

# North Lanarkshire Council

## Report

### Finance and Resources Committee



approval



noting

Ref: CJ/GG

Date: 18 September 2019

### Community Council Complaints Procedure

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#### Executive Summary

This report is to advise on the outcome of the Consultation exercise carried out on the proposed complaints procedure for Community Councils and seeks authority to implement the new procedure.

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#### Recommendations

It is recommended that the Finance and Resources Committee:-

1. notes the responses received from Community Councils;
2. agrees that the complaints procedure be amended so that:
  - the period referred to in Stage 1 be increased from seven to fourteen days;
  - the size of a panel will be five Members but may be reduced to three Members in the event of non-attendance by a Panel Member;
3. agrees that the revised complaints procedure be implemented, on 8 October 2019.

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#### The Plan for North Lanarkshire

Priority	Enhance participation, capacity and empowerment across our Communities.
Ambition Statement	Improve engagement with Communities and develop their capacity to help themselves.

#### 1. Background

- 1.1. At a meeting of the former Policy and Resources Committee held on 6 December 2018, approval was given to undertake a consultation exercise seeking views or any representations from Community Councils regarding a proposed complaints procedure for Community Councils in North Lanarkshire.
- 1.2. It should be noted that, at its meeting on 12 August 2010, the former Corporate Services Committee approved the following:- "It being agreed that, with regard to the arrangements for monitoring conduct, the hearing

of submissions, appeals and the possible imposition of sanctions be undertaken by individual Community Councils having regard to all of the local facts and circumstances”.

While this process remains in place, the nature of complaints made in recent years, although limited to a small number of Community Councils, have often been made by individual Community Councillors against others and have made the current process very difficult to operate in practice, creating the potential for confusion and frustration on the part of complainants.

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## 2. Report

### 2.1. Proposed Complaints Procedure

2.1.1. The proposed complaints procedure has been devised to assist a Community Council and an individual making a complaint against either a Community Council or a Community Councillor. The procedure would provide a two stage process to resolve complaints as undernoted:-

- Stage 1 – Front Line Resolution

Stage 1 would apply where the complaint can be resolved by the Community Council. If the Community Council is unable to resolve the complaint, it would automatically move to Stage 2 – Investigation.

- Stage 2 – Investigation

Stage 2 would deal with two different types of complaint:-

- those that have not been resolved at Stage 1 by the Community Council, and
- those that are complex and require detailed investigation from the outset.

### 2.2. The Consultation Process

2.2.1. A Consultation exercise seeking representations from the 37 Community Councils in North Lanarkshire was conducted between 10 December 2018 and 1 February 2019. Only one response was received and, accordingly, it was considered appropriate that each Community Council be afforded a further opportunity to respond. Therefore, a second letter was issued to Community Councils seeking any representations or proposals to be received by 29 April 2019.

Eleven responses were received and are summarised as follows:-

- Five had no comment to make;
- Four acknowledged that the procedure was a much needed safeguard to ensure that Community Councillors acted in a fair, polite and reasonable manner, with one suggesting that the procedure be reviewed after a short period of time;

- One had a suggestion that the time period for Stage 1 be increased to allow a fuller investigation to be carried out, which in turn could remove the requirement for the complaint to progress to Stage 2, and suggesting that the size of the panel for the Stage 2 process be reduced to 3 Members, and
- One strongly opposed the procedure, as it was felt that it could not be justified for unpaid volunteers with unquestionable good character, that the Scheme and the Code of Conduct was adequate to deal with complaints, and that the implementation of the procedure would be restrictive and counter-productive in that it would discourage membership of Community Councils.

### 2.3. Response to Comments

2.3.1. The response objecting to the implementation of a complaints procedure, appears to take issue with a complaints procedure in principle rather than the specifics of the proposal. It should be highlighted that the Scottish Government has previously advised local authorities that a complaints procedure should be in place.

2.3.2. With regard to the suggestion that the size of the panel be reduced to three from the proposed five, the rationale for having five persons on the panel is that, in the event of a panel member not being able to attend, the panel can be reduced to three whilst maintaining the composition at an “odd” number so as to avoid the potential for an equality of votes. However, it is accepted that this is not made clear in the procedure document and it will, therefore, be amended to reflect this.

2.4. Officers do not consider that any of the responses received give cause to significantly amend, or reconsider the implementation of, the proposed procedure, save that as outlined in paragraph 2.3 above.

### 2.5. Role of the Council

The Local Government (Scotland) Act 1973 requires the Council to establish Community Councils and outlines the process by which it should do so. However, the Act provides no detail on the role or obligations which local authorities have with regard to Community Councils following their establishment. It is clear that Community Councils are separate from the Council and, accordingly, despite the Council often being called upon to intervene in respect of acts or omissions of Community Councils, it has no legal basis to do so. Whilst the Council can mediate and offer advice, it cannot take action to sanction individual Community Councillors or Community Councils. This can cause confusion as to who is responsible for dealing with any complaints. Accordingly, the proposed complaints procedure is designed to remove this confusion and put in place a clear pathway through which complaints can be considered.

## 2.6. Implementation

If approved by Committee, it is proposed that the complaints process would be implemented as at 8 October 2019. This is the date upon which all Community Councils in North Lanarkshire are re-established following the Quadrennial elections. There is the potential as at this date that, there will be a number of new Community Councillors and this would therefore, be the appropriate date to implement the new procedure. Details of the new procedure, if approved, will be issued to all Community Councillors prior to 8 October.

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## 3. Equality and Diversity

### 3.1. Fairer Scotland Duty

Not applicable.

### 3.2. Equality Impact Assessment

Not applicable.

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## 4. Implications

### 4.1. Financial Impact

There is no financial impact.

### 4.2. HR/Policy/Legislative Impact

The proposed procedure accords with guidance issued by the Scottish Government that complaints procedures for Community Councils should be in place.

### 4.3. Environmental Impact

There is no environmental impact.

### 4.4. Risk Impact

The absence of a sufficiently robust complaints procedure will risk Council resources, in respect of officer's time, being utilised unnecessarily.

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5. **Measures of Success**

- 5.1. To support Community Councils in procedural matters to deal with the handling of a complaint.

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6. **Supporting Documents**

- 6.1. Revised proposed complaints procedure for Community Councils.

A handwritten signature in black ink, appearing to read 'C. C. C.', with a long horizontal flourish extending to the right.

**Head of Legal and Democratic Solutions**

# **North Lanarkshire Council**

## **Complaints Procedure for Community Councils**

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## **Introduction**

Community Councils should aim to represent all people in the area without prejudice: they are non-party political and non-sectarian. They must call for nominations publicly and hold elections. Any person 16 years or over, resident in the Community Council boundary area, and included on the Electoral Register can be nominated to join their local Community Council.

Community Councils are regularly consulted by the local authority and public bodies on a wide range of issues which affect their area, such as planning, environment and health. All Community Council meetings are open to the public.

Complaints are sometimes made about Community Councils and about Community Councillors.

Community Council members must adhere to the Code of Conduct detailed in the North Lanarkshire Scheme of Establishment for Community Councils.

If you are dissatisfied or have concerns about the standard of service, actions or lack of action on the part of your Community Council or one or more of its members, these can be reported through the Community Council Complaints Procedure.

Please note that North Lanarkshire Council has a separate Complaints Policy to record and manage complaints by members of the public about Council services and this should not be confused with the Community Council Complaints Procedure.

## **What is a Complaint?**

A Community Council complaint is an expression of dissatisfaction or concern by members of the public or members of the Community Council. This may be about the conduct, standard of service, actions or lack of action by a Community Council or its members.

## **Who can complain?**

Anyone who may be affected by the Community Council can make a complaint. Sometimes you may be unable or reluctant to make a complaint on your own. Complaints may be brought by third parties as long as you provide evidence of consent from the complainant.

If you are under 16 and wish to complain, you may contact us yourself or if you would prefer; you can ask a trusted adult such as a parent, older brother or sister, or a guardian to contact us for you.

If you believe yourself to be a vulnerable adult, you may likewise wish to contact North Lanarkshire Council directly, or if you would prefer, you can ask someone you trust to contact us on your behalf.

The Community Council Liaison Officer can offer guidance on how to make your complaint if you would prefer.

### **What can I complain about?**

You can complain about things such as:

- Inadequate standard of service.
- Treatment by, or attitude of, a Community Councillor when dealing with a Community Council issue.
- Breaches of the North Lanarkshire Council Scheme for Community Councils.
- Financial irregularities and fraud (although there may ultimately be matters for the Police).
- Breaches of confidentiality.
- Misusing social media, email or letters for the purpose of personal and/or financial gain.
- Bringing the Community Council into disrepute.

This list is not exhaustive and your complaint may involve more than one issue.

### **What can't I complain about?**

There are some things we can't deal with.

These include:

- Any decisions North Lanarkshire Council has made.
- A request for compensation on a decision the Community Council has made.

### **How do I complain?**

All complaints relating to Community Councils and/or individual Community Councillors should be directed for the attention of the appropriate office bearer/s or member/s of the relevant Community Council in the first instance. If the complaint relates to the Secretary then contact the Chairperson and vice versa.

If you feel that it is not appropriate for the Community Council to deal with the complaint, you can contact the Community Council Liaison Officer for North Lanarkshire Council for guidance on how to proceed.

All complaints should be made formally in writing, or by email, providing:-

- Your full name, address and email, if applicable
- The nature of the complaint and the grounds which support it, including any available evidence

## **How long do I have to make a complaint?**

You must make your complaint within six months of the incident you want to complain about.

It is expected that most complaints will be submitted immediately or within two to three months from the date of the incident.

In exceptional circumstances, we may be able to accept a complaint after the time limit. If you feel that the six-month time limit should not apply to your complaint then please tell us why by writing to us.

## **What happens when I have complained?**

Our complaint procedure provides two opportunities to resolve complaints:

- Stage one – Frontline Resolution
- Stage two - Investigation

### **Stage one – Frontline Resolution**

We aim to resolve complaints quickly. This could mean an apology and explanation if something has clearly gone wrong. In such circumstances, steps will be taken to prevent such a problem re-occurring.

We will give you our decision at stage one in writing within fourteen working days or less, unless there are exceptional circumstances.

If we can't resolve your complaint at this stage, we will automatically move it to the second stage which is an investigation; if we do this, we will write to you within seven working days acknowledging your complaint.

### **Process**

1. The complaint should be made in writing to the Secretary or in person to the Chairperson of the Community Council
2. The Secretary will pass the complaint to the Chairperson, or another appropriate office bearer (if the complaint relates to the Chairperson)
3. The Chairperson will determine whether to uphold or not to uphold the complaint and issue a response to the complainant within a period of fourteen working days.
4. Where the Chairperson 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.

5. Where the Chairperson 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 a referral to Stage 2. In this instance where the matter is referred to Stage 2, the Chairperson will notify the Community Council Liaison Officer.
6. If your complaint is more complex and requires a more detailed investigation it will be escalated to Stage 2 of the Complaints Process. You will be notified in writing within seven working days.
7. If you are unhappy with the frontline resolution response you can ask us to consider your complaint at Stage 2 by contacting the Community Council or the Community Council Liaison Officer.

### **Stage two – Investigation by Panel**

Stage two deals with two types of complaint:

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

If the complaint has been referred from Stage 1, the Community Council Liaison Officer will have received the paperwork in relation to the complaint and will arrange that a Panel of five, or if five cannot be convened then three Community Council members (not from the Council complained about), be convened to deal with the complaint. All investigation meetings will be held in private.

The Panel will not consist of members from Community Councils with adjacent boundaries to the Community Council that the complaint is about. When the complaint is from one Community Council about another, members of the Community Council will not sit on the Panel.

The Community Council or Community Councillor may be suspended at this point until a full investigation has taken place. It should be noted that a suspension is not an assumption of guilt; it is to enable all parties to gather materials regarding the complaint.

When conducting a Stage 2 investigation, the specially appointed Panel, with appropriate support from North Lanarkshire Council, will :

- Acknowledge receipt of the request for complaint investigation within seven working days;
- Where appropriate, meet with you to discuss your complaint to understand your dissatisfaction and what outcome you are looking for;
- Where the complaint is about a Community Council's actions or decisions, the Panel will meet with the Officer Bearers of the Community Council to discuss the

complaint and give them an opportunity to explain their position and to answer any questions, and

- Where the complaint is about a Community Councillor, the panel will meet with them to explain the nature of the complaint and to seek their comments in relation to the complaint. The Community Councillor can be accompanied to the meeting by a friend or another Community Councillor to support them. Any person accompanying a Community Councillor will not be allowed to address the Panel but can offer advice or assistance to the Community Councillor.

### **Further Information Required**

Where the Panel agree that a decision can be made using the evidence before them, based on the written submissions provided, they will make a decision.

### **When the Investigation Process Is Complete**

The Panel will meet to determine the outcome of the investigation. They will decide whether to either uphold or not uphold the complaint and what sanctions if any should be applied.

Where the complaint is in relation to a **Community Council**, the Panel can make the following decisions:

- Provide guidance in relation to the issue.
- Offer mentoring where appropriate.
- Provide training where appropriate.
- Censure behaviour and issue a written warning to adhere to and behave in accordance with, the Code of Conduct as contained in the Scheme for the Establishment of Community Councils.

Where the complaint is in relation to a **Community Councillor's behaviour or actions**, the Panel can make the following decisions:

- Provide training where appropriate.
- Following approval by the majority of the Panel, they may decide that the individual/s be suspended from attending meetings of the Community Council meetings and undertaking activities associated with the Community Council for a specified period of time.
- Censure behaviour and issue a written warning to adhere to and behave in accordance with, the Code of Conduct as contained in the Scheme for the Establishment of Community Councils.

Where the complaint is in relation to a **serious matter** (ie: Criminal Investigations or a breach of the Code of Conduct) the Panel can

- By a unanimous decision, decide that the Community Councillor be removed from the Community Council with immediate effect.

Please note, however, that a complaint relating to a criminal offence may have to wait to be heard by the Panel until after the conclusion of any Police investigation and/or Court hearing.

### **Following the Decision of the Panel**

The decision of the Panel is final. The complainant will be notified in writing, within 30 days of receiving the initial complaint, of the decision of the Panel (unless prior notification has been given that the complaint will take longer to resolve).

The Community Council Liaison Officer will be notified in order for them to action the sanction as agreed by the Panel. The Community Council Liaison Officer will monitor the complaints to enable them to identify common complaints and to implement training where required.

### **Contact Details :**

Details of the Secretary of the Community Council in your area can be found online at :  
[www.northlanarkshire.gov.uk](http://www.northlanarkshire.gov.uk)  
or alternatively by contacting the Community Council Liaison Officer

Community Council Liaison Officer  
North Lanarkshire Council  
Windmillhill Street  
Motherwell  
ML1 1AB  
Tel: 01698 302340

## Quick guide to our complaints procedure

### Complaints Procedure

- You can complain by email, in writing or in person to the Community Council or any of its members.
- We have a two stage complaints procedure – **Frontline Resolution** and **Investigation Stages**. We will always try to deal with your complaint quickly, but, if it is clear that the matter will require a detailed investigation, we will notify you on our progress.

### Stage 1 – Frontline Resolution

- We will always try to resolve your complaint as soon as possible (within **seven working days**).
- If you are unhappy with our frontline resolution response, you can ask us to consider your complaint as a Stage 2 Investigation.

### Stage 2 – Investigation

- We will consider investigating your complaint at this stage if you are unhappy with our response at stage 1. We also look at certain types of complaints immediately at this stage if it is clear that they are complex or require detailed investigation.
- We will acknowledge your request for investigation of your complaint within **seven working days**. We will give you our decision within **30 working days** unless there is clearly a good reason for needing more time.

### Further Information

If you require any further information please do not hesitate to contact the Community Council Liaison Officer , North Lanarkshire Council, Windmillhill Street, Motherwell, ML1 1AB