



**Newquay**Council

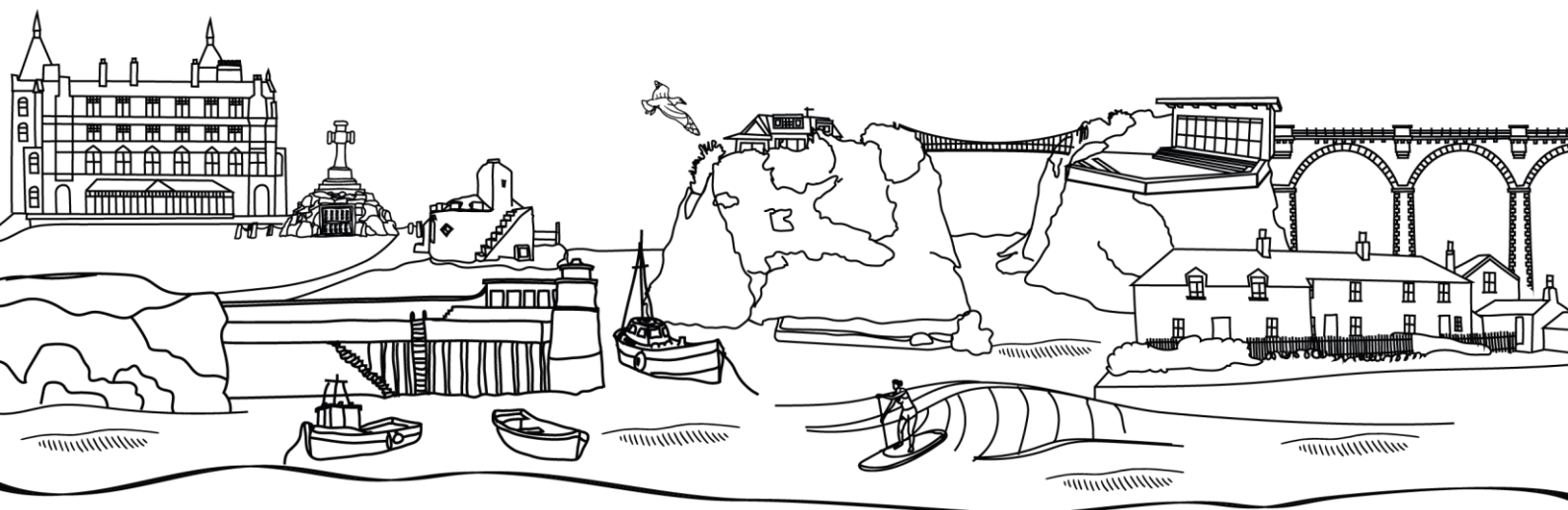
**Corporate**Service

**Name of Policy:**

**Complaints Procedure**

**Date of Inception:**

**04 May 2023**



This is a Policy or Procedure document of Newquay Town Council and as such must be fully adhered to by both councillors and employees.

### Policy/Procedure File Status

<b>Version</b>	1.4	<b>Approving Body</b>	Full Council
<b>Date</b>	04/04/2023	<b>Date of Approval</b>	03 May 2023
<b>Responsible Officer</b>	Chief Executive & Town Clerk (CE&TC)	<b>Minute Reference</b>	060/23 (K)(3)
<b>Oversight Committee</b>	Governance and Resources (G&R)	<b>Review Date</b>	May 2024

### Version History

Date	Version	Author/Editor	Comments
30.03.2015	2.0 Draft	CE&TC	Re-draft of existing policy pre committee
21.06.2016	3.0 Draft	CE&TC	Minor alterations pre committee
09.06.2020	3.1	CE&TC	Minimal Review
08.05.2021	0.1 (2021)	CE&TC	
13.04.2022	1.1 (2022)	CE&TC	Full Review
25.04.2022	1.2 (2022)	CE&TC	Amendments at G&R (Highlighted)
22/03/2023	1.3(2023)	Corporate Service Manager	Changes highlighted in red
04/04/2023	1.4 (2023)	CE&TC	Changes highlighted in red font
11/04/2024	1.4 (2023)	CE&TC	To be re-adopted unchanged and be reviewed in 2024-25

### Review Record

Date	Type of Review Conducted	Stage Completed	Summary of Actions Taken or Decisions Made	Completed By
09.06.2020	Minimal Review	Yes		CE&TC
08.05.2021	Full Review	Yes		CE&TC
13.04.2022	Full Review	Yes		CE&TC
04/04/2023	Full Review		Changes highlighted	CE&TC
11/04/2024	Full Review	Yes	Re-adopt unchanged	CE&TC

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## **1.0 Policy Background**

- 1.1 Newquay Town Council aims to provide a courteous, prompt, and efficient service to members of the public and organisations. If you are not satisfied with any of the Council's services provided to you, you have the right to complain.
- 1.2 Not all queries or concerns raised are complaints and we are keen to ensure that any problems are dealt with effectively in order that they do not develop into complaints.
- 1.3 This procedure will be adopted for dealing with formal complaints about the Council's administration or its procedures, it does not specifically focus upon complaints about an employee of the Council that would be more appropriately dealt with as an employment matter and in accordance with the Council's Disciplinary Procedure.
- 1.4 Complaints that an employee may have about a colleague or a Senior Officer must be conducted in accordance with the Council's Grievance Procedure.
- 1.5 This procedure does not cover complaints about the conduct of Members of the Town Council, which is covered by the Cornwall Code of Conduct for City, Community, Parish and Town Councils. Any such complaints should be referred directly to:

The Monitoring Officer  
Legal Services  
Cornwall Council  
New County Hall  
Treyew Road  
TRURO  
TR1 3AY

- 1.6 An online complaint submission form for issues relating to item 1.5 is available at [www.cornwall.gov.uk](http://www.cornwall.gov.uk)
- 1.7 For formal complaints about Newquay Town Council, an online complaint form can also be downloaded from [www.newquay.gov.uk](http://www.newquay.gov.uk)

## **2.0 What you can expect from the Council**

### **2.1 Newquay Town Council will:**

- 2.1.1 Listen and record the complaint and ensure that it is investigated promptly;
- 2.1.2 Resolve the problem straight away, where possible;
- 2.1.3 Aim to acknowledge receipt of the complaint within seven working days in normal circumstances;
- 2.1.4 Advise the complainant if there is likely to be a significant delay while the matter is investigated and provide some indicative timescales; and
- 2.1.5 Where possible assign the complainant a dedicated contact officer who can be contacted about the complaint whilst the process is underway.

## **3.0 Definition of Complaints**

3.1 A complaint is an expression of dissatisfaction about a service undertaken by Newquay Town Council or any of its employees or contractors. It can be minor, serious, formal, or informal.

### **3.2 More specifically, a complaint is where:**

- 3.2.1 The Council has not done something it has a duty to do or normally does
- 3.2.2 The Council has done something it has no right to do or does not normally do as a matter of established practice
- 3.2.3 The conduct or behaviour of an employee or contractor is unsatisfactory
- 3.2.4 The established levels of service delivery are not reached
- 3.2.5 A person does not understand or is not informed of why or how a situation arose or exists

3.2.6 An adopted and known procedure is not followed

3.2.7 Maladministration or malfeasance is alleged.

3.3 This policy does not apply to:

3.3.1 Matters that have previously been fully investigated through the complaints process

3.3.2 Anonymous complaints

3.3.3 Complaints about access to information where procedures are set out in legislation, such as the Freedom of Information Act or General Data Protection Regulations

3.3.4 Complaints raised by employees of Newquay Town Council, who should follow the Council's separate Grievance Policy

3.3.5 Complaints raised by Councillors, who should approach the relevant Senior Manager or Chief Executive in the first instance.

#### **4.0 Receipt of the Complaint**

4.1 All complaints must be in writing (letter or email) using the Council's Complaints Form (see Addendum 1) to provide substantial detail regarding the nature of the complaint. It should be addressed as follows:

Town Clerk and Chief Executive  
Newquay Town Council  
Municipal Offices  
Marcus Hill  
Newquay  
TR7 1AF

Email: [ceo@newquay.gov.uk](mailto:ceo@newquay.gov.uk)

4.2 Complaints received via email/letter without the use of the agreed Complaints Form (which will be sent to such emails/letters received), will be treated as feedback and may not be taken forwards.

- 4.3 If a complaint about the procedures, administration or the actions of any of the Council's employees is notified orally to a Councillor or the Town Clerk, then the complainant will be asked to place the complaint in writing.
- 4.4 Acknowledgement of receipt of the complaint will be provided within 7 days within normal circumstances. The Council aims to respond to the complaint within 28 working days, if this is not possible you will be advised of actions taken to date and an anticipated completion date (this may be necessary as staff and/or Councillors may be on leave, redeployed to manage essential infrastructure or information may need to be obtained from other parties who provide services to the Council).
- 4.5 If the complainant prefers not to address the complaint to the Town Clerk (because the matter relates to the Clerk, for example), they will be advised to address it to the Mayor.
- 4.6 If the complaint is in relation to the conduct of a member (or members) then the complainant will automatically be directed to the Cornwall Council Monitoring Officer.
- 4.7 Anonymous complaints will be disregarded.

## **5.0 Resolving the Complaint**

- 5.1 The Council's aim is to resolve any complaint that it receives at the earliest opportunity. It does however recognise that this is not always possible in the view of the complainant, therefore this procedure provides for the complainant to make a direct approach to the Council's elected Members through a formal process.
- 5.2 The Town Clerk will likely appoint an investigating officer who will investigate the complaint and provide the Town Clerk with a report on the facts as identified and any recommendations or matters of note to assist the Town Clerk in taking the complaint forwards.
- 5.3 Where the complaint is successfully dealt with through direct action with the complainant, the Town Clerk will report this either to the next meeting of the Council or to the respective committee which is responsible for the subject of the complaint (depending on the nature of the complaint, this may be done under exempt business).

## **6.0 Dealing with the Complaint (Formal Process)**

- 6.1 Where it is not possible for the Town Clerk or appointed officer to resolve the complaint through direct action with the complainant then it will be necessary for Councillors to become involved.
- 6.2 In such circumstances the usual practice is for a panel comprising of a Chairman or Vice Chairman of one of the Council's Committees and up-to two other Councillors not previously involved in the matter to be formed.
- 6.3 The request for a formal process will be acknowledged in writing and the complainant advised of if that request has been accepted and when the Panel will meet and who will be sitting on it. The complainant will be invited to bring a "friend" with them either to represent them or to give moral support. A request can be denied for any reasonable reason.
- 6.4 A minimum of two weeks prior notice of such a panel will be given. At the time the complainant is notified in writing of the panel date, they will also be requested to provide any written evidence that they wish to present to the meeting no later than 7 days prior to that date and the Council will confirm any material it intends to present to the complainant within the same time scale.
- 6.5 As general policy, the public and press are not permitted attendance at such complaints panel meetings (although the Chairman of the relevant Committee will report on the outcome of the panel meeting at the following Council or committee meeting. Such reporting is not subject to questions or debate).
- 6.6 The panel have the right to reject complaints which it considers too ambiguous, unsubstantiated or vexatious in nature and may do so without meeting formally where evidence is not provided or they believe all reasonable efforts have been taken by officers to resolve the matter, with no immediate and reasonable further action available to the panel.
- 6.7 If a complaint is deemed vexatious by the panel, that decision will be recorded to prevent future panels from being formed based on the same complaint or a similar complaint from the same individual/organisation. They will recommend the Chief Executive treats the complainant as vexatious under the Council's policy.



- 6.8 For the avoidance of doubt, the Council may elect to hold such meetings virtually where to do so would provide a more timely response/decision making and everyone has the facilities to do this effectively. The panel may make decisions without meeting the complainer if it deemed an appropriate action (at the panel's discretion).

## **7.0 Who Will Manage And Investigate Complaints**

### **7.1 The Stages**

#### **Stage 1 (Decision by Senior Manager)**

The complaint will be investigated by the Service Manager responsible for the area of Council business to which the complaint relates. A senior manager will handle the complaint and decision making. Should the complaint be related to the Service Manager, it will automatically be escalated to stage 2.

#### **Stage 2 (Decision by Chief Executive)**

The complaint will be investigated by a Senior Manager responsible for the area of Council business to which the complaint relates. The Chief Executive will handle the complaint and decision making. Should the complaint be related to a Senior Manager, it will automatically be escalated to stage 3.

#### **Stage 3 (Decision by Chief Executive)**

The complaint will be investigated by the Town Clerk & Chief Executive. The Chief Executive will handle the complaint and decision making. Should the complaint be related to the Town Clerk & Chief Executive, it will automatically be escalated to the final stage.

#### **Final Stage (Decision by Panel)**

A Complaints Panel will be formed as outlined under 6.2 to either handle the complaint, or where action has been taken under Stage 3, the complainant seeks to appeal the decision.

### **Appeal**

If the complainant is not satisfied with the action taken, the complainant should notify the Town Clerk & Chief Executive within 10 working days that they wish for an appeal to be heard by the Complaints Panel. The request should outline clearly the reason for the appeal. An appeal may not be appropriate where a panel of members has handled or decided the outcome of the complaint – in such circumstances the right of appeal would be made very clear as being open to the complainant as part of the decision from the panel. The panel has full discretion to withhold or not offer this right.

In order to preserve confidentiality, the Complaints Panel will normally deal with the complaint in private session and the complainant's details will not therefore be released publicly.

The Complaints Panel will review all the available written evidence, with the advice of the Chief Executive and either uphold the appeal, in full, in part or dismiss it completely. No further investigations will be requested or authorised.

In the event of any complaint being made against the Chief Executive, the same procedure will apply, except that the Chairman of the Human Resources (HR) Committee will be substituted for the Chief Executive in the paragraph above. In this case, the Chairman of the HR Committee could seek an external consultant's advice at their own discretion.

The decision of the Complaints Panel will be final.

***In either case the complainant will be informed of the decision in writing within five working days of the date of the meeting of the Panel.***

No appeal will be considered in relation to the operation of this Policy and there is no further appeal about the complaint to any other Panel, Sub Committee or Committee, or to the Town Council.

Any rights or protection under statute are not affected by this.

## **7.2 Complaints about Councillors**

Councillors are required to observe a Code of Conduct. If you think that a Councillor has not followed the code, you can raise a complaint to

Cornwall Council (as outlined under item 1.5 and 1.6), who will review the complaint.

Complaints against Councillors will only be considered by Cornwall Council if:

- They relate to the Councillor acting in their official capacity
- They have breached Newquay Town Council's Code of Conduct
- The complaint is made within 20 working days of the event giving rise to the complaint. Further information and a copy of the Members Complaint Form can be found on the Cornwall Council website (see items 1.5 and 1.6).

### **7.3 Vexatious Complaints**

The Council will do everything possible to support you through the complaint, but will not tolerate unreasonable, aggressive, or abusive behaviour, including the use of foul or abusive language.

The Parliamentary and Health Service Ombudsman defines unreasonably persistent complainants as: 'Those who, because of the frequency or nature of their contact with an authority, hinder the authority's consideration of their or other people's, complaints.' In this case, the Council's separate Persistent or Vexatious Complaints Policy will apply.

## **8.0 Format of Complaints Panel Meeting/Appeal**

- 8.1 The order of business for the complaint's panel meeting is normally in accordance with the National Association of Local Council's guidance as set out in Legal Topic Note 9E but may be amended by agreement (see Addendum 2).
- 8.2 Where possible the complaints panel/appeals panel will be diverse as possible (gender balanced) and representative of the community.

## **9.0 Reporting the Outcome**

- 9.1 Following conclusion of the meeting, the complainant will be advised that the decision of the panel, which is final with no further right of appeal, will be confirmed in writing within 7 days together with details of any action to be taken.
- 9.2 The Council may defer dealing with a complaint if it is considered that further advice is necessary. The advice will be obtained and

considered and the complaint will then be dealt with at the earliest available opportunity (i.e. the next meeting).

- 9.3 Panel decisions shall be reported to members of the Council via email/letter as relevant, to ensure all members are aware of the matter and how it has been concluded.

## **10.0 Review and Amendment of Regulations**

- 10.1 This procedure will be reviewed regularly (not less than once every two years) and amended as necessary based on changes to legislation or evidence taken forward.

## **11.0 Alternative Formats**

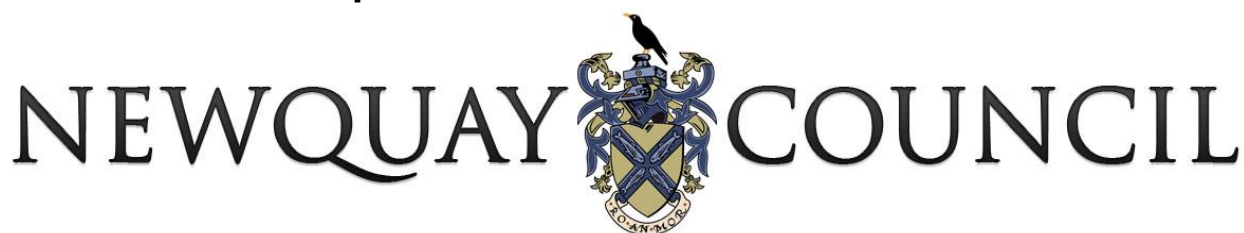
- 11.1 Equality Act 2010 – copies of this document in large print (A3 Format) or larger font size can be made available for those with sight impairment on request from the Council Office or by telephoning 01637 878388 or e-mailing the Town Clerk's Office.

## **12.0 Freedom of Information**

- 12.1 In accordance with the Freedom of Information Act 2000, this Document will be posted on the Council's Website  
[www.newquay.gov.uk](http://www.newquay.gov.uk)

Andrew Curtis  
Town Clerk & Chief Executive  
Newquay Town Council  
Municipal Offices  
Marcus Hill  
Newquay  
TR7 1AF

[DPO@newquay.gov.uk](mailto:DPO@newquay.gov.uk)

**Addendum 1 – Complaint Form**

Contact Details	
<b>Title:</b>	
<b>First Name:</b>	
<b>Surname:</b>	
<b>Address:</b>	
<b>Postcode:</b>	
<b>Telephone Number:</b>	
<b>Mobile Number:</b>	
<b>Email Address:</b>	
<b>Date Completed:</b>	

Complaint Details	
<b>Please give details of the complaint:</b> (continue on a separate sheet if necessary)	
<b>What would you like us to do to rectify this problem:</b>	
<b>Have you formally complained about this matter before:</b> (if so, to whom and what was the outcome)	
<b>If you have complained before, when was this:</b>	
<b>Signature:</b>	
<b>Date Signed:</b>	

Official Use only:

Date Received:	
Who is dealing:	
Unique Reference:	
Action Log:	

## **Addendum 2 – Complaints Procedure (Logistics)**

### **Before the Meeting**

1. The complainant should be asked to put the complaint about the council's procedures or administration in writing to the Town Clerk or other nominated officer.
2. If the complainant does not wish to put the complaint to the Town Clerk or other nominated officer, he or she should be advised to address it to the chairman of the council.
3. The Town Clerk or other nominated officer shall acknowledge receipt of the complaint, provide a reference number and advise the complainant when the matter will be considered by the council or by the committee established for the purposes of hearing complaints. If there is likely to be a delay, the clerk will confirm this at each stage where a delay becomes likely or apparent. 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 chairman should introduce everyone and explain the procedure.
8. The complainant (or representative) should outline the grounds for complaint and, thereafter, questions may be asked by (i) the Town 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.
  - a. If the clerk or other nominated officer is unable to answer a question, they have the right to request either an adjournment in order to obtain the information needed to answer any question, or if requiring more detailed work, may request to answer that question in writing at a later date (in which case any decision on the complaint would be postponed until such time as that information has been provided to both the complainant and the panel).
10. The Town Clerk or other nominated officer and then the complainant should be offered the opportunity to summarise their position.
11. The Town Clerk or other nominated officer and the complainant should be asked to leave the room/virtual 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 Town 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**

13. The decision should be confirmed in writing within seven working days after it has been reached, together with details of any action to be taken. The complainant does not have a right of appeal.
14. If any action relates to a member of staff, that staff member has the right of appeal any decision reached by the complaints panel/committee. If an appeal is lodged, a separate and independent appeals panel shall be formed before a disciplinary process is started; in which the employee will be able to put forwards their case and may be accompanied. Depending on the nature of the appeal or circumstances, the original complainant may not be able to attend the independent appeal panel hearing.
15. If an appeal fails or is not lodged in accordance with 14. Above, then a separate disciplinary process will be started.

16. If an appeal is upheld, this will be communicated with reasoning to the complainant within seven working days of the decision to uphold the appeal.