

# SEAHAM TOWN COUNCIL

## Complaints Policy & Procedure



<b>Created</b>	<b>Town Clerk</b>		<b>D.R.</b>
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# 1 - Who can make a complaint?

Seaham Town Council aims to achieve the highest standards of behaviour, in terms of ethical principles, respectful interaction, equality and fairness in all our dealings as a Town Council.

Every opinion will be listened to, though the Council may have to make decisions based on the principles of representative democracy which may mean that some individuals may not get the outcomes they would have wished for.

Given proper procedures and behaviours have been followed, the outcome of Town Council decisions is not open to the complaints procedure.

Any person, including members of the public, may make a complaint to Seaham Town Council about any provision of facilities or services that it provides unless complaints are dealt with under separate statutory procedures referred to on page 5 & 6 of this complaints policy & procedure.

## 2 - The Government Committee on Standards in Public Life

The 'Nolan Principles' were established by Government 25 years ago and have remained unchanged.

Everyone in public office at all levels; Ministers, civil servants, NHS staff, the police, council officers i.e. all who serve the public or deliver public services should uphold the principles of accountability, honesty, integrity, objectivity, selflessness, openness and leadership.

Seaham Town Council's Councillors and Officers are aware of and upholds the Nolan Principles. Further details can be found on the gov.uk website.

Any apparent breach of the above principles by any Councillor cannot be addressed by the Town Council but must be referred to the Durham County Council Monitoring Officer for them to deal with, using the form and information which is available on DCC website.

## 3 - The difference between a concern and a complaint

A concern may be defined as '*an expression of worry or doubt over an issue considered to be important for which reassurances are sought*'.

A complaint may be defined as '*an expression of dissatisfaction however made, about actions taken or a lack of action*'.

In conclusion a concern is less serious than a complaint.

It is in everyone's interest that concerns, and complaints are resolved at the earliest possible stage. Many issues can be resolved informally, without the need to use the formal

stages of the complaint's procedure. Seaham Town Council takes concerns seriously and will make every effort to resolve the matter as quickly as possible.

If you have difficulty discussing a concern with a particular member of staff, we will respect your views. In these cases, the Town Clerk or Chair of the Clerks Advisory Committee may refer you to another staff member.

Similarly, if the member of staff directly involved feels unable to deal with a concern, the Town Clerk will refer you to another staff member. The member of staff may be more senior but does not have to be. The ability to consider the concern objectively and impartially is more important.

However, if your concern is about the Town Clerk you will need to approach the Chair of the Clerks Advisory Sub-Committee.

We understand however, that there are occasions when people would like to raise their concerns formally. In this case, Seaham Town Council will attempt to resolve the issue internally, through the stages outlined within this Complaints Policy & Procedure.

## **4 - How to raise a concern or make a complaint**

A concern can be raised in person, in writing or by telephone. They may also be made by a third party acting on behalf on a Complainant, as long as they have appropriate written consent to do so and such consent is shared at the outset.

If the issue remains unresolved, the next step is to make a formal complaint.

Complainants should **not** approach individual Councillors to raise concerns or complaints. They have no power to act on an individual basis and it may also prevent them from considering complaints at Stage 2 of the procedure.

Complaints against the Town Council (except the Town Clerk) **must** be made in writing (e-mail, letter or the Complaint Form at **Appendix 1**) in the first instance to, The Town Clerk via the Town Hall, Stockton Road, Seaham, SR7 0HP and clearly marked 'Private and Confidential'.

If you require help in completing the form, you can ask a third party for example family or friend but **not** a Councillor; organisations like Citizens Advice may also help you.

Complaints that involve or are about the Town Clerk **must** be made in writing and should be addressed to the Chair of the Clerks Advisory Sub-Committee at the Town Hall, Stockton Road, Seaham, SR7 0HP clearly marked 'Private and Confidential'.

In accordance with equality law, Seaham Town Council will consider making reasonable adjustments if required, to enable Complainants to access and complete this complaints policy & procedure. For instance, providing information in alternative formats; assisting Complainants in raising a formal complaint or holding meetings in accessible locations.

## 5 - Submission of Formal Complaint

You must raise the complaint within **three months** of the incident or, where a series of associated incidents have occurred, within three months of the last of these incidents.

Seaham Town Council will only consider complaints made outside of this time frame only if exceptional circumstances apply.

Consideration of such will be on a case by case basis and the decision to proceed or otherwise will not set a precedent.

## 6 - Anonymous complaints

Seaham Town Council will not normally investigate anonymous complaints. However, the Town Clerk and Chair of the Advisory Sub-Committee, if appropriate, will determine whether the anonymous complaint warrants an investigation. This will be on an individual basis and determined by the nature of the complaint and quality of corroborative evidence provided and such a decision will not set a precedent.

## 7 - Scope of this Complaints Policy & Procedure

This policy and procedure covers all complaints about any provision of community facilities or services by Seaham Town Council other than complaints that are dealt with under other statutory procedures, including those listed below

<b>Exceptions</b>	<b>Procedure</b>
<ul style="list-style-type: none"><li>• Matters likely to require a Child Protection Investigation</li></ul>	Complaints about child protection matters are handled under Durham County Council child protection and safeguarding procedure and in accordance with relevant statutory guidance. Details can be found on their website.
<ul style="list-style-type: none"><li>• Whistle blowing</li></ul>	We have an internal whistle blowing procedure for all our employees, including temporary staff and contractors.
<ul style="list-style-type: none"><li>• Staff conduct / grievances</li></ul>	Complaints from staff will be dealt with under the Council's internal grievance procedures. Complainants will not be informed of any disciplinary action taken against a staff member as a result of a complaint. However, the complainant will be notified that the matter is being addressed.
<ul style="list-style-type: none"><li>• Complaints about services provided by other providers who may use Town Council premises or facilities</li></ul>	Providers should have their own complaints procedure to deal with complaints about service. Please contact them direct.

If other bodies are investigating aspects of the complaint, for example the Police, Local Authority (LA) safeguarding teams or Tribunals, this may impact on our ability to adhere to

the timescales within this procedure or result in the procedure being suspended until those public bodies have completed their investigations.

If a Complainant commences legal action against Seaham Town Council in relation to their complaint, we will consider whether to suspend the complaints procedure in relation to their complaint until those legal proceedings have concluded.

## 8 - Resolving complaints

At each stage in the procedure, Seaham Town Council aims to resolve the complaint.

If appropriate, we will acknowledge that the complaint is upheld in whole or in part. In addition, we may offer one or more of the following:

- an explanation
- an admission that the situation could have been handled differently or better
- an assurance that we will try to ensure the event complained of will not recur
- an explanation of the steps that have been or will be taken to help ensure that it will not happen again and an indication of the timescales within which any changes will be made
- an undertaking to review relevant Town Council policy(ies) in light of the complaint
- an apology.

## 9 - Withdrawal of a Complaint

If a Complainant wants to withdraw their complaint, we will ask them to confirm this in writing. This brings the matter to an end.

## 10 - Stage 1 Investigation & Outcome

Formal complaints **must** be made in writing (e-mail, letter or Complaint Form at page 14/15). This is because if the matter proceeds to Stage 2 Councillors will need copies of all correspondence/documentation.

The Town Clerk/Chair of the Clerks Advisory Sub-Committee will record the date the complaint is received and will acknowledge receipt of the complaint in writing (either by letter or e-mail) within **5 working days**.

Within this response, the Town Council may seek to clarify the nature of the complaint where it is not clear and ask what remains unresolved and what outcome the Complainant would like to see.

The Town Clerk/Chair of the Clerks Advisory Sub-Committee can consider whether a face to face meeting is the most appropriate way of doing this.

*Note: The Town Clerk/Chair of the Clerks Advisory Sub-Committee may delegate the investigation to another senior member of staff but not the decision to be taken on the complaint itself.*

During the investigation, the Town Clerk/Chair of the Clerks Advisory Sub-Committee (or Independent Investigator) will:

- if necessary, interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish
- keep a written record of any meetings/interviews in relation to their investigation.

At the conclusion of their investigation, they will provide a formal written response within **15 working days** of the date of formal acknowledgement of the complaint.

If this timeline cannot be met the complainant will receive an update and revised response date.

The response will detail any actions taken to investigate the complaint and provide an explanation of the decision made and the reason(s) for it. Where appropriate, it will include details of actions to be taken to resolve the complaint.

The complainant will be advised of how to escalate their complaint should they remain dissatisfied with the outcome of Stage 1.

If the complaint is about the Town Clerk, it will be for the Chair of the Clerks Advisory Sub-Committee to complete all the actions at Stage 1 unless they have engaged an Independent Investigating Officer.

## **11 - Stage 2 Hearing/Appeal**

If the Complainant is dissatisfied with the outcome at Stage 1 and wishes to take the matter further, they can escalate the complaint to Stage 2.

A Complaints Committee will be established from Councillors of Seaham Town Council; it will be formed with **the first three, impartial, Councillors available (sought alphabetically)**.

Where it has not been possible to secure at least three independent Councillors Seaham Town Council reserves the right to source any additional, independent Councillors in collaboration with another Town Council in order to make up the Committee. Alternatively, an entirely independent Committee may be convened to hear the complaint at Stage 2 to ensure independent and impartiality.

A request to escalate to Stage 2 must be made to the Town Clerk/Chair of the Clerks Advisory Sub-Committee at the Town Hall, Stockton Road, Seaham, SR7 0HP and clearly marked 'Private and Confidential'.

This **must** be made in writing stating clearly the grounds for the appeal (not a repeat of the original complaint) within **10 working days** of receipt of the Stage 1 response.

For the avoidance of doubt, the original complaint and appeal will be formally acknowledged and the date of such recorded by the Council.

Requests received outside of this time frame will only be considered if exceptional circumstances apply. Consideration of such will be on a case by case basis and the decision to proceed or otherwise will not set a precedent.

Stage 2 is the final stage of the Complaints Policy & Procedure.

## **12 - Setting the date of the Hearing/Appeal**

The Clerk to the Committee (the Clerk will be independent of the complaint and not have been previously involved) will write to the Complainant to inform them of the date of the meeting.

They will aim to convene a meeting within **10 working days** of receipt of the Stage 2 appeal. If this is not possible, the Complainant will receive an anticipated date and be kept informed.

If the complainant rejects the offer of three proposed dates, without good reason, the Town Clerk/Chair of the Clerks Advisory Sub-Committee will decide when to hold the meeting. It will then proceed in the Complainant's absence on the basis of written submissions from both parties.

Consideration of such will be on a case by case basis and the decision to proceed or otherwise will not set a precedent.

## **13 - Notice of the Hearing/Appeal**

The Committee will consist of at least three Councillors with no prior involvement or knowledge of the complaint.

At the start of the meeting and in private, along with the Clerk to the Committee, they will decide amongst themselves who will act as the Chair of the Complaints Committee.

The Complainant may bring someone along to provide support; this can be a relative or friend.

Seaham Town Council does not encourage either party to bring legal representatives to the committee meeting. However, there may be occasions when legal representation is appropriate; this will be clear and agreed before the meeting.

For instance, if an employee is called as a witness in a complaint hearing, they may wish to be supported by union and/or legal representation.

*Note: Complaints about staff conduct will not be handled under this complaint's procedure. Complainants will be advised that any staff conduct complaints will be considered under staff disciplinary procedures, if appropriate, but outcomes will not be shared with them.*



At least **seven working days** before the meeting, the Clerk to the Committee will confirm and notify the Complainant of the agreed date, time and venue of the meeting ensuring the venue and proceedings are accessible (reasonable adjustments will be made where required) and request copies of any further written material to be submitted to the Committee at least **five working days** before the meeting.

Any written material will be circulated to all parties at least **three working days** before the date of the meeting.

The Committee **will not** accept, as evidence, recordings of conversations that were obtained covertly and without the informed consent of all parties being recorded.

The Committee **will not** review any new complaints at this stage or consider evidence unrelated to the initial complaint to be included. New complaints must be dealt with from Stage 1 of the policy & procedure.

### **PLEASE NOTE**

***This is a closed meeting and the public and representatives from the media are not permitted to attend.***

Electronic recordings of meetings or conversations **are not** permitted unless a complainant's own disability or special needs require it.

Prior knowledge and consent of all parties attending to record must be sought before meetings or conversations take place. Where agreed, consent will be recorded in the minutes taken.

## **14 - The Hearing/Appeal**

The Committee will consider the complaint and all the evidence presented. The Committee can:

- uphold the complaint in whole or in part
- dismiss the complaint in whole or in part.

If the complaint is upheld in whole or in part, the Committee will:

- decide on the appropriate action to be taken to resolve the complaint
- where appropriate, recommend changes to the Council's systems or procedures to prevent similar issues in the future.

The Chair, on behalf of the Committee, will provide the Complainant and Town Council with a full explanation of their decision and the reason(s) for it, in writing, within **five working days**.

The written response, agreed by the Committee, will detail any actions taken to investigate the complaint and provide a full explanation of the decision made and the reason(s) for it. Where appropriate, it will include details of actions Seaham Town Council will take to resolve the complaint.

If the complaint is jointly about the Town Clerk and Chair of the Clerks Advisory Sub-Committee Stage 2 will be heard by a Committee of Independent Councillors in collaboration with another Town Council.

## **15 - Roles and Responsibilities**

### **Complainant**

The Complainant will receive a more effective response to their complaint if they:

- explain the complaint in full and as early as possible
- co-operate with the Council in actively seeking a resolution to the complaint
- respond promptly to requests for information or meetings or in agreeing the details of the complaint
- ask for assistance as needed
- treat all those involved in the complaint with respect
- refrain from publicising the details of their complaint on social media and respect confidentiality.

### **Investigator**

Where necessary the Council may appoint an Independent Investigating Officer but, in any event, the Investigator's role is to establish the facts and make recommendations relevant to the complaint by:

- providing a comprehensive, open, transparent, and fair consideration of the complaint through:
  - sensitive and thorough interviewing of the complainant to establish what has happened and who has been involved
  - interviewing staff and other people (in person or by telephone) relevant to the complaint
  - consideration of records and other relevant information/documents
  - analysing information/documents
- liaising with the Complainant and the Decision Maker to clarify what the complainant feels would put things right.

The Investigator will:

- conduct interviews with an open mind and be prepared to persist in the questioning
- treat all those involved in the complaint with respect
- keep notes of interviews or where necessary arrange for an independent note taker to record minutes of the meeting
- ensure that any papers produced during the investigation are kept securely pending any appeal

- be mindful of the timescales to respond and negotiate any extensions with the Complainant explaining clearly why they may be necessary
- prepare a report for the Decision Maker based on findings/recommendations and any proposed action (s)

The Decision Maker will then determine whether to uphold or dismiss the complaint and communicate that decision to the Complainant, providing the appropriate escalation details.

### **Decision Maker**

The Decision Maker should:

- ensure that the Complainant is fully updated at each stage of the procedure
- liaise with the Investigator to ensure the smooth running of the complaint's procedure
- be aware of issues regarding:
  - sharing third party information
  - additional support
- keep records.

### **Clerk to the Committee**

At stage 2, the Clerk to the Committee is the contact point for the Complainant and should:

- ensure that all people involved in the complaint procedure are aware of their legal rights and duties, including any under legislation relating to council complaints, the Equality Act 2010, the Freedom of Information Act 2000, the Data Protection Act (DPA) 2018 and the General Data Protection Regulations (GDPR)
- set the date, time, and venue of the meeting, ensuring that, where possible, the dates are convenient to all parties (if they are invited to attend) and that the venue and proceedings are accessible
- collate any written material relevant to the complaint (for example, stage 1 paperwork, and relevant Complainant submissions) and send it to the parties in advance of the meeting within an agreed timescale
- record the proceedings
- circulate the draft minutes of the meeting to Committee Members for approval
- notify all parties of the Committee's decision within the agreed timescales

### **Committee Chair**

The Chair of the Committee should ensure that:

- both parties are asked (via the Clerk) to provide any additional information relating to the complaint by the specified date in advance of the meeting

- ensure the procedure for the meeting (**Appendix 2**) is followed and the meeting is conducted in an informal manner, is not adversarial, and that, if all parties are invited to attend, everyone is treated with respect and courtesy
- Complainants who may not be used to speaking at such a meeting are put at ease
- the remit of the Committee is explained to the Complainant at the start of the meeting
- written material is seen by everyone in attendance, provided it does not breach confidentiality or any individual's rights to privacy under the DPA 2018 or GDPR.
- both the Complainant and the Council are given the opportunity to make their case and seek clarity, either through written submissions ahead of the meeting or verbally in the meeting itself
- the issues are addressed
- key findings of fact are made
- the Committee is open-minded and acts independently
- no member of the Committee has an external interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure
- the meeting is accurately minuted.

### **Committee Members**

Committee members should be aware that:

- the meeting must be independent and impartial, and should be seen to be so
- N.B. No Councillor may sit on the Committee if they have had a prior involvement in the complaint or in the circumstances surrounding it.**
- the aim of the meeting is to resolve the complaint and achieve reconciliation between the Council and the Complainant

It is recognised that the Complainant might not be satisfied with the outcome if the meeting does not find in their favour. It may only be possible to establish the facts and make recommendations.

- Complainants may feel nervous and inhibited in a formal setting
- the welfare of all parties is paramount.

## **16 - Next Steps**

If the complainant believes the Council did not handle their complaint in accordance with its published complaints policy & procedure or they acted unlawfully or unreasonably in the exercise of their duties under law, then it will be then the responsibility of the complainant to seek legal advice.

## APPENDIX 1

# Complaint Form

Please complete and return to:

The Town Clerk, Seaham Town Council, Town Hall, Stockton Road, Seaham, SR7 0HP.

The form will be acknowledged and an explanation of next steps in accordance with the Complaints Policy & Procedure provided.

Where the complaint is about the Town Clerk the form should be addressed to The Chair of the Clerks Advisory Sub-Committee.

<b>Your name:</b>
<b>Staff's name (if relevant):</b>
<b>Your Address:</b>  <b>Day time telephone number:</b> <b>Evening telephone number:</b>
<b>Please give details of your complaint, including whether you have already spoken to anybody at Seaham Town Council about it.</b>
<b>What actions do you feel might resolve the problem at this stage?</b>

**Are you attaching any paperwork? If so, please give details.**

**Signature:**

**Date:**

**Official use**

**Date acknowledgement sent:**

**By whom:**

**Complaint referred to:**

**Date:**

# **Procedure for Hearing the Complaint**

## **Introduction**

The aim of the meeting is, where possible, to resolve the complaint and achieve reconciliation and understanding between Seaham Town Council and the Complainant.

## **Order of Meeting**

1. All parties to be invited into the room at the same time by the Clerk to the Committee.
2. The Chair welcomes the Complainant and asks those present to introduce themselves.
3. The Chair explains the purpose of the meeting, the procedure, and checks that all written evidence has been made available to all parties before beginning the meeting.
4. The Complainant is invited to explain their complaint, calling witnesses (notified in advance) if appropriate.
5. The Committee and Investigator may ask questions of the Complainant and any witnesses.
6. The Investigator is then invited to present a response to the complaint, including identifying action taken to address the complaint at stages 1 and 2 of the procedure, calling witnesses (notified in advance), if appropriate.
7. The Committee and Complainant may ask questions of the Investigator.
8. The Investigator summarises the case, highlighting specific evidence, including anything that has emerged in the meeting.
9. The Complainant has the final word and is invited to summarise their case, highlighting specific evidence, including anything that has emerged in the meeting.
10. The Chair of the Committee checks that all parties have had a fair hearing and reminds every one of the confidentiality of the case. Confirmation of such is to be clearly recorded in the minutes.
11. The Chair of the Committee thanks both parties for attending and all parties then leave the room together.
12. The Committee considers the complaint and reaches a unanimous or majority decision. Where necessary, the Committee decides what action, if any, is required to resolve the complaint and, if appropriate, recommends changes to ensure similar complaints are not made in future.
13. The Chair of the Committee confirms that both parties are informed of the outcome of

the complaint in writing by the Clerk to the Committee within **5 working days**.