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your community

4.2

Guidelines about Complaints for Community Councils

	Document.	V.2. 1 September 2017
	Document Status	FINAL
	Document Date	13/09/2017
Published by the Community Support Unit, Moray Council, Council Office, High Street, Elgin, IV30 1BX		

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Introduction

However much you strive to have no complaints made about your Community Council or Councillors, there will be occasions where there will be complaints made on decisions you may or not make and the conduct of a Community Council or Councillor.

This complaints procedure has been developed at the request of a significant number of Community Councillors. It has been facilitated by the Moray Council, Community Council Liaison Officer, The Joint Community Councils of Moray (JCC) and individual Community Councils / Councillors.

On most occasions an on the spot apology or explanation will be enough, see **sections 4.3 and 4.4**: Scottish Public Services Ombudsman, our guidance on apologies. But sometimes a detailed investigation will be required.

Basic training on mediation and conflict resolution will be given to individual Community Councillors to help you deal with complaints that may occur.

This training is available to any Community Council member upon request.

In addition further guidance published by the Scottish Public Services Ombudsman (SPSO), 'Dealing with problem behaviour' can be found in section 4.4.

A pool of trained Community Councillors' will be formed to deal with the Stage 2 – Investigation of the Complaints Procedure.

A panel can be set up within a Community Council, with a member of the JCC being involved, or a panel consisting of all JCC members.

Stage 1 – Frontline Resolution

1. An on the spot apology or explanation may be appropriate, if accepted by the complainant. If not accepted, a meeting of the Community Council should take place following the guidance below
2. The Community Council should complete a complaints record form.
3. The Community Council will acknowledge receipt of the complaint from a member of the public or Community Councillor by letter or email.
4. A meeting of the Community Council shall be arranged by the Chairperson to deal with the complaint within **two working days** of receiving the complaint this is so the complaint can be dealt with in the seven day timescale.
5. The minimum number of attendees at the meeting shall be three.
6. The meeting will be held in private and minutes will be taken in accordance with the Standing Orders of the Scheme for Community Council. Public notice is not required as the meeting is held in confidence.
7. The meeting will discuss the allegations and decide whether there is a breach.
8. Where there is no breach, the matter will be noted on the complaints record form and not acted upon. The meeting shall be adjourned and all minutes and the complaints record form shall be sent to the Community Council Liaison Officer for archiving.
9. The complainant shall be advised by the Secretary of the decision of the Community Council in writing within **seven working days** on receipt of the initial complaint.
10. Where a breach has been alleged to have occurred, the appropriate action will be decided upon, such as an apology or the complaint can be escalated to a **Stage 2 - Investigation**. All actions must be noted on the complaints record form.
11. If the breach is regarding the conduct of a Community Councillor and is proven, the member shall be immediately suspended and informed in writing of the decision of the meeting.
12. The letter shall be sent by the Secretary (where the Secretary is being suspended, the letter will be sent by the Chairperson) by recorded mail, requiring a signature. [It should be noted that a suspension is not an accusation of guilt, and is the enable all parties to gather material regarding the alleged breach in an impartial, fair and equitable manner].
13. Once informed, if the complainant wishes to appeal the decision, then the complaint must be referred immediately to Stage 2.
14. The process outcome must be recorded on the complaints record form and any actions appropriately minuted at the next regular Community Council meeting.
15. Moray Council, Community Council Liaison Officer will be informed of all decisions / actions and sent a copy of the complaints record form.

Stage 2 – Investigation

1. The JCC Panel will acknowledge receipt of the Community Council / Councillor complaint in **seven working days** by letter or email (as per the information that is provided by the Community Council).
2. The Panel will consist of no less than three Community Councillors and at least one with the relevant training.
3. A private meeting shall be scheduled by the Panel with the complainant to discuss their concerns and to review any evidence provided. Questions at this time shall be for clarification and the Panel shall make notes of the meeting to be shared by all parties within **seven working** days of the meeting.
4. **Seven days'** notice should be given for Community Council / Councillor to share all materials available to the Panel prior to the meeting.
5. All material from either side shall be provided to all named parties no later than **24 hours** before the meeting. Late material shall not be accepted, nor shall material provided on the day or at the meeting, unless exceptional circumstances can be cited. Exceptional circumstances shall be at the discretion of the Panel in consultation with the Moray Council, Community Council Liaison Officer.
6. Where the complaint is about a Community Council's action or decisions, the Panel shall meet with the Chairperson and Secretary of the Community Council to discuss the complaint and its content.
7. The office bearers of the Community Council shall then put forward their position and answer any questions where clarification is required.
8. If the complaint is about an individual Community Councillor they shall be entitled to have support at the meeting. The support person may be a family member, another Community Council Councillor or a resident in the relevant Community Council area and on the electoral register. The support person may not speak to the Panel during the meeting, and may support the Community Councillor with any pertinent advice.
9. When the Stage 2 process is complete, the complaints investigation form must be completed and the Panel shall meet with the Moray Council, Community Council Liaison Officer (in their capacity as arbitrator) to make a decision on addressing the complaint.
10. The decision of the Panel shall be communicated to the Community Council / Councillor and their Community Council by recorded delivery letter.
11. Advice and mentoring will be given to a Community Council in relation to the complaint by the Panel / Community Council Liaison Officer.
12. The following sanctions can be made for an individual Community Councillor:
 - Suspension from Community Council meetings and activities for a period of time to be agreed by a majority of the Panel.

- Censure of behavior and a written undertaking to behave in accordance of the Scheme's Code of Conduct.
- Request by a majority of the Community Council members for the named Community Councillor to step down.
- In serious cases, a permanent expulsion from the Community Council, approved by a unanimous vote of the Panel.

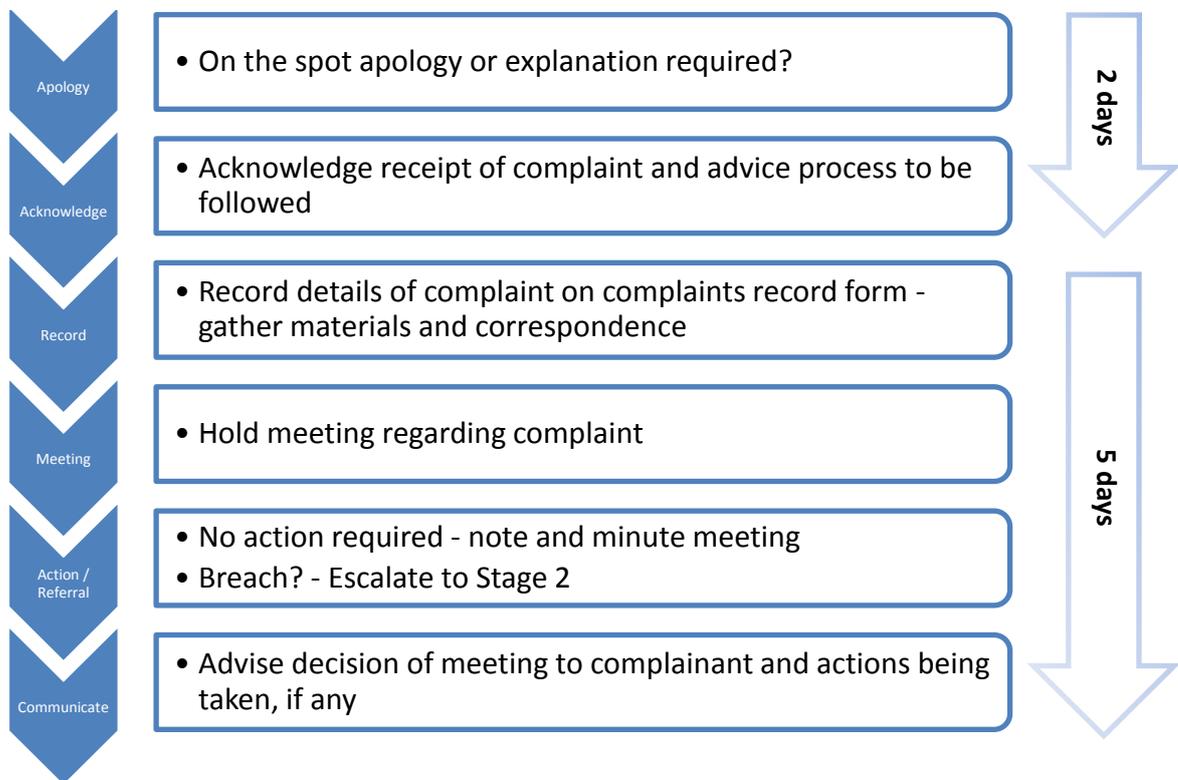
13. The decision of the Panel by a majority decision shall be final.

14. The complainant shall be advised of the decision of the Panel in writing within **thirty working** days of the initial complaint on the decision being reached.

15. All materials from the complaint will be sent to Moray Council, Community Council Liaison Officer on completion for archiving.

Quick Guide - Stages 1 and 2 of Complaint Process

Stage 1 – Frontline Resolution



Stage 2 – Investigation

