

# **COMPLAINTS PROCEDURE SCOTTISH BORDERS COMMUNITY COUNCILS**

## **1. INTRODUCTION**

This procedure is for making complaints about a Community Council or its members in the Scottish Borders, and can be used by members of the public, Community Councillors or SBC Elected Members.

## **2. WHAT IS A COMMUNITY COUNCIL COMPLAINT?**

A Community Council complaint is an expression of dissatisfaction or concern relating to the actions of a Community Council or one of more of its members. This may be about:

- breaches of the Community Council Scheme or the Constitution of a Community Council;
- treatment by, or attitude of, a Community Council when dealing with a Community Council issue;
- financial irregularities or fraud;
- breaches in confidentiality;
- misuse of social media, email or letters for the purpose of personal and/or financial gain;
- bringing the Community Council into disrepute.

## **3. WHO CAN COMPLAIN?**

Anyone who is affected by a Community Council can make a complaint. Anonymous complaints will not be accepted.

## **4. WHAT CAN A COMPLAINT BE ABOUT?**

4.1 A complaint can be about things such as:

- treatment by, or attitude of, a Community Councillors when dealing with a Community Council issue;
- financial irregularities or fraud;
- breaches in confidentiality;
- misuses of social media, emails or letters for the purpose of personal and/or financial gain; or
- bringing the Community Council into disrepute.

4.2 A complaint cannot be about such things as:

- a decision of Scottish Borders Council;
- complaints regarding Scottish Borders Council services or officers (the complaints procedure of Scottish Borders Council should be used);
- a request for compensation on a decision the Community Council has made.

## **5. HOW TO MAKE A COMPLAINT**

5.1 You can complain about the Community Council in writing or via email to the Chair or Secretary of the Community Council, not on social media, and can't be anonymous . If the complaint relates to the Chair then contact the Secretary, and vice versa. If the complaint relates to both these office bearers, then contact another Community Councillor.

5.2 When complaining, you need to provide the following information:

- a full name, address and email address (if applicable);
- as much detail about the complaint as possible;
- how you wish to see the issue resolved.

5.3 You must make your complaint within 6 months of the incident you want to complain about. It is expected that most complaints will be submitted immediately or within two or three months from the date of the incident. In exceptional circumstances, your complaint may be accepted beyond the 6 month time limit, but you will need to explain why the time limit should not apply in this situation.

5.4 The complaint procedure provides two opportunities to resolve complaints:

Stage 1 – frontline resolution by the Community Council;  
 Stage 2 – investigation by another Community Council.

## **6. STAGE 1 – FRONTLINE RESOLUTION**

6.1 Community Councils aim to resolve complaints quickly, either by an explanation, or where appropriate, an apology if something has clearly gone wrong. In such circumstances, steps will be taken to prevent such a problem reoccurring.

6.2 If the subject of a complaint is an individual or individuals, then any meeting of the Community Council where this is being considered will be held in private and minutes will be taken in accordance with Standing Orders.

## Process

- (a) The complaint should be made in writing to the Chair or Secretary of the Community Council, or other Community Councillor where appropriate.
- (b) The complaint will be dealt with by the Chair or another appropriate office bearer or another Community Councillor (if the complaint is about the Chair).
- (c) The Chair will determine whether to uphold or not uphold the complaint, and send a response to the complainant within 10 working days, with an explanation of why the complaint is not being upheld.
- (d) Where the Chair determines that the complaint is not upheld, the matter will be noted and no further action will be taken other than providing a response to the complainant.
- (e) Where the Chair determines that the complaint is upheld, appropriate action will be taken to address and resolve the complaint. This could be an explanation of the circumstances or, where appropriate, an apology or referral to Stage 2.
- (f) If the complaint is more complex and requires a more detailed investigation, an extension of time should be sought or it may be escalated directly to Stage 2 of the complaint process. If this is the case, the complainant will be notified within 10 working days.
- (g) If the complainant is unhappy with the frontline resolution response, they can ask for their complaint to be considered at Stage 2 by contacting the Community Council.

## **7. STAGE 2 – INVESTIGATION BY ANOTHER COMMUNITY COUNCIL**

7.1 Stage 2 deals with two types of complaint:

- those that have not been resolved at frontline resolution; and
- those that are complex and require a detailed investigation from the outset.

- 7.2 Stage 2 investigations will be referred to another Community Council in the same locality. That Community Council will appoint a Panel of at least three of their Community Council members, including a Chair, to make further investigations. **-this we do not support, we feel that dealing with a neighbouring community council is something that should be dealt with by paid SBC officers, not fellow community councillors, we believe this can cause alienation, between neighbouring community councils. Community councillors have sufficient pressure already upon them in carrying out their volunteering work for the communities- we do not support this investigation process. We welcome the policy and procedure for complaints, however only if SBC officers are willing to undertake the investigation process.**

### Process

- (a) The Panel Chair will acknowledge receipt of the complaint within 10 working days.
- (b) On receipt of all paperwork in relation to the complaint, the Panel will determine whether further interviews are required or if a decision can be made using the information before them.
- (c) If further information is required, the Panel will arrange to meet with the complainant to discuss their concerns and to review any evidence provided. Questions at this time shall be for clarification purposes and notes may be taken by the Panel Members.
- (d) If further information is required where the subject of the complaint relates to a Community Council's actions or decisions, the Panel will meet with the relevant officer bearers/members of the first Community Council to discuss the complaint and to give them the opportunity to put forward their position and to answer any questions.
- (e) Where the subject of the complaint relates to the behaviour of a Community Councillor, the Panel will meet with the individual concerned to explain the nature of the complaint and to seek their position in relation to the complaint.

### Outcome

- 7.3 The Panel will provide a full written response to the complainant detailing the final outcome of the complaint as soon as possible and within 30 days, unless the complainant has been advised that their complaint will take longer to resolve.

### Decisions of the Panel

7.4 The Panel can make the following decisions:

- (a) Where the complaint is in relation to a Community Council:
- guidance given in relation to the issue;
  - mentoring offered, where appropriate;
  - training suggested, where appropriate;
  - censure of behaviour and a written warning to behave in accordance with the Code of Conduct for Community Councillors and/or the Scottish Borders Community Councils Scheme
- (b) Where the complaint is in relation to a Community Council's behaviour or actions:
- training suggested, where appropriate;
  - suspension from Community Council meetings and activities for a period of time to be agreed by the majority of the Panel;
  - censure of behaviour and a written warning to behave in accordance with the Code of Conduct for Community Councillors and/or the Scottish Borders Community Councils Scheme
  - in serious cases only, only by unanimous decision of the Panel, to request the Community Councillor to resign from the Community Council or to remove the Community Councillor with immediate effect.

7.5 The decision by the Panel will be the final decision in respect of the complaint and there is no further appeal process. Neither another Community Council nor an Elected Member or officer of Scottish Borders Council can undertake a further review of the complaint. Not sure about not having the right to appeal the final decision of the Panel, especially in the circumstances that the complaint has gone straight to the panel to be dealt with.