

FIFE COUNCIL

COMMUNITY COUNCIL

COMPLAINTS PROCEDURE

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1.0 Introduction

There will be occasions when complaints are made about decisions taken or action not taken by community councils. Community councils may also receive complaints about the conduct or behaviour of its members.

These guidelines will help community councils to deal with complaints openly and consistently. The complaints procedure is an opportunity for lessons to be learned and practices to be improved. In the majority of cases, the outcome will be advice about a way forward or support to improve processes.

It should be noted that Fife Council has its own process for dealing with complaints by members of the public relating to its decisions, services and officers <https://www.fife.gov.uk/kb/docs/articles/have-your-say2/make-a-complaint>.

2.0 What is a complaint?

A complaint is an expression of dissatisfaction or concern relating to the actions of a Community Council or its members and must relate to an alleged breach of the *Standards of Conduct for Community Councillors (See Schedule 3)*. Complaints will be submitted to the relevant Community Council, in the first instance.

Complaints relating to allegations of criminal activity will be passed to Police Scotland.

The following are some examples of what might be complained about:

- Inappropriate, behaviour, or conduct of an Community Councillor acting in their role as a Community Councillor, when dealing with a Community Council issue.
- Breaches of confidentiality.
- Inappropriate use of a Community Council's social media (Facebook, Twitter, blogs, etc) email or correspondence not relevant to the remit of the Community Council.
- Discrimination, for example on the grounds of race, gender, disability, age, sexual or religious orientation.
- Generally bringing the Community Council into disrepute.

A complaint is not:

- An issue that is in court or has already been heard by a court or a tribunal
- A disagreement with a properly taken decision
- An attempt to reopen a previously concluded complaint or to have a complaint reconsidered, where a final decision has been reached
- Complaints being dealt with by insurers
- Decisions or complaints regarding Fife Council or its officers
- A request for compensation on a decision the Community Council has made

(This list is not exhaustive)

3.0 Who can complain?

Anyone affected by the actions and decisions of a Community Council or one or more of its members, can make a complaint. A complainant may nominate a third-party representative to make a complaint on their behalf.

More than one complaint about the same incident or issue will be considered together.

Anonymous complaints are not generally accepted as they can be difficult to investigate fully. However, if the complaint relates to a sensitive incident or issue, the name of the complainant may be withheld, at their request.

4.0 The complaint handling process

Community Councils should aim to resolve complaints quickly at the time they are made. This could mean an explanation or, where appropriate, an apology if something has clearly gone wrong. And in such cases the guidance provided by the SPSO should be followed [Model Complaints Handling Process.pdf \(spsos.org.uk\)](https://www.spsos.org.uk/Model-Complaints-Handling-Process.pdf).

The community council will also take steps to try to prevent such a problem from happening again.

A complaint can be made in writing or by email to the Chairperson, Secretary or Treasurer. If the complaint is about an office-bearer, they should not handle the complaint and another member of the community council should be identified to handle the complaint.

Complaint responses must always be signed off by 2 community council members.

4.1 Information to include in a complaint

When complaining to a Community Council, the following should be included:

- Complainant's full name and address, including an e-mail address if possible
- Details of the complaint and what provisions of the code of conduct have been breached
- What outcome the individual hopes to achieve

4.2 Timescale for making a complaint

Complaints can be accepted within 6 months of the matter that is being complained about. In exceptional circumstances, the Community Council may accept a complaint after the time limit, if adequate reasons are provided for doing so. This will be entirely at the discretion of the Community Council involved.

5.0 Handling complaints

On receipt of a complaint, the Community Council should:

- check that the complaint has been made within 6 months of the event occurring

- check that the complaint is competent, i.e. is not spurious or vexatious and is related to a matter within the remit of the community council to determine

Complaints that fail these checks should be dismissed immediately by the community council. A written response should be sent within **5 days** of receipt of the complaint, advising that the complaint was not deemed valid because (a) it was not made timeously; and/or (b) it was not competent and provide reasons for this decision.

The Community Council Complaints Procedure provides two opportunities for resolving complaints:-

- **Stage 1 - Frontline Resolution** -. for complaints where something has clearly gone wrong and a swift apology is required; and
- **Stage 2 - Investigation by the Community Council** for complaints that are more complex and require further investigation to determine the facts, where more than one issue is being investigated or where frontline resolution has failed.

Where a complaint is made against a Community Council, rather than an individual community councillor, it may, in certain circumstances, be possible to refer the matter to a **Panel of members comprised of members from other community councils**.

5.2 Stage 1 – Frontline Resolution

5.2.1 Process

The complaint should be acknowledged in writing within **5 working days** and an expected response timescale provided. The complaint should be passed to the Chairperson, or another appropriate officer bearer (if the complaint relates to the Chairperson).

The Chairperson in consultation with another office bearer of the community council will fully consider the terms of the complaint, seeking additional information as required and determine whether to uphold or not uphold the complaint.

Where it is determined that

- (1) the complaint **is not upheld**, the matter will be noted and no further action will be taken. The complainant will be written to/emailed with a response within **10 working days**
- (2) Where it is determined that the complaint **is upheld**, action will be taken to address and resolve the complaint. This may be an explanation of the circumstances, an apology or where necessary, a referral to Stage 2 of the complaints process. The complainant will be written to/emailed with a response within **10 working days**

If the complainant is unhappy with the response at Stage 1, they can ask that the complaint is considered at Stage 2 by contacting the Community Council and providing reasons. The Community Council in consultation with the complainant may suggest further action to resolve the complaint before progressing to Stage 2.

If the complaint is complex and requires a more detailed investigation, it will be escalated immediately to Stage 2 of the complaints process. The complainant should be notified of this within 5 working days.

5.3 Frontline Resolution -Possible outcomes

Complaint not upheld - the matter will be noted and no further action will be taken.

Complaint upheld – appropriate action will be taken to address and resolve the complaint, as follows:-

- An explanation of the circumstances and an apology.
- A proposal to seek a mutually agreed remedy.
- Information on any changes to be made to avoid problems recurring in the future.

5.4 Stage 2 - Investigation

This stage deals with two types of complaint:-

- **Investigation by the Community Council Investigating Panel (the Panel)** for complaints that are more complex and require further investigation to determine the facts, where more than one issue is being investigated or where frontline resolution has failed; or
- **Panel of members from other community councils** where the complaint relates to another community council. If this is required, Fife Council's Community Council Liaison Officer will assist in identifying members for the panel meeting.

All Panel meetings will be held in private and all materials relating to the complaint/investigation will be sent to the Community Council Liaison Officer on completion, for archiving. This will be retained for 3 years as detailed by the Fife Council Retention Guidelines for Community Councils found here: [Community Councils | Fife Council](#).

The Investigating Panel (the Panel) will comprise 3 members of the Community Council who have undertaken basic mediation and conflict resolution training provided by Fife Council. The Chairperson, Secretary and Treasurer of the Community Council will comprise the Panel, unless, (1) the complaint relates to an office-bearer. In such cases another member of the community council should be recruited to the Panel in their place; or (2) where the community council has decided that it would not be appropriate for its members to investigate the complaint. In such cases, the community council must arrange for a panel of 3 members drawn from other community councils in Fife, established to investigate the complaint.

5.4.1 Process

- The Panel Chairperson will acknowledge receipt of the complaint in writing within 5 working days
- Depending on the nature of the complaint, the Community Council may decide to suspend the community councillor until a full investigation has taken place. A suspension is not an accusation of guilt but to enable all parties to gather materials regarding the alleged breach in an impartial and fair manner.
- The Panel will determine what further interviews and/or written information is required and will undertake such investigations as they consider appropriate to enable them to reach a decision
- The Panel should arrange to hold a meeting, **in private**, with the complainant and any other party **within 60 days** of receipt of the complaint. Should any party choose not to attend this meeting, the Panel will meet and reach a decision in their absence.
- *A Community Councillor who is the subject of a complaint will not be entitled to attend any Special Meeting convened by the Community Council to consider the complaint against them but the Community Councillor will be entitled to submit written representations for the Panel's consideration.*
- Notice of the meeting and the composition of the Panel must be provided to all named parties at least **10 days** prior to the meeting
- The Panel must share all material/evidence submitted with all named parties no later than **5 days** before the meeting takes place and no late materials/evidence will be accepted, unless exceptional circumstances for doing so can be cited
- If the complaint relates to the behaviour of a member(s) of the community council, the member(s) will (each) be entitled to have support at the meeting, eg a family member or friend, who can provide advice. Any person in a supporting role may not address the Panel.
- The Panel will choose a Chairperson and will then consider the evidence provided by all named parties, invite any further comments from the parties and thereafter decide, by a majority, whether the complaint is upheld, or not upheld, or partially upheld.
- The Panel process is not a legal process and will be held as informally as possible to allow full participation by all parties. However, it is expected that all participants will act courteously and respectfully to others. Should any party behave in an inappropriate fashion, they will be asked to leave the meeting and the Panel will continue its deliberations in their absence.
- Where a complaint is not upheld no action will be taken and the meeting will end; or having reached a decision to uphold or partially uphold the complaint, the Panel should advise all parties of their decision, after which all parties should leave the meeting.
- The Panel will decide, by majority vote, an appropriate course of action and/or any sanctions to apply. The Panel can adjourn and re-convene if necessary. The Chairperson must advise, in writing, all parties of the decision and any outcome within **10 days** of the Panel meeting.
- The community council at its next meeting should inform members that a complaint was received and how it was resolved. The complaint can be recorded in the minute without naming any of the parties involved, unless a member(s) is suspended, resigns or is expelled. Please note, only after all parties have received the Chairperson's letter detailing the outcome of the

Panel's deliberations, can a copy of the decision letter be made available by the Panel to the community council for its records.

5.5 Stage 2 -possible outcomes

Where the complaint is in relation to a Community Council/Councillor's behaviour or actions, the following actions may be considered:

- Offer to provide guidance/training/mentoring
- Suspension from Community Council meetings and activities for a period of time to be agreed by the majority of the Panel
- Censure of behaviour and issue a written warning to behave in accordance with the Standards of Conduct contained in the Scheme for the Establishment of Community Councils
- In serious cases, expulsion of a member from the community council, if approved by the panel's unanimous vote.

6.0 Appeal

There is no right of appeal against a frontline resolution response or an Investigating Panel's decision.