

ROSENDALE ALLOTMENTS ASSOCIATION

COMPLAINTS, DISPUTE RESOLUTION AND APPEALS POLICY

GENERAL

Rosendale Allotments Association (“the Association”) encourages Members to try to resolve disputes between themselves or with the Committee informally. When this is not possible, the aim of this Policy is to allow disputes to be resolved in a fair and proportionate way.

A written record must be kept of the decisions made at each stage of the Policy.

COMPLAINTS ABOUT OTHER MEMBERS

1. If a Member wishes to complain about the actions of another Member or a Committee Member, the Member must send a formal written complaint to the Chair of the Association by post or email. If the complaint is about the Chair, the letter or email must be sent to another Officer of the Association such as the Secretary or Treasurer. A Member who complains is called ‘the complainant’ in this document.
2. The complainant must set out in the complaint his/her full name, address, phone number, email address and Plot number, together with details of the complaint including, where available, statements from witnesses, photographs and videos, correspondence, documents etc.
3. The Chair will discuss the complaint at the next meeting of the Committee which will decide on one of the following courses of action:
 - a. That no further investigation or action is warranted in which case the complainant will be informed in writing and will be encouraged to try to resolve matters informally with the other Member. This course of action is most likely if the complaint does not appear to involve a breach of the Association’s Byelaws.
 - b. To investigate the complaint as set out below. This is more likely if the complaint appears to involve a breach of the Association’s Byelaws.
4. The complainant will be informed in writing of the decision.

INVESTIGATION AND RESOLUTION OF COMPLAINTS BETWEEN MEMBERS

5. The Committee will choose up to three of its members to investigate the complaint. The Committee may invite one or more members of the Appeals Panel (see paragraph 32 below) to assist with the investigation.
6. The Committee will write to the person against whom the complaint is made. In this document that person is called 'the defendant'. The defendant will be sent full details of the complaint and the complainant's evidence, if any, and any evidence the Committee has which it considers supports the complaint. The defendant will be asked to provide their response to the complaint in writing together with evidence in support of their defence within a specified time, including where available statements from witnesses, photographs and videos, correspondence, documents etc. The Committee will send the defendant's response to the complainant.
7. The Committee will decide if it can reach a decision based on the written material. If not, it will invite the complainant and defendant to a meeting, either separately or together (at the discretion of the Committee), so that the Committee can ask them questions and so that the complainant and defendant have an opportunity to say anything further they wish to.
8. The complainant and the defendant are entitled to bring a family member or friend or another Member to the meeting who can speak for that person, if they wish.
9. Once it has finished its investigation, the Committee may make one of the following decisions:
 - a. Not to uphold the allegation, in which case no further action is needed.
 - b. To uphold the allegation and to impose one or more of the sanctions set out in paragraph 26 below.
10. The complainant and the defendant will be informed in writing of the decision.

COMPLAINTS ABOUT THE COMMITTEE

11. If a Member wishes to complain about the actions of the Committee, the Member must send a formal written complaint to the Chair of the Association by post or email. A Member who complains is called 'the complainant' in this document.
12. The complainant must set out in the complaint his/her full name, address, phone number, email address and Plot number, together with details of the complaint including, where available, statements from witnesses, photographs and videos, correspondence, documents etc.

13. The Chair will refer the complaint to the next meeting of the Committee. The Chair will invite to the meeting one or two members of the Appeals Panel (see paragraph 32 below) who are not Committee Members to take part in discussing the complaint. The Committee will decide on one of the following courses of action:
 - a. That no further investigation or action is warranted.
 - b. To investigate the complaint as set out below.
14. The complainant will be informed in writing of the decision.
15. The investigation will be undertaken by three members of the Appeals Panel who are not Committee members. The Chair will send a response to the complaint on behalf of the Committee to the complainant. The Appeals Panel will decide if they can reach a decision based on the written material. If not, they will invite the complainant to a meeting so that they can be asked questions and so that they have an opportunity to say anything further they wish to.
16. The complainant is entitled to bring a family member or friend or another Member to the meeting who can speak for them, if they wish.
17. If the Appeals Panel upholds a complaint about a decision of the Committee or action taken by the Committee, it will recommend that the Committee reconsiders its decision or action.

COMMITTEE ACTION AGAINST A MEMBER

18. This section applies if the Committee considers that a Member has breached (broken) one of the Association's Byelaws. In this document, this is called 'the alleged breach'. The Committee may decide to take over a complaint against a Member by another Member and to proceed under this section.
19. The section does not apply to Members who fail a survey for cultivation, where the survey procedure will be followed. It also does not apply to Probationer Members who are dealt with under the probation policy. (There is a right of appeal against evictions under the survey procedure, as set out below.)
20. The Committee will choose up to three of its members to investigate the alleged breach. The Committee may invite one or more members of the Appeals Panel (see paragraph 32 below) to assist with the investigation.
21. The Committee will write to the person against whom the allegation is made. In this document that person is called 'the defendant'. The defendant will be sent full details of the alleged breach and the Committee's evidence. The defendant will be asked to provide their response to the allegation in writing

together with evidence in support of their defence within a specified time, including where available statements from witnesses, photographs and videos, correspondence, documents etc.

22. The Committee will decide if it can reach a decision based on the written material. If not, it will invite the defendant to a meeting so that the Committee can ask the defendant questions and so that the defendant has an opportunity to say anything further they wish to.
23. The defendant is entitled to bring a family member or friend or another Member to the meeting who can speak for them, if they wish.
24. Once it has finished its investigation, the Committee may make one of the following decisions:
 - c. Not to uphold the allegation, in which case no further action is needed.
 - d. To uphold the allegation and to impose one or more of the sanctions set out in paragraph 26 below.
25. The defendant will be informed in writing of the decision.

SANCTIONS

26. The sanctions which the Committee may impose are as follows:

a. To give the defendant a written warning

- i. The warning will set out what the defendant must or must not do in the future.
- ii. It may also require the defendant to take certain action(s) to put right the breach and if so, it will give a specified time in which to do so.
- iii. The written warning will tell the defendant that the Committee will check to see that the breach has been put right and if the breach has not been put right within the specified time, the defendant will be evicted from his/her Plot.
- iv. The written warning will state how long the warning will stay on the defendant's records and will warn the defendant that if he/she commits another breach, this may lead to his/her eviction.

b. To require the defendant to pay compensation

- i. The defendant may be required to pay a specified amount of compensation to the complainant for loss of or damage to their shed, crops and other property.

- ii. The defendant may be required to pay a specified amount of compensation to the Association for any work and materials used in putting right the defendant's breach.
- c. **To evict the defendant**
 - i. The defendant's membership will be terminated, and they will be required to leave their Plot. This is subject to a right of appeal set out below.

HOW THE COMMITTEE WILL DECIDE ON A SANCTION

- 27. When deciding which sanction to impose, the Committee will take into account the following matters:
 - a. How serious the breach is.
 - b. The effect the breach has had on the complainant, if any, other Members and on the condition of the Allotment Site.
 - c. Whether the defendant has committed other breaches in the past and whether they have kept to the conditions of any previous warnings.
 - d. Where the breach relates to the condition of the defendant's Plot, whether the defendant has failed any surveys in the previous 3 years.
 - e. Whether the breach can be put right.
 - f. Whether the defendant is willing to put right the breach and if so, how quickly.
- 28. A written warning may be appropriate if the breach is less serious and is the defendant's first breach.
- 29. Eviction may be appropriate if the breach is serious or if the defendant has committed previous breaches. Serious breaches include the use of or threat of violence, harassment, abuse of any kind, damage to property and theft.

APPEALS

- 30. There is no right of appeal against the following decisions:
 - a. Not to investigate a complaint.
 - b. Not to uphold an allegation.
 - c. To reach a decision after an investigation without a meeting.
 - d. To impose a sanction other than eviction.
 - e. To evict a Probationer Member.

31. All Members, except Probationer Members, have the right to appeal against a decision to evict them from their Plot. In this document, the person who makes an appeal is called 'the appellant'.
32. All appeals are heard by a panel of three members of the Appeals Panel. The Appeals Panel is made up of between 5 and 15 Members who are not Committee members. The procedures for appointing members of the Appeals Panel and for convening an appeal panel are set out in paragraphs 50-57 below.
33. An appellant must write to the Chair of the Association by post or email within 14 days of the letter informing him/her of the decision to evict, stating that he/she wishes to appeal.
34. The Chair will ask three members of the Appeals Panel to form the appeal panel for the appeal. The members of the appeal panel must not have had any previous involvement in the matter leading to the appeal.
35. The appeal panel will inform the appellant in writing of the date of the appeal hearing which will take place no later than 21 days from the date of the appeal letter. The hearing will be face to face. The appellant is entitled to bring a family member or friend or another Member to the meeting who can speak for them, if they wish. The appeal panel will consider all the material which was given to the Committee during the investigation. It may ask the appellant questions. The appellant will have the opportunity to explain why they should not be evicted.
36. The appeal panel will inform the appellant of its decision in writing within 7 days of the appeal hearing. The appeal panel may make one of the following decisions:
 - a. To confirm the eviction.
 - b. To replace the decision to evict with a written warning which will set conditions for the appellant's conduct for a specified period of time and/ or specify actions the appellant has to take to put right the breach and a timeframe for doing so. The warning will state that if the appellant does not comply with the conditions and/or does not put right the breach, the appellant will be evicted without a further right of appeal.
 - c. To decide that no breach was committed.
37. In reaching its decision, the appeal panel will consider the matters in paragraphs 27-29.

SURVEY FAILURES

38. A Plotholder has the right to appeal a decision to evict them for failing a survey.
39. The process in paragraphs 32-37 will apply to the appeal with the following modifications:
 - a. The appeal panel will consider material from the survey team and the surveys.
 - b. The appeal panel will either confirm the eviction or replace the decision to evict with a written warning which will set conditions for the appellant's plot management for a specified period of time and/ or specify actions the appellant has to take and a timeframe for doing so. The warning will state that if the appellant does not comply with the conditions and/or does not take those actions, the appellant will be evicted without a further right of appeal.
40. The appeal panel will take the following into account when deciding the appeal:
 - a. The Plotholder's reasons for not complying with the Byelaws relating to the management of their Plot.
 - b. What the Plotholder intends to do to bring the Plot up to the required standard and how long it will take.
 - c. Whether the Plotholder has failed a previous survey in the previous 3 years.
 - d. Whether the Plotholder has committed any other breach of the Byelaws.

SHARERS

41. Under the Sharer's Policy, a Sharer may apply to the Committee in the following situations:
 - a. The relevant Plotholder has given up their Plot or been evicted from their Plot before the Sharer has been registered for 4 years.
 - b. The Plotholder has terminated the sharer status of the Sharer.
42. The Committee may make one of the following decisions:
 - a. To put the Sharer on the waiting list at the bottom of their Access to Open Space category.
 - b. If the Sharer is already on the waiting list, to put them in a higher position in their Access to Open Space category.
 - c. To put the sharer in some other position on the waiting list.
 - d. To allow the Sharer to take over the Plot, if the Plotholder has been evicted or given up their Plot.

- e. To terminate the Sharer's membership.
- 43. In making its decision, the Committee will consider the following matters, where relevant:
 - a. How long the Sharer has been registered as a sharer.
 - b. To what extent the Sharer was responsible for any failure of cultivation and/ or for any other conduct which has led to the Plotholder's eviction.
 - c. Whether the Sharer has broken any other Byelaws.
- 44. A Sharer has the right to appeal a decision by the Committee to terminate the Sharer's membership under paragraph 42e. A Sharer also has a right of appeal if they have been registered for 4 years but they are not allowed to take over the Plot because of a survey failure in the previous 12 months.
- 45. There is no right of appeal against a decision by the Committee to offer the Sharer a place on the waiting list or against the position offered on the waiting list.
- 46. The process in paragraphs 32-37 will apply to the appeal with the following modifications:
 - a. The appeal panel will consider the material considered by the Committee, survey team and/or lettings team, as appropriate.
 - b. The appeal panel will either:
 - i. confirm the termination of membership/ refusal to allow the Sharer to take over the Plot.
 - ii. recommend that the Sharer be allowed to take over the Plot.
 - iii. recommend that the Sharer is put on the waiting list in a specified position.

APPOINTMENT OF THE APPEALS PANEL

- 47. The members of the Appeals Panel are drawn from the whole RAA membership. From time to time the Committee sends out an email explaining what is involved in being on the Appeals Panel and asking for Members to express an interest. The Committee selects who to appoint to the Appeals Panel, based on the agreed criteria for the role.
- 48. The essential qualities to be on the Panel are:
 - a. A commitment to fairness.
 - b. An ability to listen and consider all relevant evidence.
 - c. An ability to come to a decision, even if difficult or unpopular.
 - d. A commitment to uphold the RAA's Byelaws.

49. Experience of dispute resolution in whatever form would be useful e.g. lawyers, roles in Human Relations or a Trade Union, teachers, experience in running a business or as a member of a management committee etc.
50. The members of the Appeals Panel choose one of the members to be the Convenor for the Panel.
51. When an appeal is made, the Committee asks the Appeals Panel Convenor to find three members of the Appeals Panel to hear the appeal.
52. If not enough Appeals Panel members volunteer, one or more Committee members, who have not had any dealings with the dispute, sit on the panel to hear the appeal.
53. The appellant does not have a say in who is on the panel to hear their appeal.
54. The Committee can deselect a member of the Appeals Panel if they are inactive.

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