

# **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

## **MEETINGS**

1. The Statutory Annual Meeting
  - 1.1. in an election year shall be held on the Thursday next following the fourth day after the ordinary day of elections to the Council
  - 1.2. in a year which is not an election year shall be held on the second Thursday in May.
2. The three other statutory meetings shall be held on the second Thursday in the months of January, September and November (or as may be rearranged at the time).
3. Two additional meetings shall be held on the second Thursday in the months of March and July (or as may be rearranged at the time).

## **CODE OF CONDUCT**

4. All members and officers of the Council shall be required to abide by the Code of Conduct, as applicable, as adopted by the Council on 12 July 2007 (copy attached).

## **CHAIR OF MEETING**

5. The person presiding at a meeting may exercise all the powers and duties of the Chair in relation to the conduct of the meeting.

## **QUORUM**

6. Three Members shall constitute a quorum.

## **VOTING**

7. If a member so requires, the Clerk shall record the names of the members who voted on any question so as to show whether they voted for or against it. Such a request must be made before the vote but in any event before moving on to the next business. The Chair has discretion to allow a secret vote by ballot if such is requested by two members but is not obliged to do so.
8. Subject to 8.1 and 8.2 below the Chair may give an original vote on any matter put to the vote, and in the case of an equality of votes may give a casting vote even though he or she gave no original vote.
  - 8.1. If the person presiding at the annual meeting would have ceased to be a member of the Council but for the statutory provisions which preserve the membership of the Chair and Vice-Chair until the end of their term of their office he or she may not give an original vote in an election for Chair.

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

- 8.2. The person presiding must give a casting vote whenever there is an equality of votes in an election for Chair.

### **EXPENDITURE**

9. Orders for the payment of money shall be authorised by resolution and signed by the Chair, Vice-Chair and Responsible Financial Officer.

### **ORDER OF BUSINESS**

*In an election year councillors should execute Declarations of Acceptance of Office (which include a written undertaking to observe the Code of Conduct) in presence of the Clerk as the Proper Officer previously authorised by the Council to take such declaration, before the annual meeting commences.*

10. At each Annual Meeting the first business shall be
- 10.1. To elect a Chair
  - 10.2. To receive the Chair's declaration of acceptance of office or, if not then received, to decide when it shall be received.
  - 10.3. In the ordinary year of election of the Council to fill any vacancies left unfilled at the election by reasons of insufficient nominations.
  - 10.4. To decide when any declarations of acceptance of office which have not been received as provided by law shall be received.
11. At every meeting other than the Annual Meeting the first business shall be to appoint a Chair if the Chair and Vice-Chair be absent and to receive such declarations of acceptance of office (if any) as are required by law to be made, or if not then received to decide when they shall be received.
12. The next business shall be:
- 12.1. After consideration to approve the signature of the Minutes by the person presiding as a correct record.
  - 12.2. To deal with business expressly required by statute to be done.

### **VOTING IN COMMITTEES**

13. The Chair shall in the case of an equality of votes have a second or casting vote.

# **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

## **INTERESTS**

14. If a member has a personal interest as defined by the Code of Conduct (see section 4 above) then he or she shall declare such interest as soon as it becomes apparent, disclosing the existence and nature of that interest as required.
15. If a member who has declared a personal interest then considers the interest to be prejudicial he or she must withdraw from the room or chamber during consideration of the item to which the interest relates.
16. The Clerk shall record in a book to be kept for the purpose, particulars of any notice given by any member or any officer of the Council of a pecuniary interest in a contract, and the book shall be open for inspection under the terms of the Freedom of Information Act (FOI).

## **INSPECTION OF DOCUMENTS**

17. All Minutes kept by the Council and by any committee shall be open for the inspection of any member of the Council.

## **ADMISSION OF THE PUBLIC AND PRESS TO MEETINGS**

18. The public shall be admitted to all meetings of the Council and its committees and sub-committees, which may, however, temporarily exclude the public by means of the following resolution.

“That in view of the [special] [confidential] nature of the business about to be transacted, it is advisable in the public or a commercial interest that the public be temporarily excluded and they are instructed to withdraw.”

*(Notes: The special reasons should be stated. If a person's advice or assistance is needed they may be invited (by name) to remain after the exclusion resolution is passed).*

19. The Clerk shall afford to the press reasonable facilities for taking their report of any proceedings at which they are entitled to be present.

## **PLANNING APPLICATION CONSIDERATION**

20. The Clerk shall have powers to make recommendations on planning applications on the PC's behalf, subject to guidance laid down by the Parish Council from time to time.
21. The Clerk to consult with the Chair/Vice Chair on all planning applications as to whether the application is of sufficient interest to be brought to a meeting of the Parish Council. When this is the case, additional Parish

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

Council meetings will be convened and members of the public given the required statutory notice of such a meeting.

Applications deemed to be of sufficient interest to merit a Parish Council meeting will include:

- All proposals for new dwellings or significant increases in height of existing buildings;
- All proposals for commercial, industrial/warehousing development
- All proposals for material change of use;
- and any other application as advised by the Chair/Vice Chair.

For all other applications the Clerk will consult with Councillors to see if they have any input and formulate a response from their replies.

### **CODE OF CONDUCT ON COMPLAINTS**

22. The Council shall deal with complaints of maladministration allegedly committed by the Council or by any officer or member in such manner adopted by the Council following the guidelines of NALC Legal Note 9 – Handling Complaints (See Appendix 1).
23. Grievance procedures for employment issues by employees of the Council shall follow the guidelines of the Model Grievance Procedure of NALC (See Appendix 2)
24. Those complaints that should be rightly referred to the Local Monitoring Officer for the Standards Board shall be dealt with in that manner. If a member reasonably believes that another member is in breach of the Code of Conduct, that member is under a duty to report the breach to the Monitoring Officer.

### **STANDING ORDERS TO BE GIVEN TO MEMBERS**

25. A copy of these Standing Orders shall be given to each member by the Clerk upon delivery to him or her of the member's declaration of acceptance of office and written undertaking to observe the Code of Conduct adopted by the Council.

A copy of these Standing Orders will be available to the public on request to the Clerk and supplied within the terms of the FOI.

# STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL

## Appendix 1

**LTN 9**

**November 2008**

## HANDLING COMPLAINTS

### Introduction

- 1 Pursuant to Local Government Act 1974, the Local Government Ombudsman (LGO) has no jurisdiction over parish and town councils in England. Community councils in Wales have been subject to the jurisdiction of the Public Services Ombudsman for Wales since 1 April 2006 pursuant to the Public Services Ombudsman (Wales) Act 2005. Consequently, there are no statutory mechanisms in place should complaints be made against local councils in England. This document is intended to assist local councils to deal with complaints they receive and includes a draft complaints procedure.

### Whether a complaints procedure is appropriate

- 2 It will not be appropriate to deal with all complaints from members of the public under a complaints procedure. Councils should consider engaging other procedures/bodies in respect of the following types of complaint:

Type of conduct	Refer to
Financial irregularity	Local elector's statutory right to object Council's audit of accounts pursuant to s.16 Audit Commission Act 1998. On other matters, councils may need to consult their auditor / Audit Commission
Criminal activity	The Police
Member conduct	In England a complaint relating to a member's failure to comply with the Code of Conduct must be submitted to the standards committee of the relevant principal authority. In Wales, any complaint about member conduct should be made to the Public Services Ombudsman.
Employee conduct	Internal disciplinary procedure

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

- 3 s.82 of the Local Government Act 2000 gave the Secretary of State power to issue a code regarding the conduct of employees of local councils. It also gave the National Assembly for Wales the power to issue by regulation a Code of Conduct in respect of qualifying employees of community councils. In Wales, a code of conduct for employees was introduced by the Code of Conduct (Qualifying Local Government Employees) Wales Order 2001 (SI.2280) and by virtue of s.82(7) of the 2000 Act is incorporated into the contracts of employment of community council officers. In October 2008, the Government published a consultation paper in respect of the introduction of a model code of conduct for employees of local authorities in England. Details of the consultation are documented separately in a NALC Legal Briefing.

### **Complaining to the Local Government Ombudsman (LGO)**

- 4 Although the LGO has no jurisdiction in respect of parish councils, it might be useful for parish councils to know something about the jurisdiction of the LGO so that they 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'). The key points to remember are:
- parish councils are unable to lodge complaints as a public body (section 27(1) of the Act) about another local authority or public body defined at section 25 of the Act but this does not prevent individual councillors from making complaints about another local authority or public body in their personal capacity. In their official capacity, if so requested by member(s) of the public, a parish councillor could represent them in making complaints. Please note:-
    - complaints must be made in writing;
    - complaints must be made within 12 months of notice of the matters which are subject to the complaint;
    - complainants must first give the authority in question notice of the complaint and give them an adequate opportunity to investigate and reply to the complaint. This usually entails exhausting that authority's complaints procedure;
    - the Ombudsman may not investigate matters which are or have been subject to a right of appeal; and
    - the Ombudsman may not investigate matters where the complaint has or has had a remedy by way of court proceedings.

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

- 4 The most common application of the last two points (e.g. the Ombudsman's lack of jurisdiction where the subject matter of the complaint is subject to a right of appeal or court proceedings) is in respect of judicial review. Many councils claim that the Ombudsman does not have jurisdiction in certain cases due to the availability of judicial review. In these circumstances the Ombudsman can rely on section 26(6) of the Act which states that:-

'A Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person aggrieved to resort or have resorted to it.'

### **Complaints Procedures for Local Councils**

- 5 The LGO has produced excellent guidance on the subject of complaints procedures. A copy of the full guidance may be obtained via the following internet link:

<http://www.lgo.org.uk/pdf/guide1.pdf>

- 6 Much of the guidance is aimed at higher level authorities and is not directly applicable to local councils but, nevertheless, much of it is extremely useful and this Note draws heavily on the advice given.

- 7 The first task is to determine exactly what a complaint is. Sometimes the word 'complaint' is used by members of the public but sometimes it is not. The LGO offers the following definition of a complaint:

'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.'

- 8 A good complaints system is:

- well publicised and easy to use;
- helpful and receptive;
- not adversarial;
- fair and objective;

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

- based on clear procedures and defined responsibilities;
- quick, thorough, rigorous and consistent;
- decisive and capable of putting things right where necessary;
- sensitive to the special needs and circumstances of the complainant;
- adequately resourced;
- fully supported by councillors and officers; and
- regularly analysed to spot patterns of complaint and lessons for service improvement.

### **Confidentiality**

- 9 The LGO advises that the identity of a complainant should only be made known to those who need to consider a complaint. In local councils it may not be feasible to deal with complaints outside some sort of committee structure but, nevertheless, councils should take care to maintain confidentiality where circumstances demand (e.g. where matters concern financial or sensitive information or where third parties are concerned).

### **Stages**

- 10 Many organisations have a 3-stage complaints procedure whereby issues are resolved by:
- front line staff; then
  - management; and then
  - senior management/members.

The LGO recommends that any complaints procedure should consist of at least 2 stages.

### **Time Targets**

- 11 It is good practice to set deadlines for complaint handling and councils should not leave this open-ended. Clearly, some flexibility is required to deal with lengthier and more complex complaints and this could be reflected clearly in a complaints procedure.



## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

### **Remedies**

- 12 The purpose of a complaints 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.’

- 13 It is to be noted that parish councils have the power (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 Draft Procedure**

- 14 Councils may wish to establish a committee to deal with complaints. 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.
- 15 The draft procedure set out in the attached appendix is not appropriate for use where a complaint is made against an individual. Serious complaints relating to the conduct of an individual can be dealt with in the ways suggested at paragraph 2. The attached 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 Chair. The procedure can be adapted to suit local

## STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL

circumstances and this Legal Topic Note represents a suggested practice.

16. It may be that the clerk (or other nominated officer) at the meeting represents the position of the Council. If the clerk (or other nominated officer) puts forward justification for the action or procedure complained of, he or she should not advise the Council or committee, as they need to determine the matter themselves.
17. 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.

### Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
15	Legal Proceedings	Explains when the remedy of Judicial Review may be sought (in the absence of any other appeal mechanism).
22	Employment Matters	Explains relevance of code of conduct expected of officers of community councils in relation to their contracts of employment.
30	Defamation	More detail regarding legal action and defences available in respect of defamation.

© NALC 2007

# **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

## **APPENDIX (A) - COMPLAINTS PROCEDURE**

### ***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 Chair 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 Chair should introduce everyone and explain the procedure.

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

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**

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

### **Appendix 2**

#### **MODEL GRIEVANCE PROCEDURE**

##### **1. INTRODUCTION**

- 1.1. This procedure applies to all employees of the Council.
- 1.2. The objectives of the procedure are: -
  - To foster good relationships between the Council and its employees by discouraging the harbouring of grievances;

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

- To settle grievances as near as possible to their point of origin;
- To ensure the Council treats grievances seriously and resolves them as quickly as possible; and
- To ensure that employees are treated fairly and consistently throughout the Council.

### 1.3. Matters excluded from this procedure are as follows: -

- Appeals against salary or gradings;
- Appeals against disciplinary actions;
- Income tax, national insurance matters, rates of pay collectively agreed at the national or local level;
- Rules of pension schemes; and
- A grievance about a matter over which the Council has no control.

## 2. INFORMAL GRIEVANCE PROCEDURE

In the interests of maintaining good working relations the employee is encouraged to first discuss any grievance with [his/her manager/the clerk] with a view to resolving the matter informally if appropriate. If the employee feels that this is not appropriate or he or she wishes to pursue a formal grievance they should follow the procedure detailed below.

## 3. FORMAL GRIEVANCE PROCEDURE

### STANDARD COUNCIL GRIEVANCE PROCEDURE

- 3.1. The employee must set out his/her grievance in writing ("Statement of Grievance") and provide a copy to [his/her manager/the clerk].
- 3.2. Once the Council has had a reasonable opportunity to consider its response to the information provided in the Statement of Grievance the employee will be invited to attend a grievance meeting to discuss the matter.
  - (i) The employee must take all reasonable steps to attend the meeting.

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

- (ii) Grievance meetings will normally be convened with [14] days of the Council receiving the Statement of Grievance.
  - (iii) The employee has the right to be accompanied to a grievance meeting by a fellow employee or by a Trade Union representative.
  - (iv) If the meeting is inconvenient for either the employee or his or her companion, the employee has the right to postpone the meeting by up to [5] working days.
- 3.3. A grievance meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford [the employees manager/the clerk] time to consider the decision.
- 3.4. After the meeting the employee will be informed of the Council's decision within [5] working days. [The meeting may be reconvened for this purpose]. The Council's decision will be confirmed to the employee in writing.
- 3.5. If the employee wishes to appeal against the Council's decision he or she must inform the Council within [5] working days of receiving the decision.
- 3.6. If the employee notifies the Council that they wish to appeal, the employee will be invited to attend a grievance appeal meeting before the Council's Staffing Committee. The employee must take all reasonable steps to attend that meeting. The employee has the right to be accompanied to a grievance appeal meeting by a fellow employee or by a Trade Union representative.
- 3.7. A grievance appeal meeting will normally be convened within [7] working days of the Council receiving notice that the employee wishes to appeal pursuant to 3.5. above. If the meeting time is inconvenient for the employee or his or her companion, the employee may ask to postpone the meeting by up to [5] working days.
- 3.8. After the grievance appeal meeting the employee will be informed of the Council's final decision within [5] working days. [The meeting may be reconvened for this purpose]. The Council's decision will be confirmed to the employee in writing.
4. MODIFIED COUNCIL GRIEVANCE PROCEDURE (FOR FORMER EMPLOYEES)
- 4.1. If an ex-employee wishes to raise a grievance, he or she must set out their grievance and the basis for that grievance in writing and provide a copy to the Chair of the Council's Staffing Committee.

## **STANDING ORDERS FOR OGBOURNE ST. GEORGE PARISH COUNCIL**

4.2. Following receipt of a statement of grievance pursuant to 4.1. above, the Council will either write to the ex-employee inviting him or her to attend a meeting to discuss the grievance, or to ask for the ex-employee's agreement to the Council responding to the grievance in writing.

4.2.1. If the ex-employee does not agree to the matter being dealt with by correspondence within 7 working days of the Council writing to them pursuant to 4.2. above steps 3.1. to 3.4. of the standard Council grievance procedure will be followed. The meeting will be conducted by the Council's Staffing Committee.

4.2.2. If the ex-employee does agree to the matter being dealt with by correspondence, the Council's Staffing Committee will consider his or her grievance and will respond to the ex-employee in writing within [14 days] of the receipt of such confirmation setting out the basis for the Council's decision.

### **5. GENERAL PROCEDURAL INFORMATION**

5.1. Grievances raised under the standard Council grievance procedure will normally be investigated, and any meetings to discuss the grievance conducted by [the employee's manager/the clerk].

5.2. If an employee's grievance is about [his/her manager/the clerk] they should raise the matter with the Chair of the Council's Staffing Committee. All investigations and any grievance meeting will be conducted by the said Staffing Committee and any grievance appeal meeting will be conducted by [3] members of the Council who do not sit on the Staffing Committee.

5.3. Where a grievance is raised by the clerk to the Council or all employee relations matters are dealt with by the Council's Staffing Committee all investigations and any grievance meeting will be conducted by the said Committee. Any grievance appeal meeting will be conducted by [3] members of the Council who do not sit on the Staffing Committee.

A copy of the Statement of Grievance, a note of the decision taken at the first stage of the procedure, any notice of appeal and appeal decision will be placed on the employee's/ex-employees personnel file, together with any notes or evidence taken or compiled during the course of the procedure