

East Renfrewshire Council

Community Councillor Complaints Procedure

1. Foreword

Community councils in East Renfrewshire are established under East Renfrewshire Council's Scheme for the Establishment of Community Councils (the Scheme), as provided for under the Local Government (Scotland) Act 1973 and thereafter, the Local Government etc (Scotland) Act 1994. The Scheme sets out the roles and responsibilities of community councils and councillors. Furthermore, the Scheme contains a Code of Conduct for Community Councillors. Both elected and co-opted members of community councils must comply with and abide by the terms of East Renfrewshire Council's Scheme for the Establishment of Community Councils, the constitution of their community council and the Code of Conduct for Community Council Members. Associate members must also comply with those terms to the extent that they are applicable to them.

From time to time complaints will be made about the conduct of community councils and / or individual community councillors. These complaints will be dealt with through the Community Councillor Complaints Procedure.

This procedure explains how complaints regarding Community Councillors' conduct should be handled by community councils and / or the Investigation Officer tasked with dealing with the complaint.

1. What is a complaint

- a. Complaints must relate to alleged breaches of the Code of Conduct for Community Councillors, contained within the East Renfrewshire Council Scheme for the Establishment of Community Councils.
- b. A complaint is not:
 - A dispute of a personal nature which does not relate to an individual's role as a community councillor.
 - An attempt to reopen a previously concluded complaint or to have a complaint reconsidered, where a final decision has been reached.

This list is not exhaustive.

2. A complaint can be made in writing or by electronic means.

- a. More than one complaint about the same incident or issue will be considered together.
- b. All complaints must be submitted to the Community Council Liaison Officer. Representations submitted elsewhere, including directly to community councils or other Council officers, will not be formally considered as complaints.
- c. A complaint must not contain information which would allow the identification of an individual who is not a member of the community council.

3. Information required about a complaint.

- a. The individual shall be asked for all necessary information to get a full understanding of their complaint.
- b. Clarification shall be sought regarding what the individual wants to achieve by complaining and what provisions of the code of conduct have been breached.
- c. The following details shall be recorded as a minimum:
 - i. complainant details;
 - ii. date complaint was received;
 - iii. nature of the complaint; (how has the code of conduct been breached).
and
 - iv. the community councillor/s to which the complaint refers.

4. Acknowledgement

All complaints must be acknowledged on receipt. Acknowledgement will include details regarding the procedure used to deal with the complaint and the expected response period.

5. Managing your complaint

- a. Any person may complain about the conduct of the community council, or any member or group of members thereof. All complaints must be sent to the Community Council Liaison Officer (CCLO) in the first instance. Following any clarification required (as outlined in this procedure – sections 3 & 4) the CCLO will send the complaint to the community council for determination, unless, following consultation between the CCLO and the community council, it is agreed that the complaint/s shall be referred to a Community Council Complaints Panel.
- b. The community council need not consider the substance of a complaint, if the community council decides (by a simple majority of those voting and present at a meeting) that the subject-matter of the complaint is substantially identical to that of a previous complaint that has been or is being dealt with by either the community council or the Community Council Complaints Panel.
- c. All other complaints shall be considered by the relevant community council, which shall decide on a simple majority of voting members whether the subject of a complaint has, on the balance of probabilities, failed to comply with the obligations set out in the Code of Conduct for Community Councillors. Any member who is the subject of a complaint, or who is the complainer, shall not be entitled to vote. If satisfied that those obligations have not been complied with, the community council must either:
 - censure the member(s) in question;
 - issue a formal written warning to the member(s) in question;

- suspend the member(s) from the community council for up to 2 years or for the remaining community council term, whichever is the lesser.
 - terminate membership of the community council.
6. At the request of either the complainer or the subject of the complaint, arrangements shall be made at the meeting for members of the community council to vote on the complaint by way of a secret ballot.
 7. Any member who has been the subject of a complaint which has been upheld by a community council, will have the right to appeal to a Community Council Complaints Panel, however, any sanctions, censure, suspension or termination of membership imposed by the community council will remain in place during the time taken for the appeal to be heard.
 8. A Community Council Complaints Panel (a "Panel") shall be established to deal with any complaints referred under clause 5a and clause 7.
 - a. The Community Council Liaison Officer will conduct the investigation or identify a suitable individual to do so on their behalf. This individual will carry out an investigation which aims to establish all the facts relevant to the points made in the complaint and submit a report with recommendations to the panel; for determination.
 - b. A Panel shall consist of 3 elected members of East Renfrewshire Council. Care shall be taken to ensure that the Panel is sufficiently independent and any councillors who are ex-officio members of any community councils linked to the complaint will be ineligible to participate.
 - c. Panel meetings can be held online.
 - d. A Panel shall meet to decide a complaint within 40 working days of the complaint being referred to it. In the event it cannot be decided within 40 working days, both parties will be notified of the revised timescales.
 - e. A Panel may refer a complaint for consideration by an independent person or body to be determined by the Panel, which person or body shall have the same obligations and powers in respect of the complaint as the Panel.
 - f. Otherwise, a Panel shall decide on a simple majority whether the subject of the complaint has, on the balance of probabilities, failed to comply with the obligations set out the Code of Conduct for community councillors. If satisfied that those obligations have not been complied with, the Panel:
 - i. Shall impose one of the sanctions set out in clause 5c: or
 - ii. Shall disqualify an individual from sitting on any community council within the East Renfrewshire Council area for such period as the Panel shall decide and
 - iii. May recommend the subject of the complaint to participate in mediation with the complainer (without prejudice to the Panel's ability to impose one of the other remedies set out in this procedure if that mediation is unsuccessful);

9. In circumstances where it appears that the whole community council, or a significant proportion of its members, have engaged in gross misconduct, the Panel can recommend that East Renfrewshire Council suspend or dissolve the community council under clause 13.4. of the Scheme of Establishment.
10. Where an appeal is made to the Panel under clause 7; concerning a community council's decision under this complaints procedure, the Panel shall decide by a simple majority whether to confirm the community council's decision. If it does not confirm the community council's decision, it shall consider the original complaint itself in accordance with this procedure.
11. The decision of the Panel will where possible be communicated by letter as soon as possible following the meeting to:
 - The complainant.
 - The community councillor(s) the subject of the complaint.
 - The office bearers of the community council.
- a. All Panel meetings will be held in private (as provided for under Schedule 7A of the Local Government (Scotland) Act 1973) 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 three years.

12. Time limit for making complaints

Complaints should be made within six months of the incident occurring, unless there are special circumstances for granting an extension. Any such circumstances will be considered on a case by case basis by the Community Council Liaison Officer.

13. Maintaining confidentiality

The complainant and subject's confidentiality should be maintained at all times. All complaints will also be subject to legal requirements including data protection legislation

14. Modification of procedure

Having regard to changing circumstances and/or to any representations made to them, East Renfrewshire Council shall from time to time review the complaints procedure and where they consider that the procedure ought to be amended, shall consult with community councils.

The Council reserves the right to carry out any investigation that it considers necessary into the conduct of a community council or individual members of a community council.