

FILEY TOWN COUNCIL

TERMS OF REFERENCE

APPEAL HEARING PANEL

Membership – 3 Members plus 2 substitute Members

(To be elected annually at the Annual Meeting of the Town Council each year)

- The Appeal Hearing Panel to consist of 3 members plus 2 substitute members (and if possible to be of mixed gender) which are to be elected at the Annual Meeting of the Town Council each year.
- The Appeal Hearing Panel members should be totally impartial and should not be members of the Staffing Committee or any Committee dealing with an ongoing complaint.
- The Chairman of the Appeal Hearing Panel is to be elected by the members of the Appeal Hearing Panel at each meeting of the Panel.
- Members who are elected to join the Appeal Hearing Panel will be provided with support and training as to their role and function.

Aims

To provide an appeal mechanism for dealing with any disciplinary, grievance or complaint issues that arise in a way that is fair, consistent, without discrimination and as quickly as possible.

Objectives

The purpose of an appeal hearing is for an appeal panel to examine all the written and oral evidence presented by both parties to decide whether the appeal is upheld or not.

Meetings

The Clerk will call meetings of the Appeal Hearing Panel as and when necessary. Members will be summoned to attend meetings which will be held in the Council Offices and Public Notice of the meeting shall be given in accordance with Schedule 12, Para 10(2) of the Local Government Act 1972.

Documentation

Minutes of all meetings will be recorded by the Clerk or other Proper Officer and circulated at full council meetings of Filey Town Council. All resolutions shall be recorded in the minutes of the meetings.

Accountability

The Appeal Hearing Panel has delegated powers to act on behalf of the full council in relation to the defined terms of reference and any decision(s) made by the Appeal Hearing Panel will be final.

Scope

1. DISCIPLINARY APPEALS

(Please refer to the Town Council's Disciplinary Procedure)

The Appeals stage of the disciplinary process is part of the Code of Practice to which an employee has a right. It can be exercised after any of the stages of disciplinary action for Misconduct/Poor Performance or Gross Misconduct.

An employee who wishes to appeal against a disciplinary decision should inform the Chair/Mayor (or Chair of the relevant committee) within five working days, in writing and giving reasons for the appeal. An Appeal may be raised if:

- The employee thinks the finding or penalty is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

Where possible the Appeal will be heard by a separate panel of elected members who have not been involved in the original disciplinary hearing, who will view the evidence with impartiality. The employee will have the right to be accompanied by a colleague or accredited Trade Union official or lay member at the appeal hearing. The outcome of the appeal and reasons for it will be advised to the employee as soon as possible after the meeting and be confirmed in writing.

At the Appeal hearing any disciplinary penalty imposed will be reviewed but it cannot be increased. The decision taken at the Appeal hearing will be final.

2. GRIEVANCE APPEALS

(Please refer to the Town Council's Grievance Procedure)

If the employee is dissatisfied with the decision of the line manager on his/her complaint, s/he may appeal against the decision to the Chair/Mayor or other elected Member by written notice within five working days of the decision. An Appeal may be raised if:

- The employee thinks the finding, or action plan, is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

On receipt of the appeal the council's Appeals Panel shall arrange to meet and consult with the employee, the line manager or Members concerned and any other persons, as she/he shall consider appropriate without unreasonable delay. The Appeal Hearing Chair shall consider the issues and shall then take all such steps, as she/he may consider necessary to resolve those issues. Where the council's Chair or Mayor has chaired the initial grievance meeting the Vice Chair or Chair of another committee will hear the appeal as a hearing manager the decision of the Appeal Hearing Panel will be final. The council will need to ensure that the Members involved in the hearings are able to act impartially and reasonably at all times. The outcome of the appeal should be conveyed to the employee in writing in a timely manner.

3. FORMAL COMPLAINTS – Stage 2 Appeal to review Stage 1 response

(please refer to the Town Council's Complaints Policy and the Town Council's Policy for dealing with abusive, persistent or vexatious complaints and complainants)

The implementation of an Appeal Hearing Panel to hear Stage 2 complaints is designed specifically to ensure that:

- Formal Complaints are being properly investigated and managed at Stage 1 as outlined below *(extract taken from the Town Council's Complaints Procedure)*
- Members' are able to intervene in the complaints process and review perceived maladministration

The role of the Appeal Hearing Panel is to review the way a complaint has been dealt with at Stage 1 and to decide based on fact and evidence presented, whether the complaint has been dealt with

- fully and correctly
- in part
- not at all
- incorrectly

Formal Complaint (Stage 1)*(extract from the Town Council's Complaints Policy)*

A customer or resident may wish to make a formal complaint directly, or may be unsatisfied with the outcome of an informal complaint and may wish to take the matter further. This will be recorded as a complaint and passed to the Town Clerk to investigate.

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 proper officer.
2. If the complainant does not wish to put the complaint to the Town Clerk or other proper officer, they may be advised to put it to the Chairman of the council.
3. The Town Clerk shall acknowledge the receipt of the complaint by return of post and advise the complainant within 14 days of acknowledgement of the decision and the nature of any action to be taken, which shall be communicated in writing to the complainant.

Review of Investigation and Complaint (Stage 2)*(extract from the Town Council's Complaints Policy)*

4. If the complainant is not satisfied with the Town Clerk's response, they should be advised of their right to have the complaint considered by the council or by the most appropriate/relevant committee.
5. The complainant shall be invited to attend the relevant meeting and bring with them such representative as they wish.
6. Seven clear working days prior to the meeting, the complainant shall provide the council with copies of any documentation or other evidence, which they wish to refer to at the meeting. The council shall similarly provide the complainant with copies of any documentation upon which they wish to rely at the meeting.

At the meeting*(extract from the Town Council's Complaints Policy)*

7. The council shall consider whether the circumstances of the meeting warrant the exclusion of the public and press. Any decision on a complainant shall be announced at the council meeting in public. (Please see NOTE 1, page 4)
8. Chairman to introduce everyone.
9. Chairman to explain the procedure.
10. Complainant (or representative) to outline grounds for complaint.
11. Members to ask any question of the complainant.
12. If relevant, the Town Clerk or other proper officer to explain the council's position.
13. Members to ask any question of the Town Clerk or other proper officer.
14. Town Clerk or other proper officer and complainant to be offered the opportunity of the last word (in this order).
15. Town Clerk or other proper officer and complainant to be asked to leave the room while Members decide whether or not the grounds for the complaint have been made. (If a point of clarification is necessary, both parties to be invited back).

16. Town Clerk or other proper officer and complainant return to hear decision, or to be advised when decision will be made.

After the Meeting

17. Decision confirmed in writing within seven working days together with details of any action to be taken.

The letter will normally be prepared by the Town Clerk or other Proper Officer and signed by the Chair of the Panel.

Resolution

The aim in dealing with all complaints is to reach a resolution for the complainant, whether it is the resolution they were originally seeking or not. Where a complaint is found to be at all justified, consideration may need to be given to the question of an appropriate solution and measures to be taken in order that issues are not repeated.

NOTE 1

Complainants who are due to appear at an Appeal Hearing Panel and who fail to attend or turn up late

Where a complainant has indicated that they will attend a panel and do not show up and have not contacted the clerk, the clerk will make reasonable efforts to contact the complainant.

Where contact is made and the complainant is going to be late, the chair of the panel will determine whether to delay the start of the panel or whether another date is set up.

Where no contact is made with the complainant, the panel will wait for a maximum of 15 minutes from when the panel was due to start. If the complainant has still not arrived or made contact, then the panel will go ahead.

If a panel has started, and the complainant then arrives, the chair of the panel will determine whether to restart proceedings, or provide a summary to the complainant as to what stage has been reached and then continue with the meeting.

Review

The Appeal Hearing Panel's terms of reference are to be reviewed on an annual basis.