

July 2003

## **CODE OF PRACTICE FOR LOCAL COUNCILS IN HANDLING COMPLAINTS**

It remains the position that the Local Government Ombudsman has no jurisdiction over parish, town and community councils. The question therefore arises as to what should happen if complaints are received about administration or procedures?

Complaints about an employee of the council (i.e. the clerk) should be dealt with as an employment matter. The complainant can be assured that the matter will be dealt with internally as such and appropriate action taken as required. In Wales, a code of conduct is incorporated into the contract of employment. Similar provisions are due to be introduced in England.

Complaints about a councillor are now subject to the jurisdiction of the Standards Board or the Commissioner for Wales. Complainants should be advised to contact the appropriate body directly or the Monitoring Officer for further information. It may be that the parish, town or community council holds relevant information and contact details, which can be given to the complainant.

The code of practice within this guidance is therefore aimed at those situations where a complaint has been made about the administration of the council or about its procedures. It is not really an appropriate forum for a complaint against individuals, as the provisions available above should cover these situations.

For the benefit of good local administration, it is suggested that every council adopts a standard and formal procedure for considering complaints either made by complainants direct or which have been referred back to the council from other bodies. The procedure suggested below is recommended as a way of ensuring that complainants can feel satisfied that at least their grievance has been properly and fully considered.

The council should view the adoption of a complaints procedure as an efficient way of dealing with complaints received and a means of preserving the good reputation of the council through a transparent process. If the council fail to deal with complaints directly, they may have to utilise other resources in dealing with outside bodies, which the complainant has engaged to further highlight their dissatisfaction.

The council may wish to establish a committee to deal with complaints. This avoids the need for full council having to assemble and also makes the process less daunting for a complainant if they choose to attend a meeting in person. If a committee is formed, it should report its conclusions to the next council meeting.

Under the Local Government Act 2000, the standards committee of the principal authority is empowered to promote and maintain high standards of conduct by the members of the parish town or community council. Whilst this does not necessarily affect complaints about maladministration and procedure, the local council may consider it good practice to notify the standards committee that a local code for such complaints has been adopted. Every effort must be made not to confuse this procedure with that available for complaints against individual members.

The procedure is designed for those complaints that cannot be satisfied by less formal measures or explanations provided to the complainant by the clerk or other proper officer or chairman. The code can be adapted to suit local circumstances and this Legal Topic Note represents a suggested practice.

It may be that the clerk or other proper officer at the meeting represents the position of the council. If the clerk or other proper officer is putting forward the justification for the action or procedure complained of, he or she should not advise the council or committee.

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.

## **CODE OF PRACTICE**

### **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 proper officer.
2. If the complainant does not wish to put the complaint to the clerk or other proper officer, they may be advised to put it to the chairman of the council.
3. The clerk shall acknowledge the 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.
4. The complainant shall be invited to attend the relevant meeting and bring with them such representative as they wish.
5. 7 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**

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. Chairman to introduce everyone.
8. Chairman to explain procedure.
9. Complainant (or representative) to outline grounds for complaint.
10. Members to ask any question of the complainant.
11. If relevant, clerk or other proper officer to explain the council's position.
12. Members to ask any question of the clerk or other proper officer.
13. Clerk or other proper officer and complainant to be offered opportunity of last word (in this order).
14. 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).
15. Clerk or other proper officer and complainant return to hear decision, or to be advised when decision will be made.

### **After the Meeting**

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