



# **MACCLESFIELD TOWN COUNCIL**

## **COMPLAINTS PROCEDURE**



## DOCUMENT VERSION CONTROL

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## 1. Introduction

From time to time the public have complaints about the administration or procedures of the Council. Sometimes the Council may be in the wrong but on occasions complaints may not be justified. The Council recognises that it is not subject to the jurisdiction of the Local Government Ombudsman but has adopted this Code to ensure that complainants can feel satisfied that at the very least their grievance has been properly and fully considered.

This document has been produced using guidance from the National Association of Local Councils (NALC) Handling Complaints Legal Topic Note. A copy of the NALC Complaints document is available on request.

The Local Government Ombudsman (LGO) defines a complaint against a principal authority as:

“A complaint is an expression of dissatisfaction 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.”



## **2. What is the complaint's procedure for?**

### **2.1 Complaints**

A complaint against a local council may be an allegation of an administrative fault such as not following a procedure or standing order, inadequate service, no service, a delay or a mistake.

The complaints procedure is followed by the council to address complaints in relation to the council.

Residents who live within the council's area are likely to be the main users of the complaints procedure.

A complaint about the conduct of a council employee will be handled in accordance with this complaints procedure. If following the outcome of the complaint, the council decides there may be need for disciplinary action this should be in accordance with its internal disciplinary procedure.

### **2.2 When the complaints procedure is not appropriate**

The following types of complaint will not trigger the council's complaint procedure and shall be forwarded to the relevant body:

- Alleged financial irregularity – The Council's external auditors,
- Alleged criminal activity – Police,
- Members alleged in breach of Code of Conduct – Cheshire East Council.



## **3. Complaint Procedure**

### **3.1 Data Protection and Confidentiality**

To ensure compliance with the Data Protection Act 1998 a council cannot disclose the identity, contact details or other personal data about a complainant unless he/she consents or disclosure is otherwise fair and lawful under the 1998 Act e.g. for the purpose of discharging the council's functions or for the performance of contractual obligations.

Macclesfield Town Council will ensure that any agendas and minutes do not disclose personal data or confidential information about the complainant.

Macclesfield Town Council will treat all complaints as confidential unless the complainant waives his/her right to confidentiality. Thus meetings to which the complainant attends will exclude the public.

### **3.2 Informal Complaints**

When a complaint is received, the complainant usually wants a 'quick fix' and an apology if the council are at fault; examples are the late payment of an invoice or not responding to a letter. The council will put things right as quickly as possible and admit fault if that is the case. If it is unable to help or in disagreement with the complaint, it will state clearly in writing why it takes that view.

### **3.3 Formal Complaints**

Formal complaints should be submitted in writing or by completing the Macclesfield Town Council's Complaint Form.

The Clerk will (except where the complaint is about his/her own actions) try to settle the complaint directly with the complainant, but shall not do so in a case about the Clerk or a Councillor, without first giving that person an opportunity to comment on the matter and the manner in which it is intended to settle the complaint. Where the Clerk receives written complaint about his/her own actions, he/she will forthwith refer the complaint to the Council.

#### **3.3.1 Receipt of complaint**

The Clerk will acknowledge receipt of the complaint by writing to the complainant within seven working days, whenever possible. The response will confirm the complaint will be treated as confidential and confirm the next steps in the complaints procedure, which will include being invited to a meeting with the Clerk within four weeks to make verbal representation. The complainant will be given the opportunity to instead opt to represent their complaint at the next Full Council Meeting.

#### **3.3.2 Investigating the complaint**

The Clerk will investigate the facts of the complaint and collate all relevant evidence.



Seven working days before meeting with the Clerk:

- a) The complainant will provide the Clerk with all information/evidence about their complaint,
- b) The Clerk will provide the complainant with any new information/evidence about their complaint.

### **3.3.3 Meeting with the complainant**

The Clerk will Chair the meeting and start by explaining how the meeting will proceed.

The Mayor may be invited to the meeting.

The complainant will outline their grounds for complaint after which the Clerk and Mayor may ask questions.

The Clerk and Mayor will explain the Council's position and questions may be asked by the complainant.

The Clerk and complainant will summarise their respective positions.

The Clerk will advise when a decision about the complaint will be made – the timeframe is dependent on the nature of the complaint but will be no more than two months. If the complaint is particularly complex it may take longer for the council to reach a decision, in which case the Clerk will explain this to the complainant.

### **3.3.4 Hearing a Complaint at Full Council**

If the complainant wishes to represent their complaint at the next Full Council Meeting, the Clerk will notify the Mayor and add an item to the meeting agenda. The Clerk will notify the complainant of the date of the meeting and invite them to attend with a representative if they so wish. The Complainant will be given the opportunity to address the meeting.

Seven working days prior to the meeting:

- a) The complainant will provide the council with all information/evidence he/she may wish to refer to in the meeting,
- b) The council will provide the complainant with any documentation
- c) They may wish to refer to in the meeting.

The council will consider whether the circumstances attending any complaint warrant the matter being discussed in the absence of the press and public, but any decision on a complaint will be announced at the Council meeting in public.

The Mayor will introduce everyone present and will explain the procedure.

The complainant or representative will outline the grounds for complaint.

Members will ask any questions of the complainant.

If relevant, the Clerk or Mayor will explain the Council's position. Members may ask any questions of them.



The complainant and any person relevant to the subject of the complaint will leave the room, while members decide whether or not the grounds for the complaint have been made. If a point of clarification is required, both parties will be invited back into the room.

The parties will be invited back to hear the decision as soon as possible after the decision has been made. The decision and the nature of any action to be taken, will be communicated in writing to the complainant.

If a decision cannot be finalised, the complainant will be advised when a decision is likely to be made and when it will be communicated to them.

### **3.3.5 Decision on a complaint**

Following a decision, the Clerk will write to the complainant within seven working days to confirm whether or not the council has upheld the complaint. Reasons will be given for the decision together with details of any action to be taken by the council.

### **3.3.6 Remedies**

If Macclesfield Town Council upholds the complaint, the Clerk will provide an explanation to the complainant of what steps will be taken to remedy the situation.

Any offer or acceptance of financial compensation will confirm final settlement of the dispute but is not an admission of legal liability.

If it is not appropriate to offer compensation for financial loss suffered by the complainant, Macclesfield Town Council may make a gesture of goodwill.

### **3.3.7 Complaints involving legal remedies**

It may be necessary to notify the council's insurers; appropriate if a complainant seeks redress for personal injury, damage to property or other financial loss or whether the council is at risk of being held liable in law to pay damages or provide another legal remedy.

The Clerk will notify the council's insurers immediately if such a complaint is made against Macclesfield Town Council and take instruction on how to respond to the complainant.