



## TITLE: Complaints Procedure

### DOCUMENT MANAGEMENT

This document constitutes Version 2; adopted on 9 December 2014.

It supersedes Version 1 which had been adopted on 1 September 2003.

This procedure is based on the National Association of Local Councils Legal Topic Note 9E (June 2014).

### 1 Introduction

1.1 Dartmoor Forest Parish Council will always seek to resolve issues quickly and without recourse to formal procedures in the first instance. This procedure is for use when such informal actions have not achieved a satisfactory resolution for all parties.

1.2 This Complaints Procedure is available to all parishioners and other individuals, businesses and organisations that are affected by the Council's decisions.

1.3 Members and employees of Dartmoor Forest Parish Council may not use this process. Members are expected to use their right to raise matters of concern by the submission of motions on the agenda for relevant meetings, where the issue can be formally considered and resolved. Employees must use the grievance procedure in their contracts of employment.

1.4 A complaint is an expression of dissatisfaction about the Dartmoor Forest Parish 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. A complaint may also be triggered by an allegation of administrative fault, such as not following procedures or standing orders, or making a mistake.

1.5 A complaint against Dartmoor Forest Parish Council is treated as a complaint against the body corporate of the Council, not as a complaint against individual employees or members of the Council. If individuals are found to be at fault, the Council may decide to take disciplinary action in accordance with its internal disciplinary procedures which are separate from this Complaints Procedure.

1.6 Any complaint against the Dartmoor Forest Parish Council is personal to the Complainant and will be treated as confidential unless the Complainant confirms that they waive their right to confidentiality. The Council will not disclose the identity, contact details or other personal data about an individual Complainant unless they consent or disclosure is otherwise fair and lawful under the Data Protection Act 1998.

1.7 If a Complainant has threatened to take legal action against Dartmoor Forest Parish Council, or legal proceedings have already begun, the Council will consult professional legal advice and the Council's insurers about how to respond to the complaint.

### 2 Submission of a complaint.

2.1 All formal complaints must be submitted in writing to the Clerk, unless the Complainant is unwilling to approach the Clerk in which case it may be submitted in writing to the Chair.

2.2 The receipt of the complaint will be acknowledged in writing within one week, with a copy of the complaints procedure and an estimate of when the matter will be considered by the Council.

2.3 The Complainant will be asked to decide if they want the complaint to be treated confidentially. Note that even if the Complainant waves confidentiality the Council will comply with its obligations under the Data Protection Act 1998.



## **3 Investigation**

3.1 The complaint will be investigated by the Clerk (or if the complaint is about the Clerk, by the Chair) who may seek additional evidence whether documentary, through interviews or meetings with the Complainant and other individuals. The Complainant may bring a friend to any meeting or interview. The Claimant must disclose all documentation and other evidence which they may wish to rely on or refer to at the subsequent Council meeting. The Clerk's (or Chair's) investigation will last not more than 2 weeks.

3.2 Once the claim has been investigated, the Clerk (or Chair) will prepare and submit a report to the Council. The report will include: all relevant information of the complaint; the circumstances leading to the complaint; recommendations on whether the complaint should be upheld; and if so, what remedies the Council might consider. A copy of the report will be given to the Complainant no later than the issue of the Councillor Summons to the meeting.

3.3 The Clerk's (or Chair's) report will be considered by Dartmoor Forest Parish Council at its next monthly meeting, or at an extraordinary meeting if deemed appropriate. The Council is not bound to accept the Clerk's (or Chair's) report and may: require further investigation; reject the findings; reject the recommendations; or decide on other remedies. It may also adjourn the discussion to seek professional legal advice or consult the Council's insurers.

## **4 At the Council Meeting**

4.1 If the investigation has been conducted by the Chair, the Vice Chair/Co Chair must preside at the meeting.

4.2 The Complainant shall be invited to attend the relevant Parish Council meeting and bring a friend or representative with them if they wish.

4.3 The presiding Chair will determine whether the public and press are to be excluded from the meeting during discussions. Note that irrespective of whether the public and press are excluded from the debate, the Council's decision will become a Public record.

4.4 At the Meeting the presiding Chair will introduce everyone and explain the procedure.

4.5 The complainant (or representative) will be invited to make a statement to outline the grounds for complaint, or they may agree the Clerk's (or Chair's) report as an accurate record. The Complainant is not be expected to introduce new evidence at this stage (see 3.1 above).

4.6 The Clerk (or Chair) will then summarise the report of the investigation and subsequent recommendations to the Council.

4.7 Members will then ask any questions of the Complainant and Clerk (or Chair).

4.8 The Clerk (or Chair) and Complainant will be offered the opportunity of a closing summary statement, in that order.

4.9 The presiding Chair may at their discretion invite the Clerk (or Chair) and the Complainant to leave the room while members deliberate whether the complaint is to be upheld and, if so, what remedies are to be offered. If at any time a point of clarification is necessary all parties are to be invited back.

4.10 The Council may decide to reject the complaint; ask for further investigation; adjourn the meeting to consult professional legal advisors or the Council's insurers; or uphold the complaint.



4.11 If a complaint against the Dartmoor Forest Parish Council is upheld, the Council may decide to make one or more of the following remedies:

Give the Complainant an explanation of how the matters complained of arose.

Apologise to the complainant.

Explain what steps it intends to take to reduce the risk of the matters complained of being repeated.

Make an offer of goodwill or some other gesture.

Offer a remedy which, as far as possible, puts the Complainant back in the position they would have been in but for the matters complained of.

4.12 The Council cannot offer a remedy that is not conducive to the Council's statutory duties or powers.

4.13 If the Clerk (or Chair) and the Complainant have been asked to leave the room, they will be invited to return to hear the decision or to be advised when decision will be made.

## **5 After the Meeting**

5.1 The Council will write to the complainant within one week of its decision to confirm whether or not it has upheld the complaint, the reasons for its decision with details of any action to be taken by the Council if this is appropriate.

## **6 Appeals or Other Redress**

6.1 Dartmoor Forest Parish Council is a small authority and does not conveniently have the resources to hear appeals against its decision as this would require a committee of Councillors who have not previously heard the complaint or evidence. Consequently, no appeals process is offered.

6.2 The Local Government Ombudsman scheme does not cover Local Councils, including Dartmoor Forest Parish Council. If the Complainant is not satisfied with the decision by Dartmoor Forest Parish Council, the complaint might be referred to one of the following:

If the complaint involves alleged financial irregularity, local electors have a statutory right to object to the Councils audit of accounts.

If the complaint involves alleged criminal activity, the matter should be referred to the Police.

If the complaint involves an alleged breach of Dartmoor Forest Parish Council's Code of Conduct, the matter should be referred to the Monitoring Officer at West Devon Borough Council.

If the complaint involves matters covered by the Freedom of Information Act, the matter should be referred to the Information Commissioner.

If the complaint involves a contractual issue, the issue may be put before the Civil Courts.