the complainant should be given the opportunity to wait for the decision but if the decision is unlikely to be finalised on that day they should be advised when the decision is likely to be made and when it is likely to be communicated to them.

After the Meeting

13. The decision should be confirmed in writing within ten working days together with details of any action to be taken.

Contact Information

Town Clerk, The Wesley Centre, 10-12 Saville Street, Malton, North Yorkshire, YO17 7LL
Tel: 01653 609888 Email: clerk@malton-tc.gov.uk