

Complaints Procedure

Introduction

The purpose of the Charitable Organisation's Complaints Procedure is to lay out a fair, equitable and timely approach to addressing grievances and complaints.

The procedure sets out the action that will be taken in response to complaints of misconduct between members and/or visitors to allotment sites. This policy does not apply to termination of tenancy due to plot neglect or non-compliance. There are separate rules set out in the manual to manage these issues.

In cases where misconduct or unacceptable behaviour is reported, the aim is to resolve this in an amicable and less formal manner before any formal action is taken. This may include advising on how members can resolve the issue between themselves.

No action will be taken until a case has been thoroughly investigated. When starting an investigation into an allegation of misconduct, there shall be no assumption that any action will automatically follow. All serious formal allegations **should ideally be backed up with corroborative evidence e.g. witness statements or photographic/video evidence. The investigation may not proceed otherwise.**

Fairness and transparency will be applied to all elements of the complaints procedure. It is important that all members have access to the policy and that the rules are explained in a way that is understandable to all.

YACIO understands that people will not use the Grievance and Complaints Procedure if they do not know it exists, so we aim to publicise our policy and the procedure widely. We need to ensure that allotment holders and members of the public who use the allotments as an amenity space are all able to find out easily how to raise complaints. We will do this by:

- Telling all new tenants/members what to do if they wish to make a complaint
- Making this policy and procedure available on our website
- Putting up notices on all allotment site notice boards making clear we have a complaints and grievance procedure and where to find it.

If a member's behaviour is found to be unacceptable this does not automatically mean their Tenancy will be terminated, unless it is a case of gross misconduct. Gross misconduct is a serious occurrence requiring an immediate response from YACIO Trustees. Where gross misconduct is identified, the penalty will be termination without notice and without a right for recompense. Examples of gross misconduct are set out at the end of this document.

All complaints will be logged and formal ones will be brought to the attention of the trustees so that if there are useful lessons to learn they will have opportunities to do so.

An overview of complaints will be presented as part of the annual report of YACIO.

The following points are considered to be good practice and will be implemented in all cases.

- Complaints will be acknowledged within 5 working days.
- Investigations will be carried out without undue delay and take no longer than 3 months with outcomes being shared in a timely manner.
- All those concerned in responding to a grievance or complaint will seek to act consistently.
- The primary aim of an investigation will be to establish the facts of the case.
- Every effort will be made to ensure that those who are the subject of complaint fully understand the case against them and are given an opportunity to respond fully before any decisions are made.
- Complainants and those who are the subject of complaint may be represented/supported at any point during the process if they so wish.
- Complainants and those who are the subject of a complaint are permitted to appeal against any formal decision made.

This policy will be reviewed at such times as it is shown to be in need of revision and at the least biennially.

YACIO will treat all complaints as confidential and not disclose the names of the complainant to the other parties without the complainant's consent. When a complainant does not wish their identity to be disclosed, YACIO will make it clear to the complainant that, while it will use its best endeavours to resolve the issue, a full resolution may not be possible. YACIO will, however, pursue anonymous complaints of a more serious nature including those alleging illegal activity or those that could cause harm to other members. Where this is the case, YACIO will adhere to safeguarding and criminal activity guidance with respect to the management of confidentiality.

Process

1. In the first instance, and where appropriate, complaints should be taken up with the appropriate Site Secretary who will attempt to resolve the grievance informally. If they feel the matter cannot be resolved by them, they may wish to discuss the matter with a trustee, or refer the matter on to a Trustee. If the informal resolution is effective then the Site Secretary will give a brief written report to the YACIO trustees stating the nature of the complaint, who made it, who the complaint referred to and how the matter was resolved. This will be logged by the administrator in the records of members where appropriate.

2. It will be established whether or not the complainant wishes to be named or to remain anonymous. Where the complainant wishes to remain anonymous, it will be explained that the investigation may, as a consequence, be limited.
3. If it is not possible to resolve a complaint informally, members should raise the matter formally and without unreasonable delay with a Trustee and should set out the nature of the grievance. This should be by letter to the registered address or by email at contact@yorkallotments.org. YACIO understands that some people may need help or support to present a written statement. Any complainant is welcome to ask for the assistance of others, or to have someone act as their advocate at any point in the procedure. Where this is the case, YACIO needs to be informed together with information indicating the level of involvement of the advocate or supporter.
4. The complainant should also make their expectations clear in terms of how the matter could be resolved. This might include such outcomes as :
 - an apology
 - assurance that the same thing will not happen again
 - remedies or responses from others including YACIO.
5. Trustees should arrange for a formal meeting to be held within 2 weeks following the receipt of a complaint. This may take the form of a telephone or video call or a face-to-face meeting.
6. Members should be allowed to explain their grievance and how they think it could be resolved. Consideration should be given to adjournment for the period of any investigation that may be necessary.
7. Investigations will be carried out without unreasonable delay by a trustee to establish the facts of the case. In some cases, this will require communication with the complainant, the individual who is the subject of the complaint and any witnesses.
8. Those who are the subject of a complaint have the right to be represented/supported by a companion/advocate. To exercise this right, members must make a reasonable request. What is reasonable will depend on the circumstances of each individual case but the following may help as guidance:
 - A request to be accompanied at a hearing does not have to be in writing or within a certain time frame. However, the member should provide enough time for the investigating trustee to deal with the companion/ advocate's attendance at the meeting.
 - If a member's chosen companion/advocate will not be available at the time proposed for the hearing by the investigating Trustee, the Trustee must postpone the hearing to a mutually convenient time, provided that the alternative time is not more than ten working days after the date originally proposed.

- The companion/advocate will be permitted to provide advice to the complainant and sum up on their behalf. However, they will not be permitted to answer questions on behalf of the complainant.
9. Any information relating to witnesses or other corroborative evidence will be recorded.
 10. Where there are witnesses to a complaint, they may be invited to comment.
 11. Where there is other evidence e.g., photographs or video, the owners will be invited to provide copies.
 12. Following the gathering of evidence, a decision will be made by the investigating trustee as to what action should be taken. Decisions will be communicated to the complainant and the member who is being complained about in writing, within 5 working days and, where appropriate, will set out what action will be taken to resolve the grievance. It may be found that in exceptional circumstances the conduct is serious enough to warrant disciplinary action
 13. Where disciplinary action is felt appropriate a first written warning will be issued. A further act of misconduct within a set period may result in either a second and final written warning, or other appropriate sanctions.
 14. A first or final written warning shall set out the nature of the misconduct and the change in behaviour required (with timescale). It should be explained how long the warning will remain in place. The member should be informed of the consequences of further misconduct within the set period following a warning.
 15. Where a member does not engage with the process, the investigating trustee shall make a decision based upon the evidence available and report this to relevant parties.
 16. Where the complainant or a member being complained about feels that the decision is wrong or unjust they may appeal against the decision to the Chair of the Trustees. The appeal must be submitted in writing (letter or email) within ten working days of receiving written notification of the decision, stating the reasons for the appeal. Any documents submitted in support of the appeal must be attached.
 17. Appeals will be reviewed within 2 weeks and at an agreed time and place.
 18. Members have the right to be accompanied at appeal hearings.
 19. The appeal shall be dealt with impartially by the Chair of the Trustees.
 20. The decision of the appeal process is final.
 21. The outcome of the appeal should be communicated to the complainant and the person who is the subject of complaint in writing without unreasonable delay.

Persistent and Vexatious Complaints

Where a complainant persists in pursuing a complaint which has no reasonable basis, or repeatedly makes similar complaints that have been found to be ill founded or when YACIO has already taken reasonable action in response to the complaint, the Trustees will exercise its discretion as to when a matter will be regarded as closed and will not be investigated further.

Gross Misconduct

Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for suspension or termination of membership without notice for a first offence. In some instances, suspension may be used where gross misconduct is alleged in order to prevent further offences being committed while the investigation is taking place. Examples of gross misconduct may include but are not limited to:

- criminal offence which, in the YACIO Trustee's judgement, makes it inappropriate for the individual to continue with their tenancy
- proven physical assault by one member against another
- proven theft, misappropriation or unlawful destruction of property
- proven serious reckless or negligent behaviour which causes unacceptable loss, damage or injury
- proven malicious or unfounded allegations of a serious nature
- proven serious discrimination or abuse relating to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)
- proven harassment of a serious nature

Complaints against Trustees or the Organisation

In the case of a complaint about the behaviour of a particular trustee, the same procedure will be adopted but will be considered in the first instance by the Chair of Trustees and any appeal may be referred to a nominated officer of CYC or The Charity Commission.

In the case of complaint about the behaviour of the Chair of Trustees, the complaint may be referred on to a nominated officer of the City of York Council or The Charity Commission.

In the case of a member complaining about the way in which YACIO operates, a nominated trustee will investigate the issue and report initially to the trustees and then to the complainant. Appeals will be managed as described in the previous two paragraphs.