

The Vale of Glamorgan Council

Standards Committee : 22nd September, 2016

Report of the Monitoring Officer

Local Dispute Resolution Procedure

Purpose of the Report

1. To provide additional information in order to assist with a review of the Council's Local Dispute Resolution Procedure.

Recommendation

THAT the Standards Committee considers the contents of this report as part of the review of the Council's Local Dispute Resolution Procedure.

Reason for the Recommendation

In order to progress the Committee's review of the Council's Local Dispute Resolution Procedure.

Background

2. On 11 April 2014 the Standards Committee considered and agreed an informal Local Dispute Resolution Procedure to address low level complaints and breaches of the Members' Code of Conduct (the Code) and Protocol - Standards of Conduct Expected by Members, in response to Welsh Government and the former Public Services Ombudsman for Wales' wishes. The Public Services Ombudsman for Wales ('the Ombudsman'), in guidance on the Code of Conduct for Members of Local Authorities, had stated there was an expectation that Local Authorities throughout Wales would implement a Local Dispute Resolution Procedure to deal with low level complaints which were made by a Member against a fellow Member. At the Full Council meeting on 25 June 2014, a Local Dispute Resolution Procedure ('the Procedure') was duly approved and has been incorporated into the Council's Constitution. For ease of reference a copy of the Council's current Procedure is attached at Appendix A.
3. The Procedure in summary incorporates a three Stage process as follows:
 - Stage 1 - determination by Monitoring Officer or Deputy Monitoring Officer of whether the Procedure is applicable.
 - Stage 2 - conciliation meeting to be held to attempt to resolve the matter.

- Stage 3 - hearing before an Independent Member of the Standards Committee, as nominated by the Chair of the Standards Committee, advised by the Monitoring Officer or Deputy Monitoring Officer.
 - The Procedure permits the member submitting the complaint to request the matter to proceed directly to a Stage 3 hearing without a conciliation meeting being held.
4. The Procedure also allows for the Independent Member at a hearing to make recommendations to the Council regarding changing any procedures or taking any further action. Hearings at Stage 3 are dealt with in private and publicity is not to be given to the names of the Members involved in the complaint unless it is decided that there is a basis to the complaint and the Member is censured.
5. Following consideration by the Standards Committee on 7 July 2016 of a number of suggested amendments to the Council's Procedure it was resolved:
- "(1) THAT Stage 2 of the Local Dispute Resolution Procedure should not become mandatory.
- (2) THAT internal procedures relating to the Members' Code of Conduct be revised to provide that any complaint lodged under the Procedure be brought to the attention of the Member against whom the complaint has been lodged within seven working days of it being received by the Monitoring Officer. Furthermore, if a Member, in lodging a complaint, has identified a specific witness(es) whom they wish to call to give evidence, details of the complaint (redacted if considered necessary) should also be forwarded to the witness(es), the contents of the Guidance be noted.
- (3) THAT a future report be submitted to a future Standards Committee meeting following a review of the Welsh Local Authorities Local Dispute Resolution Procedures."

Relevant Issues and Options

6. As with the Constitution generally, the Procedure is subject to review and changes may be proposed if considered appropriate (either by the Monitoring Officer or the Standards Committee itself).
7. Members will recall that at the Committee meeting on 7 July 2016 comments relating to the Procedure which had been received from Members were considered. These included:
- Delay in dealing with complaints under the Procedure and bringing the same to the attention of the Member complained about;
 - this has been addressed by of the Resolutions of the Standards Committee on 7 July 2016.
 - Witnesses at Stage 3 hearings not having an awareness of the nature of the complaint;
 - this has been addressed by the Resolutions of the Standards Committee on 7 July 2016.
 - Delay in progressing with Stage 2 of the Procedure.
 - A call for Stage 2 of the Procedure to be rescinded.
 - Overall timescales within the Procedure to be tightened up.

- An increased role for the Monitoring Officer in the Procedure when "personal attacks" occur with regard to officers.
 - Process to be streamlined.
 - Some support for a mandatory conciliation stage within the Procedure to settle disagreement and conflict between elected members, but not in cases of potential breaches of the Members' Code of Conduct.
 - Introduction of an independent investigation role to assess whether there is a case to answer in instances of alleged breaches of the Members' Code of Conduct.
 - Standards Committee to consider matters at Stage 3.
 - Consideration to be given to the Procedure being extended to allow employees and members of the public to use the Procedure.
8. The views of the Standards Committee on 7 July 2016 are detailed in the minutes appearing earlier on the agenda for this meeting. In summary:
- There was merit in considering whether any revisions to the Procedure should be made.
 - Reference was made to the need to distinguish between actual Members' Code of Conduct complaints and disputes/disagreements between individual Councillors; and that there was merit and potential for agreement being reached through mediation in the case of the latter.
 - That Stage 2 of the Procedure should not become mandatory.
 - There was some hesitation with regards to the suggestion that an independent member should observe at Stage 2 of the Procedure, and that this would be reconsidered in line with the further information to be presented to the Standards Committee.
 - Consideration be given to increasing the existing sanctions under the Procedure.
 - An acknowledgement that the Procedure, on occasions have proved to be somewhat slow.
 - Whether the existence of internal procedures within political groups was likely to result in a more disciplined approach amongst members and, consequently, less likelihood of a Code of Conduct or the Local Dispute Resolution Procedure having to come into effect.
 - The need to ensure Members' "rights" were not prejudiced as a result of any changes to the Procedure.
 - The need for Members to remain aware of the potential seriousness of breaches of the Members' Code of Conduct and of the important role of the Standards Committee.
 - Whether any scope might exist for strengthening the existing provisions available within the Local Dispute Resolution Procedure in the event of a basis to the complaint being determined (a censure currently being the ultimate sanction).
9. In line with the Committee's request, I have liaised with all Welsh Monitoring Officers and requested sight of their individual Council's Local Dispute Resolution Procedures. Out of the 21 Welsh Local Authorities, I received responses from 13 Councils which included:

Merthyr Tydfil County Borough Council,
Rhondda Cynon Taff County Borough Council,
Flintshire County Council,
Powys County Council,
Gwynedd Council,
Neath Port Talbot County Borough Council,
Blaenau Gwent County Borough Council,
Monmouthshire County Council,
Torfaen County Borough Council,
Isle of Anglesey County Council,
Ceredigion County Council,
Conwy County Borough Council; and
Pembrokeshire County Council.

For ease of reference copies of 12 of those Council's Local Dispute Resolution Procedures are attached at Appendix B (save for Pembrokeshire's which is currently under review) together with a summary of the key points relating to the same and how they differ from this Council's Procedure.

10. As requested, a summary of the cases/findings to date pursuant to the Procedure is set out under Part II of this agenda, given that not all cases have resulted in a censure, and therefore the details relating to the same are not in the public domain.
11. It is also noteworthy that in respect of the attached Local Dispute Resolution Procedures the maximum sanction permitted is a censure, however in Ceredigion County Council their procedure permits members to be removed from Committees or outside bodies.

Resource Implications (Financial and Employment)

12. None as a direct result of this report.

Sustainability and Climate Change Implications

13. None as a direct result of this report.

Legal Implications (to Include Human Rights Implications)

14. The Procedure forms part of the Council's Constitution.

Crime and Disorder Implications

15. None as a direct result of this report.

Equal Opportunities Implications (to include Welsh Language issues)

16. None as a direct result of this report.

Corporate/Service Objectives

17. None as a direct result of this report.

Policy Framework and Budget

18. This is a matter for consideration by the Standards Committee in the first instance, and if any changes to the Procedure are proposed for Full Council to consider thereafter.

Consultation (including Ward Member Consultation)

19. The report does not require consultation with other parties or Members of the Council at this stage, however observations on the Procedure have been received from a number of Members and are reflected in the report.

Relevant Scrutiny Committee

20. Not applicable.

Background Papers

Local Dispute Resolution Procedure for Dealing with Low Level Allegations of Breaches of the Members' Code of Conduct.

Contact Officer

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Officers Consulted

Head of Democratic Services

Responsible Officer:

Debbie Marles, Monitoring Officer

APPENDIX 3 TO SECTION 18**LOCAL DISPUTE RESOLUTION PROCEDURE FOR DEALING WITH LOW LEVEL ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT AND THE VALE OF GLAMORGAN COUNCIL'S PROTOCOL - STANDARD OF CONDUCT EXPECTED BY MEMBERS****INTRODUCTION**

1. The Public Services Ombudsman for Wales' Guidance on the Code of Conduct for Members of Local Authorities in Wales (September 2012) expects Local Authorities throughout Wales to implement a Local Dispute Resolution Procedure to deal with low level complaints which are made by a Member against a fellow Member.
2. This Procedure is introduced to meet the Public Services Ombudsman for Wales' ("the Ombudsman") above expectations.
3. Typically the following will fall within the category of low level complaints:
 - 3.1 failure to show respect and consideration for others contrary to paragraph 4(b) of the Members' Code of Conduct ("the Code") and
 - 3.2 making vexatious, malicious or frivolous complaints against other Members under paragraph 18.2.6(d) of the Code.

Other breaches of the Code may also be determined by the Monitoring Officer to be low level complaints and dealt with under the Vale of Glamorgan Council's Local Dispute Resolution Procedure ("the Procedure").

4. The Procedure is to be read in conjunction with the Code and the Council's Protocol - Standard of Conduct Expected by Members ("the Protocol").
5. The Protocol establishes the behaviour which is acceptable and unacceptable between Members. It sits alongside the Code and fills the gap between behaviour which possibly in itself is not serious, but creates unpleasantness between Members, and behaviour that is approaching the threshold and serious enough for the Ombudsman to hold an investigation. Breaches of the Protocol will also be dealt with under this Procedure.
6. The Ombudsman assumes that where a Member repeatedly breaches this Procedure, the Monitoring Officer will refer the matter to the Ombudsman.
7. Members will continue to be able to complain directly to the Ombudsman where a breach of the Code has occurred. Should the complainant exercise that right then this procedure will not be used, and any efforts to resolve a complaint using this procedure will be stopped. The process will only resume if the matter is referred back for local resolution.
8. The Procedure applies to Vale of Glamorgan Council Member complaints against a fellow Member, and not Members of Town and Community Councils. Complaints made by the public will not be dealt with under this Procedure.

9. The key objectives of the Procedure are:
 - 9.1 resolve low level allegations of breaches of the Code and Protocol locally and quickly,
 - 9.2 avoid unnecessary escalation of the situation which might impact on personal relationships within the Council and damage the Council's reputation,
 - 9.3 avoid unnecessary involvement of the Ombudsman so that his resources are devoted to the investigation of more serious or repeated complaints.

GENERAL PRINCIPLES

10. Members will make all reasonable efforts to resolve disputes via the Procedure.
11. Group Leaders individually and collectively will work to ensure compliance with the Procedure.

WORKING TO AVOID PROBLEMS

12. To minimise the number of instances of alleged breaches the Council has committed to:
 - 12.1 a Member Development Strategy
 - 12.2 providing relevant Member training events.

STAGE 1 OF THE PROCEDURE

13. Any Member who wishes to submit an allegation under the Procedure is to send the complaint to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer or the Deputy Monitoring Officer will indicate whether the allegation may be dealt with under this Procedure or whether it should be referred to the Ombudsman as an allegation of breach of the Code.
14. If the Member wishes to proceed with the allegation under this Procedure the matter may be referred either to a conciliation meeting (Stage 2) or to a hearing by an independent member of the Standards Committee ("the Independent Member") (Stage 3).

STAGE 2 OF THE PROCEDURE

CONCILIATION MEETING

- 15.1 A meeting will be held between the Member making the complaint, the Member against whom the complaint is made, the Leader of the Political Group for the Member who is the subject of the complaint and the Managing Director (or a nominated Director as determined by the Managing Director). The purpose of this meeting will be to attempt to resolve the matter. If deemed necessary the Managing Director or the nominated Director may call

on the Monitoring Officer or the Deputy Monitoring Officer for advice and assistance.

- 15.2 Where the complaint is made by or concerns a Group Leader, or concerns a non-aligned or unaffiliated Member, the conciliation meeting will be attended by the Member making the complaint, the Member against whom the complaint is made, the Managing Director (or a nominated Director as determined by the Managing Director) and the Monitoring Officer or the Deputy Monitoring Officer.

STAGE 3 OF THE PROCEDURE

HEARING

16. The third stage is a hearing before the Independent Member nominated by the Chair of the Standards Committee (the nomination will be on a rotational basis subject to availability). The Member making the complaint will be asked to submit the substance of his/her complaint in writing and the Member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be provided to the Independent Member (copies of the same are to be exchanged between the Members involved in the complaint in advance of being provided to the Independent Member).
17. Both Members involved in the complaint have the right to appear before the Independent Member and to submit evidence from witnesses. Both Members will have the right to representation. The Council will not meet the costs of representation.
18. If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
19. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Independent Member will come to a conclusion on the allegation. The Monitoring Officer or Deputy Monitoring Officer will attend the hearing throughout and advise the Independent Member.
20. The Independent Member may come to one of three conclusions, namely:-
- 20.1 That there is no basis to the complaint.
 - 20.2 That there is a basis to the complaint but that no further action is required.
 - 20.3 That there is a basis to the complaint and that the Member be censured.

In addition the Independent Member may make recommendations to the Council regarding changing any procedures or taking any further action.

SUPPLEMENTARY MATTERS

21. Publicity will not be given to the names of the Members involved in the complaint unless it is decided that there is a basis to the complaint and that the Member be censured.
22. The hearing at Stage 3 will be dealt with in private.
23. Stages 2 and 3 do not have to be followed sequentially. Although it is possible for the Member submitting the complaint who remains dissatisfied after the conciliation meeting to ask for the matter to be referred to a hearing before the Independent Member it is also possible for a matter to proceed directly to the hearing before the Independent Member without going first to a conciliation meeting.
24. There is no internal right of appeal against the decision made by the Independent Member at Stage 3 of the Procedure.

Welsh Council's Local Dispute Resolution Procedures:

By way of summary, I make the following observations with regards to each of the named Council's Local Dispute Resolution Procedures and have also appended the same for information:

Merthyr Tydfil County Borough Council

- Their procedure is very similar to the Vale of Glamorgan Council's Procedure, save for in the main:
 - if a Councillor agrees to use the Local Dispute Resolution Procedure they agree not to pursue the matter with the Ombudsman;
 - a complaint at Stage 2 of the Procedure is referred to the current Leaders of the Political Groups and they are tasked with attempting to resolve the complaint;
 - the conclusion(s) by the Standards Committee is reported to Council for information.
- The procedure highlights that if there are reasonable grounds which indicate a possible breach of the Members' Code of Conduct, the matter should be referred to the Ombudsman. The protocol is designed to deal effectively with complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.

Rhondda Cynon Taff County Borough Council

- This is a 2 Stage process. At Stage 1, following receipt by the Monitoring Officer of the complaint and determination of its appropriateness to be dealt with within the procedure, the Monitoring Officer will seek to try and resolve the matter informally. Failing resolution of the matter at Stage 1 and the Member(s) wishes to proceed with the allegation under the procedure the matter is referred to a hearing before the Standards Committee under Stage 2 of the procedure.
- The Monitoring Officer or Deputy Monitoring Officer or a Legal Officer performs the role of Investigating Officer at Stage 2.
- The procedure also incorporates a number of strict timescales for submitting a complaint, the submission of evidence for the Standards Committee hearing and a 2 month window in which Member(s) must confirm a date they are available to attend the Stage 2 hearing.

Flintshire County Council

- This procedure is similar to the Vale of Glamorgan Council's Procedure, save in the main as follows:
 - The procedure may only be used if the complaint is brought within 30 days of a Councillor becoming aware of the complaint unless the Monitoring Officer exercises discretion. Also there is a 12 month time limit to resolving complaints, unless the Monitoring Officer exercises his/her

discretion to extend the time limit. The procedure only applies to incidents or behaviour occurring in the 12 months prior to a complaint being made in writing to the Monitoring Officer; and a 12 month time limit is applied to resolving complaints unless the Monitoring Officer exercises discretion to extend the time limit.

Powys County Council

- This is a very different procedure to the Vale of Glamorgan Council's Procedure.
- At Stage 1 the Deputy Monitoring Officer will give advice about how to possibly resolve the complaint.
- At Stage 3 of the Procedure, the hearing is before the Standards Committee.
- The procedure deals with minor complaints by Members about Members and minor complaints from Officers about Members and Members alleged to have not shown respect and consideration for others - either verbally or in writing (other than complaints from the public).
- Having submitted the complaint to the Monitoring Officer and it being determined that the nature of the complaint falls within the procedure the resolution process involves Group Leaders/Chair of the Council in an attempt to get the Member(s)/Officer(s) involved in the complaint to come to an agreement as to how the issue(s) could be resolved. The Monitoring Officer or Deputy Monitoring Officer is the facilitator for the resolution process.
- The procedure does not involve a hearing before an independent member of the Standards Committee or the Standards Committee.
- If agreement cannot be reached during the resolution process stage, the aggrieved Member (Officer) may refer the matter to the Ombudsman.
- There is an emphasis on the need for quickly resolving matters albeit timescales are not set.

Gwynedd Council

- This is a 3 Stage Procedure which is similar to the Vale of Glamorgan Council's, save for the following:
 - At Stage 1, upon receipt of a complaint by the Monitoring Officer, the Monitoring Officer will undertake or nominate another Officer to undertake a brief preliminary investigation to establish the facts and areas of dispute. Possible resolutions will be explored.
 - Stage 2 is a conciliation meeting held between the person making the complaint, the Member against whom the complaint is made, the Monitoring Officer and (if deemed appropriate) other persons invited by the Monitoring Officer.
 - Stage 3 of the procedure is a hearing before the Standards Committee.

Neath Port Talbot County Borough Council

- This is a different approach to the one adopted by the Vale of Glamorgan Council, which I'd summarise as follows:
 - Monitoring Officer appoints mediator, with mediation taking place within 6 weeks from the complaint being made.
 - Should mediation fail, the complaining member may request the matter to be referred to the Local Resolution Panel within 6 weeks of the last mediation meeting.
 - The Local Resolution Panel will comprise 3 members i.e. an independent member of the Standards Committee and elected members appointed by the Leader of the Council and the Leader of the largest non executive political group, to make recommendations in line with the procedure with a view to addressing the complaint.
 - The Local Resolution Panel will be able to make recommendations to the Standards Committee regarding training or changes to any procedures which may have contributed to the complaint arising.

Blaenau Gwent County Borough Council

- I'm advised by the relevant Monitoring Officer that the procedure involves a hearing before the Standards Committee.

Monmouthshire County Council

- This is a very different approach to the one adopted by the Vale of Glamorgan Council and is based on the Leader or Group Leaders taking responsibility for discipline within the Groups.
- Prior to considering any sanction or training the Group Leader may consult with a member of the Standards Committee in conjunction with Monitoring Officer or Deputy Monitoring Officer.
- If there are persistent breaches, the relevant Group Leader will meet the Chief Executive and Monitoring Officer to agree a way forward.
- At the next available Group Leader's Meeting any issue of discipline which has been referred to a Group Leader will be discussed with the Group with the objective of seeking to ensure that fair and consistent sanctions are applied.
- The procedure also caters for unaffiliated members and detailing a role for the Chair of the Council in place of a Group Leader.
- Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches.
- Standards Committee Members play a supporting/advisory role to the Group Leaders.

Torfaen County Borough Council

- The approach adopted in Torfaen is similar to the Vale of Glamorgan Council, save in the main for the following:

- Similar to the approach adopted in Merthyr Tydfil County Borough Council, the procedure highlights that if there are reasonable grounds which indicate a possible breach of the Members' Code of Conduct, the matter should be referred to the Ombudsman, with the procedure being designed to deal effectively with those complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.
- If the procedure were to be utilised then all parties concerned are required to agree not to refer the matter to the Ombudsman.
- Stage 2 attempts an informal resolution to the complaint with the matter being referred to the current Member's Champion Training and Development (or in his/her absence or if he/she is otherwise unable to act) the Mayor to contact the Member against whom the complaint is made and, if appropriate, the Leader of the relevant Political Group, to try and resolve the matter informally.
- The Member's Champion Training and Development may decline to undertake Stage 2 and with the consent of the Chair of the Ethics and Standards Committee may refer it immediately to a hearing before the Ethics and Standards Committee.
- A complaint may only progress to a hearing before the Ethics and Standards Committee with the consent of the Chair of the Committee.
- Following the resolution of the matter by the Ethics and Standards Committee, the outcome of a hearing is referred to Council, and Council may resolve to accept the decision of the Committee or take no further action.

Isle of Anglesey County Council

- Again this procedure is very different from the Procedure adopted in the Vale of Glamorgan Council, and I'd highlight the following in particular:
 - The procedure seeks to achieve swift mediation and reconciliation requiring the Member/Officer wishing to use the procedure to submit their complaint to the Monitoring Officer within 7 working days from the date of the event which is the subject of the complaint, or 7 working days from the date when the event came to the knowledge of the complainant. The Member who is the subject of the complaint has 7 working days within which to respond to the Monitoring Officer and thereafter the Monitoring Officer will arrange a meeting of an informal panel of the Standards Committee to consider the complaint. The panel will consist of 2 members of the Standards Committee on a rotational basis, but will not include a Community Council Member.
 - The informal panel has no disciplinary powers but may make recommendations to Group Leaders individually in relation to members of their group and to the Group Leaders collectively in relation to any unaffiliated members.
 - The outcome of any panel will also be discussed as a standard item at Group Leaders meetings.

Ceredigion County Council

- Again the procedure adopted in Ceredigion is very different from the Vale of Glamorgan Council's Procedure.
- The procedure caters for significant input from Group Leaders. A complaint by a member relating to a member of the same group would be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.
- It is the role of the Group Leaders to take responsibility of discipline within their groups.
- When appropriate, a sanction such as a removal from a Committee or an outside body may be used in extreme cases or after persistent breaches, the matter may be referred to the Ombudsman.
- Prior to any sanction or training being considered, the relevant Group Leader may consult with an independent member of the Ethics and Standards Committee in conjunction with Monitoring Officer or Deputy Monitoring Officer.
- Any issue of discipline which has been referred to a Group Leader will be discussed at the next available Group Leader's meeting with the objective of seeking to ensure that fair and consistent sanctions are applied.
- If a complaint relates to a Group Leader the Chairman of the Council will be requested to consider the complaint as with non-aligned or unaffiliated members.
- In cases of persistent breaches Group Leaders will meet with the Chief Executive, the Monitoring Officer and an independent member of the Ethics and Standards Committee to agree a way forward.
- Consideration be given to a joint reference to the Ombudsman by the Group Leaders for persistent low level breaches.
- The role of Ethics and Standards Committee will be to provide support and advice to the Group Leaders.
- The procedure does not cater for a hearing before Standards Committee.

Conwy County Borough Council

The approach in Conwy is similar to that of Ceredigion and the protocol assumes a lead role for Group Leaders but also includes a flow chart with strict timescales at various stages of the process in order to ensure that the complaint is resolved in a timely manner.

PROCEDURE FOR DEALING WITH ALLEGATIONS THAT A COUNCILLOR HAS BREACHED THE LOCAL PROTOCOL FOR MERTHYR TYDFIL COUNTY BOROUGH COUNCIL.

1.	<u>Introduction</u>
1.1	The Local Protocol for Merthyr Tydfil County Borough Council aims to promote good co-operation between Councillors and Officers and exemplary standards of behaviour thus allowing the Council to carry out its duties efficiently and professionally.
1.2	Legislation sets out a statutory regime whereby complaints for breaches of the Councillors' Code of Conduct are referred to the Public Services Ombudsman for Wales (the Ombudsman).
1.3	The Ombudsman has the discretion to decide whether allegations of breaches of the Councillors' Code of Conduct will be investigated. Therefore if there are reasonable grounds which indicate a possible breach of the Code, the matter should be referred to the Ombudsman. This Protocol is designed to deal effectively with those complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.
1.4	It is important that any allegations made under this protocol are dealt with quickly and effectively.
1.5	The purpose of this procedure is to introduce a simple and clear method of dealing with such allegations.
2.	<u>Complaints involving officers</u>
2.1	The Chief Executive will deal with all complaints by officers against Councillors and complaints by Councillors against officers under this Protocol as set out in paragraphs 8.1 and 8.2 of the Protocol. The Chief Executive retains the discretion to refer the matter to the Ombudsman or with the consent of the Chair, to the Standards Committee under Stage Three of the Procedure below.

2.2	If any complaint by an officer against a Councillor is referred to the Standards Committee (the Committee), the procedure as set out in Stage Three below will be followed.
3.	<u>Complaints against Councillors by other Councillors</u>
3.1	Complaints against Councillors by other Councillor/s will be dealt with under the following three stage procedure.
4.	<u>Procedure</u>
4.1	<p><u>Stage One of the Procedure: Making the complaint</u></p> <p>(i) Any Councillor who wishes to submit an allegation should send the complaint in writing to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within this Protocol or whether the complainant should consider referral to the Ombudsman as an allegation of breach of the Councillors' Code of Conduct. The Monitoring Officer may choose not to deal with the allegation at this stage in order to be able to advise the Committee later in the process, in which case the Deputy Monitoring Officer or a Legal Officer will advise the complainant.</p> <p>(ii) If a local resolution is sought under this Protocol then all parties concerned must agree not to refer the matter to the Public Services Ombudsman for Wales, failing which this Protocol cannot be used. If there is a formal referral to the Ombudsman then legislation and regulations set out how the Ombudsman may investigate that matter and if appropriate refer the result of any investigation to the Standards Committee so that the Committee may determine that complaint.</p> <p>(iii) If following the first stage the Councillor wishes to proceed with the allegation under this Protocol, the matter may be referred either to an informal resolution under Stage Two or to a hearing by the Committee under Stage Three.</p>

4.2	<p><u>Stage Two of the Procedure: Informal resolution</u></p> <p>At Stage Two, the complaint (if both parties agree) will be referred to the current Leaders of the Political Groups and the Mayor to contact the Member against whom the complaint is made and, if appropriate, to try and resolve the matter informally.</p> <ul style="list-style-type: none"> (i) The Leaders of the Political Groups and the Mayor may decline to undertake Stage Two and with the consent of the Chair of the Committee refer it immediately to Stage Three. (ii) If necessary, the Leaders of the Political Groups and the Mayor can call on the Monitoring Officer, the Deputy Monitoring Officer or Legal Officer for advice and assistance. On occasions, it may be appropriate for the Monitoring Officer not to be involved in order to be able to advise on the matter at a later stage.
4.3	<p><u>Stage Three of the Procedure: Hearing before the Standards Committee</u></p> <ul style="list-style-type: none"> (i) If either party remains dissatisfied after Stage 2, then with the consent of the Chair of the Committee, the third stage of the hearing is before the Standards Committee. The Councillor making the complaint will be asked to submit the substance of the complaint in writing, and the Councillor who is the subject of that complaint will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee. (ii) Both the Councillor making the complaint and the Councillor complained against have the right to appear before the Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Council will not meet the cost of representations. (iii) If either side wishes not to be present or fails to attend, the hearing may be held in their absence.

	<p>(iv) After the evidence has been heard, both sides and their representatives will be asked to leave the Chamber and the Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.</p> <p>(v) The Committee can come to one of three conclusions, namely:-</p> <p>(a) That there is no basis to the complaint.</p> <p>(b) That there is a basis to the complaint but that no further action is required.</p> <p>(c) That there is a basis to the Complaint and that the Councillor should be censured.</p>
4.4	The Conclusion by the Standards Committee will be reported to Council for information.
5.	Other Matters
5.1	<p>(i) Publicity will not be given to the names of the Councillors involved unless it is decided to uphold the complaint and that the Councillor should be censured.' The hearing before the Committee will be exempt.</p> <p>(ii) Stages Two and Three do not have to be followed sequentially. Although it is possible for a Councillor who remains dissatisfied after the intervention of the Leaders of the Political Groups and the Mayor to ask for the matter to be referred to a hearing before the Committee, it is also possible for a matter to proceed directly to the Committee without being first submitted to the Stage 2 process, provided the Chair of the Standards Committee agrees.</p> <p>(iii) The aim of this Procedure is to try and resolve complaints regarding Councillors quickly and effectively. Nothing in this procedure prevents an officer or</p>

	<p>Councillor from submitting a complaint to the Ombudsman that a Councillor has breached the Councillors' Code of Conduct at any time before Stages Two (in the case of a Councillor) or Three (in the case of either an officer or a Councillor) of the Procedure is engaged.</p> <p>(iv) This Protocol is not designed for use by members of the Public. If there is a complaint by a member of the public against officer conduct or Councillor conduct, then that should follow normal processes, either through a complaint to the Chief Executive or relevant Chief Officer in respect of an officer or to the Monitoring Officer and/or the Ombudsman in respect of a Councillor.</p>
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Rhondda Cynon Taff County Borough Council

3. Rules of procedure

Rules of Procedure for dealing with complaints under the Local Protocol

3.1 Legislation sets out a statutory regime whereby complaints for breaches of the Members' Code of Conduct are referred to the Public Services Ombudsman for Wales (the Ombudsman).

3.2 The Ombudsman has the discretion to decide whether allegations of breaches of the Members' Code of Conduct will be investigated. This protocol is designed to deal effectively with those complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.

3.3 Allegations by a Member(s) of a breach of one (or more) of the standards of conduct set out in paragraph 2 of the protocol by another Member(s) will be dealt with in accordance with the procedures set out below.

3.4 It is important that any allegations made under the protocol are dealt with quickly and effectively with the co-operation of all parties involved. Each party must make themselves available to attend a hearing held thereunder as a matter of priority and within the timescales set out in this protocol.

3.5 Should, following commencement of the protocol process, any Member elect at anytime to refer the matter to the Ombudsman for investigation the protocol process will be discontinued and cannot subsequently be resumed.

3.6 Stage One – Making the Complaint and informal resolution

(i) Any Member who wishes to submit an allegation under the protocol should send the complaint to the Monitoring Officer. The complaint must be submitted to the Monitoring Officer within one month of the event that has given rise to the complaint occurring or; within one month of the substance of the complaint coming to the attention of the Member submitting the allegation.

(ii) Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within the protocol or whether the complainant(s) should consider referral to the Ombudsman as an allegation of breach of the Members' Code of Conduct.

(iii) If there is a formal referral to the Ombudsman then legislation and regulations set out how the Ombudsman may investigate that matter and if appropriate refer the result of any investigation to the Standards Committee so that the Committee may determine that complaint.

(iv) If the Monitoring Officer determines that the allegation falls within the protocol he/she will seek to try and resolve the matter informally.

(v) If following Stage One the Monitoring Officer cannot resolve the matter informally between the parties and the Member(s) wishes to proceed with the allegation under the protocol the matter will be referred to a hearing before the Standards Committee under Stage Two.

N.B. The Monitoring Officer may choose not to deal with the allegation at this stage in order be able to advise the Committee later in the process, in which case the Deputy Monitoring Officer or a Legal Officer will advise the Member complainant(s).

3.7 Stage Two – Standards Committee hearing

(i) Stage Two is a hearing before the Standards Committee.

(ii) The Member(s) making the complaint will be asked to re-confirm the substance of the complaint in writing to the Monitoring Officer (including identifying which standard(s) of conduct set out in paragraph 2 above is/are alleged to have been breached) together with all the written evidence they wish to submit for consideration at the hearing within two weeks of notifying the Monitoring Officer they wish the complaint to be dealt with by way of hearing before the Standards Committee.

(iii) The Member(s) who is the subject of that complaint must provide a written response to that complaint within one month of receipt of notification of it together with all written evidence they wish to submit for consideration at the hearing.

(iv) The Monitoring Officer if he/she participated in Stage One will notify the deputy monitoring officer or a legal officer of receipt of the complaint who shall thereafter have conduct of the matter (the 'Investigating Officer').

(v) If the Monitoring Officer chose not to deal with the allegation at Stage One he/she shall be the Investigating Officer.

(vi) Both the Member(s) making the complaint and the Member(s) against whom the allegation(s) has been made must respond promptly to all correspondence relating to the matter including requests to confirm availability in respect of scheduling the hearing itself. Member(s) will be given dates within a two month window in which they must confirm a date they are available to attend the hearing.

(vii) The papers referred to in paragraph 3.7(ii) and 3.7(iii) will be distributed to the Members of the Committee in accordance with the Council's Access to Information Rules.

(viii) No additional evidence may be produced without the prior consent of the Chair of the Committee.

(ix) Each Member must give notification in writing to the Investigating Officer of any witnesses they intend to call to give evidence at the hearing. It is the responsibility of the Member calling the witness to ensure that witness is available to attend on the agreed date.

(x) If either side wishes not to be present or fails to attend, the hearing may be held in their absence.

(xi) Should they deem it appropriate the Standards Committee may invite Council officers to attend the hearing to answer any questions they may have any relevant to the matter before it.

(xii) The proceedings at the Standards Committee hearing itself shall be conducted as follows: -

- a) Opening address by the Chairman;
- b) Member(s) who submitted the complaint be invited to address the Committee;
- c) Questions by Committee Members;
- d) Member(s) who the allegations have been made against be invited to address the Committee;
- e) Questions by Committee Members;
- f) Witnesses for Member(s) who submitted the complaint address the Committee
- g) Questions by Committee Members;
- h) Witnesses for Member(s) who the allegations have been made against be invited to address the Committee;
- i) Questions by Committee Members;
- j) The Member(s) who has made the complaint be invited to address the Committee with any closing remarks;
- k) The Member(s) who is/are the subject of the complaint be invited to address the Committee with any closing remarks
- l) Questions by Committee Members (if any) to Council Officers who have been invited to attend by the Committee
- m) Committee to retire to deliberate in private on the representations and decide whether or not the Member(s) who the allegations have

been made against has failed to comply with the protocol and what sanction, if any, to impose;
n) Committee to reconvene in public for the Chairman to announce the Committee's finding.

FLINTSHIRE COUNTY COUNCIL .

Local Resolution Procedure For Complaints About Behaviour

INTRODUCTION

1. The Flintshire Standard and the Protocol for Member-Officer Relations are important in promoting good co-operation between members and between members and officers within the Council, thereby allowing the council to fulfil its duties effectively and professionally. It is therefore important that any allegations against a member that he/she has breached the standard and/or protocol can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy way to understand the method of dealing with such allegations.

2. It is important that poor behaviour is quickly addressed and matters are handled whilst recollections are fresh. Therefore, this procedure will therefore only apply where a complaint has been made within 30 days of the complainant becoming aware of the incidents giving rise to the complaint, unless the Monitoring Officer exercises their discretion to extend the time limit. Further, this procedure will only apply to incidents or behaviour occurring in the 12 months prior to a complaint being made in writing to the Monitoring Officer. There will also be a 12-month time limit to resolving complaints under this procedure, unless the Monitoring Officer exercises their discretion to extend the time limit.

STAGE 1 OF THE PROCEDURE

3. Any member or officer who wishes to submit an allegation under this procedure should send the complaint to the Monitoring Officer. Officers wishing to make a complaint should first consult with their Chief Officer. Following receipt of the complaint the Monitoring Officer will act as follows:-

4. The Monitoring Officer will not deal with the allegation at this stage in order to preserve their ability to advise the Standards Committee later in the process. In the first place the allegation will be referred either the Deputy Monitoring Officer (or another officer nominated by the Monitoring Officer) who will advise whether the allegation falls within this procedure or whether it should be referred to the Ombudsman as an allegation of breach of the Members Code of Conduct.

N.B. The complainant has the statutory right to complain to the Public Service Ombudsman for Wales ("PSOW"). Should the complainant exercise that right then this procedure will not be used, and any efforts to resolve a complaint using this procedure will be stopped. The process will only resume if the matter is referred back for local resolution.

5. This procedure is only suitable for allegations made by officers or members of Flintshire County Council that a member has breached the Flintshire Standard or the Protocol on Member/Officer relations. It is not suitable for complaints:

- made by members of the public;
- which in the opinion of the Monitoring Officer allege a serious breach of the code of conduct;
- or
- alleging repeated breaches of the code of conduct, or breaches where are similar to complaints that have been handled at Stage 3 of this procedure.

If the complaint is suitable for this procedure then the Deputy Monitoring Officer will give advice about how to possibly resolve the complaint. If the complaint is not suitable for this procedure then the Deputy Monitoring Officer will give advice about what (if anything) can be done.

6. If following the first stage the complainant wishes to proceed with the allegation under this procedure the matter may be referred either to a conciliation meeting under Stage 2 or to a hearing by the Standards Committee under Stage 3.

STAGE 2 OF THE PROCEDURE

7. At Stage 2 a meeting will be held between:

- the complainant;
- the member against whom the complaint is made;
- the Chief Executive
- the leader of any relevant political group(s), that is to say the subject member's group leader and, if the complainant is a member, his/her group leader.

If the complainant is an officer, then it will be possible for the complainant to have a colleague or senior officer with him/her.

It is also possible for the matter to be dealt with in the complainant's absence in exceptional cases.

8. The purpose of this meeting will be to try and resolve the matter by conciliation. If deemed necessary the Chief Executive can call on the Monitoring Officer, the Deputy Monitoring Officer for advice and assistance.

STAGE 3 OF THE PROCEDURE

9. The third Stage is a hearing before the Standard Committee. The complainant will be asked to submit the substance of the complaint in writing and the member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee.

10. Both the complainant and the member have the right to appear before the Standards Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Council will not meet the costs of representation.

11. If either side wishes not to be present or fails to attend the hearing may be held in their absence.

12. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Standards Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.

13. The Committee can come to one of three conclusions, namely :-

- a) That there is no basis to the complaint.
- b) That there is a basis to the complaint but that no further action is required.
- c) That there is a basis to the complaint and that the member should be

In addition the Committee can make recommendations to the Council regarding changing any procedures or taking any further action.

SUPPLEMENTARY MATTERS

14. The papers for the hearing will be exempt and it will be recommended that the hearing will take place with the press and public excluded. Publicity will not be given to the names of either the member or the complainant unless it is decided TO UPHOLD the complaint and that the member should be censured.

15. Stages 2 and 3 do not have to be following sequentially. Although it is possible for a complainant who remains dissatisfied after the conciliation meeting to ask for the matter to be referred to a hearing before the Standards Committee, it is also possible for a matter to proceed directly to the Standards Committee without going first to a conciliation meeting.

16. The aim of this procedure is to try and resolve complaints regarding members quickly and effectively. Nothing in this procedure prevents a complainant from submitting a complaint to the Public Services Ombudsman for Wales that a member has breached the Members Code of Conduct.

POWYS COUNTY COUNCIL
SECTION 25 – LOCAL RESOLUTION PROTOCOL

Background.

25.1 The Public Service Ombudsman has made representations that Councils institute Local Resolution (LR) Processes to reduce the numbers of complaints sent to the Ombudsman. If there is no progress with setting up these processes there is a risk that Welsh Government will bring forward legislation to make this compulsory.

25.2 Set out below is the Powys County Council's Local Resolution Process.

The Local Resolution Process.

Issues which will be considered under this process

25.3 Low level complaints about Members e.g.

25.3.1 Minor complaints from Members about Members

25.3.2 Minor complaints from Officers about Members

22.3.3 Members alleged to have not shown respect and consideration for others – either verbally or in writing.

Issues which will not be considered under this process

25.4.1 Complaints which must be directed to the Public Services Ombudsman for Wales:

25.4.1.1 Complaints from the Public.

25.4.1.2 Serious complaints – breaches of the Code of Conduct / Failure to Disclose Interests / bullying.

25.4.2 Vexatious, malicious or frivolous complaints

25.4.3 Members' complaints about officers which should be dealt with using the Council's internal complaints process.

25.4.4 Repetitive low level complaints.

The Process

The complaint

25.5 The complaint would need to be sent to the Monitoring Officer of Powys County Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman.

Resolution Process.

25.6.1 The involvement of Group Leaders/ Chair of Council in the following process is not to adjudicate on the complaint, but to attempt to get the members / officers involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis.

25.6.2 The Monitoring Officer or Deputy Monitoring Officer will act as a facilitator for the resolution process below.

25.6.2.1 If the complaint is between Members of the same political group – the Monitoring Officer and the relevant Group Leader will meet with the

SECTION 25 – LOCAL RESOLUTION PROTOCOL

- complainant and Member subject of the complaint to seek an agreed resolution.
- 25.6.2.2 If the complaint is between Members of different political groups - the Monitoring Officer and the relevant Group Leaders will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
- 25.6.2.3 If the complaint is between a Member of a political group and a non-aligned Member (i.e. not belonging to any political groups) - the Monitoring Officer and the relevant Group Leader together with the Chair of the Council (who will act as the "Group Leader" for any non-aligned Member) will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
- 25.6.2.4 If the complaint is between non-aligned Members (i.e. not belonging to any political groups) - the Monitoring Officer and the Chair of the Council (who will act as the "Group Leader" for any non-aligned Member) will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
- 25.6.2.5 If the complaint has been made by an officer against a Member the Monitoring Officer and the Group Leader / Chair of Council (for any non-aligned Member) will meet with the officer and the Member subject of the complaint to seek an agreed resolution
- 25.6.2.6 Where a Group Leader is involved in such a dispute, the Monitoring Officer and the relevant Deputy Group Leaders will meet with the complainant and Member subject of the complaint to seek an agreed resolution.

Possible results of the process

- 25.7.1 If an agreement is reached by Members and/or officers during this Stage then no further action is required.
- 25.7.2 If agreement cannot be reached the aggrieved Member / officer would always have the opportunity of referring the matter to the Ombudsman.

Time for the process.

- 25.8 It is the intention that all of the processes can be completed as quickly as possible to resolve the issue. However exact timing will depend on the availability of individuals to attend the meetings.

GWYNEDD COUNCIL LOCAL RESOLUTION PROCEDURE

A PROCEDURE FOR DEALING WITH ALLEGATIONS THAT A MEMBER HAS BREACHED THE MEMBER-OFFICER RELATIONS PROTOCOL OR THE GWYNEDD STANDARD

INTRODUCTION

1. The Protocol for Member-Officer Relations is an important tool to promote good co-operation between members and officers within the Council and thereby allow the council to fulfil its duties effectively and professionally. In the same vein the Council has adopted the Gwynedd Standard in order to promote and maintain high standards of conduct amongst members. It is therefore important that any allegations against a member that he/she has breached the protocol or the Standard can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy to understand method of dealing with such allegations.

STAGE 1 OF THE PROCEDURE

2. Anyone who wishes to submit an allegation under this procedure should send the complaint (in the case of an officer following consultation with the Head of Department) to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer will act as follows:-
3. In the first place a brief preliminary investigation will be held to establish the facts (where possible) and the areas of dispute. Possible resolutions will be explored with the complainant and the member about whom the complaint is made to establish whether the complaint can be resolved quickly. At this stage the complainant will also be advised whether another course of action (e.g. referral to the Ombudsman) is more appropriate. This stage may be undertaken by the Monitoring Officer personally or by another officer appointed by him.
4. If following the first stage the complainant wishes to proceed with the allegation under this procedure the matter may be referred either to a conciliation meeting under Stage 2 or to a hearing by the Standards Committee under Stage 3.

STAGE 2 OF THE PROCEDURE.

5. At Stage 2 a meeting will be held between the person making the complaint, the member against whom the complaint is made, the Monitoring Officer and (if deemed appropriate) other persons invited by the Monitoring Officer. Such persons could include, but are not limited to, the Chief Executive and the Group Leader of the relevant political group(s). It is possible for an officer to have a colleague or senior officer from the department with him/her. It is also possible for the matter to be dealt with in the officer's absence in exceptional cases. The purpose of this meeting will be to try and resolve the matter without it going further.

STAGE 3 OF THE PROCEDURE.

6. The third Stage is a hearing before the Standard Committee. The person making the complaint will be asked to submit the substance of the complaint in writing and the member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee.
7. Both the person making the complaint and the member who is the subject of the complaint have the right to appear before the Standards Committee and to submit evidence from witnesses. Written witness evidence alone will not be accepted without the consent of the other side. Both sides will have the right to representation or to have a colleague present. The Council will not meet the costs of representations.
8. If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
9. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Standards Committee will come to a conclusion on the allegation. The Monitoring Officer or his representative will be available to advise the Committee.
10. The Committee can come to one of three conclusions, namely :-
 - a) That there is basis to the complaint
 - b) That there is a basis to the complaint but that no further action is required.
 - c) That there is a basis to the complaint and that the member should be censured.

In addition the Committee can make recommendations to the Council regarding changing any procedures or taking any further action.

SUPPLEMENTARY MATTERS.

11. **Publicity will not be given to the names of the parties unless it is decided to uphold the complaint. The hearing before the Standards Committee will be exempt.**

12. **Stages 2 and 3 do not have to be following sequentially. Although it is possible for a complainant who remains dissatisfied after the conciliation meeting to ask for the matter to be referred to a hearing before the Standards Committee, it is also possible for a matter to proceed directly to the Standards Committee without going first to a conciliation meeting. The member may offer an apology at any time up to the hearing but if a hearing has been arranged and the complainant decides that he/she does not wish to proceed with the complaint the consent of the Chair of the Standards Committee is required to cancel the hearing.**

13. **The aim of this procedure is to try and resolve complaints regarding members quickly and effectively. Nothing in this procedure prevents anyone from submitting a complaint to the public services ombudsman for wales that a member has breached the members code of conduct. The ombudsman could, if he is of the opinion that there is a case to answer, refer the matter to the standards committee or the adjudication panel for wales which has the power to disqualify members for up to 5 years.**

Local Resolution Procedure

- 4.1. In the event of a dispute arising, a Member who complains that another has breached the Code will be provided with the contact details of a Mediator appointed by the Monitoring Officer.
- 4.2. The complainant Member will notify the Member who is the subject of the complaint of his intention to seek mediation of the dispute. Both Members will supply the Mediator with dates of availability, but with the intent that the mediation meeting will within six weeks from the complaint being made.
- 4.3. The mediation meeting(s) will be confidential. It is hoped that this process will encourage the Members to attain consensus on resolving the complaint. Whatever is agreed will be confirmed by them to the Mediator but will not be further published unless agreed by both the Members.
- 4.4. If the mediation stage does not resolve the complaint, then the complaining Member may request that the matter to be referred to the Local Resolution Panel within six weeks of the last mediation meeting. The Mediator will be asked to confirm whether resolution was attained but nothing further.
- 4.5. The Local Resolution Panel will comprise three members, namely: an independent Member of the Standards Committee and elected Members appointed by the Leader of Council and the Leader of the largest non-executive political group. No Member shall serve who has had a previous involvement with the matter. The Panel will meet in private.

- 4.6. Both the complaining Member and the Member who is subject of the complaint will be entitled to appear and/or produce written or oral information relevant to the facts of the matter complained of. Either Member may be accompanied by a friend but shall not be represented by a Solicitor or Barrister.
- 4.7. The Local Resolution Panel will consider the information and have discretion to determine the facts and if they consider it appropriate to make such recommendation as would address the complaint, either there is:
 - 4.7.1. No basis for the complaint
 - 4.7.2. A basis for the complaint but no further action is necessary or
 - 4.7.3. A basis for the complaint and an apology should be provided to the complainant Member in an appropriate manner or such other action that is within the power of the Council.
- 4.8. The complainant Member may refer the matter to the PSOW and the PSOW will consider whether to investigate.
- 4.9. The Local Resolution Panel may also make recommendations to the Standards Committee regarding training or changes to any procedures which may have contributed to the complaint arising.
- 4.10. If the complaint is referred to the PSOW and an investigation report is produced the independent Member on the Standards Committee who was appointed to the Local Resolution Panel will not take part in any proceedings relating to that investigation report.

MONMOUTHSHIRE COUNTY COUNCIL

PROTOCOL FOR SELF REGULATION OF MEMBER CONDUCT

General Principles

1. To promote high standards of conduct and behaviour as a means of strengthening respect and trust amongst members.
2. The protocol does not replace the Member-Officer Relations Protocol set out in the Council's Constitution.
3. It is NOT intended to replace the Code of Conduct rather it is intended to sit alongside it, enabling behaviour which may not reach the Ombudsman's threshold to be dealt with.
4. Members will make all reasonable attempts to resolve disputes through agreed internal processes subject to their obligations under the Members' Code of Conduct.
5. Members will avoid personal confrontation in any public forum, especially full Council and through the media.
6. These commitments will not stifle legitimate political debate or scrutiny.
7. Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for their own members.
8. Group Leaders individually and collectively will work to ensure compliance with this protocol.
9. Members will commit to training and development in support of this protocol

Working to avoid problems

To minimise the number of instances of alleged breaches all Group Leaders are asked to commit to:-

1. A Member Learning and Development Strategy – to which they will seek to secure the commitment of their group members. All reasonable endeavours will be made to ensure that the Learning and Development Strategy identifies and responds to the needs of members.
2. Attending relevant Member training events - in particular those relating to the Code of Conduct or probity courses within the scope of their role.
3. Support the provision made by the County Council for complying with sections 5 and 7 of the Local Government Measure 2011 (Annual reports & Training and development)

Role of Group Leaders

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.

Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal, resolved through face to face meetings. Group Leaders will need to retain some records but the process will not be "document heavy". The emphasis should be on training, education, mediation and conciliation.

When appropriate, a sanction such as removal from a committee or an outside body, may be used in extreme cases or after persistent breaches and the matter will be referred to the Public Services Ombudsman for Wales.

Prior to considering any sanction, or training, the relevant Group Leader may consult with a member of the Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.

At the next available Group Leaders' meeting any issue of discipline which has been referred to a Group Leader will be discussed with the group and with the objective of seeking to ensure that fair and consistent sanctions are applied.

Unaffiliated Members

As far as unaffiliated members are concerned, the Chair of the Council will fulfil the role of Group Leader. Concerns regarding the conduct of an unaffiliated member should be referred to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation.

In the event that an unaffiliated member refuses to provide reasonable co-operation to the Chair of the Council, or if the breach is significant, or in the event of repeated breaches, then the Council may remove the unaffiliated member from any committee seats allocated by the full Council. Such a proposal should be put to the Council jointly by the Group Leaders. In the case of persistent breaches the matter shall be

referred to the Ombudsman by the Monitoring Officer or in his/her absence the Deputy Monitoring Officer.

Persistent Breaches

In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Chief Executive and Monitoring Officer to agree a way forward. Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches. The collective Group Leaders will also assume this responsibility in relation to unaffiliated members.

Standards Committee

- The Standards Committee Members will play a supporting/advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader, in a particular case.
- Such meetings will be private and informal.
- Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the members of the Standards Committee shall remain private and confidential.
- When acting in an advisory role to the Group Leaders/Chair of the Council, the Standards Committee has no right of sanction. However, it shall be open to the Group Leader to request that the Standards Committee, as a last resort, issue a public censure against a group member. Where this is to be considered, the member who may be subject to censure will be provided with a reasonable opportunity to make submissions to the Standards Committee members, either in person or in writing.
- The recommendations available to the Standards Committee will include a recommendation that a Group Leader takes action against one of their members, including removal from committee or outside body.

PROCEDURE FOR DEALING WITH ALLEGATIONS THAT A COUNCILLOR HAS BREACHED THE LOCAL PROTOCOL FOR TORFAEN COUNTY BOROUGH COUNCIL.

1.	<u>Introduction</u>
1.1	The Local Protocol for Torfaen County Borough Council aims to promote good co-operation between Councillors and Officers and exemplary standards of behaviour by Councillors thus allowing the Council to carry out its duties efficiently and professionally.
1.2	Legislation sets out a statutory regime whereby complaints for breaches of the Councillors' Code of Conduct are referred to the Public Services Ombudsman for Wales (the Ombudsman).
1.3	The Ombudsman has the discretion to decide whether allegations of breaches of the Councillors' Code of Conduct will be investigated. Therefore if there are reasonable grounds which indicate a possible breach of the Code, the matter should be referred to the Ombudsman. This Protocol is designed to deal effectively with those complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.
1.4	It is important that any allegations made under this protocol are dealt with quickly and effectively.
1.5	The purpose of this procedure is to introduce a simple and clear method of dealing with such allegations.
2.	<u>Complaints involving officers</u>
2.1	The Chief Executive will deal with all complaints by officers against Councillors and complaints by Councillors against officers under this Protocol as set out in paragraphs 8.1 and 8.2 of the Protocol. The Chief Executive retains the discretion to refer the matter to the Ombudsman or with the consent of the Chair, to the Ethics and Standards Committee under Stage Three of the Procedure below.

2.2	If any complaint by an officer against a Councillor is referred to the Ethics & Standards Committee (the Committee), the procedure is set out in Stage Three below will be followed.
3.	<u>Complaints against Councillors by other Councillors</u>
3.1	Complaints against Councillors by another Councillor/s will be dealt with under the following three stage procedure.
4.	<u>Procedure</u>
4.1	<p><u>Stage One of the Procedure: Making the complaint</u></p> <p>(i) Any Councillor who wishes to submit an allegation should send the complaint to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within this Protocol or whether the complainant should consider referral to the Ombudsman as an allegation of breach of the Councillors' Code of Conduct. The Monitoring Officer may choose not to deal with the allegation at this stage in order be able to advise the Committee later in the process, in which case the Deputy Monitoring Officer or a Legal Officer will advise the complainant.</p> <p>(ii) If a local resolution is sought under this Protocol then all parties concerned would need to agree not to refer the matter to the Public Services Ombudsman for Wales. If there is a formal referral to the Ombudsman then legislation and regulations set out how the Ombudsman may investigate that matter and if appropriate refer the result of any investigation to the Ethics & Standards Committee so that the Committee may determine that complaint.</p> <p>(iii) If following the first stage the Councillor wishes to proceed with the allegation under this procedure, the matter may be referred either to an informal resolution under Stage Two or to a hearing by the Committee under Stage Three.</p>
4.2	<u>Stage Two of the Procedure: Informal resolution</u>
	At Stage Two, the complaint (if both parties agree) will be referred

	<p>to the current Members Champion Training and Development (or in his/her absence or if he/she is otherwise unable to act) the Mayor to contact the Member against whom the complaint is made and, if appropriate, the Leader of the relevant political group, to try and resolve the matter informally.</p> <p>(i) The Members Champion Training and Development may decline to undertake Stage Two and with the consent of the Chair of the Committee refer it immediately to Stage Three.</p> <p>(ii) If necessary, the Members Champion Training and Development can call on the Monitoring Officer, the Deputy Monitoring Officer or Legal Officer for advice and assistance. On occasions, it may be appropriate for the Monitoring Officer not to be involved in order to be able to advise on the matter at a later stage.</p>
4.3	<p><u>Stage Three of the Procedure: Hearing before the Ethics and Standards Committee</u></p> <p>(i) If either party remained dissatisfied with Stage 2, then with the consent of the Chair of the Committee, the third stage of the hearing is before the Ethics & Standards Committee. The Councillor making the complaint will be asked to submit the substance of the complaint in writing, and the Councillor who is the subject of that complaint will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Committee.</p> <p>(ii) Both the Councillor making the complaint and the Councillor complained against have the right to appear before the Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Council will not meet the cost of representations.</p> <p>(iii) If either side wishes not to be present or fails to attend, the hearing may be held in their absence.</p> <p>(iv) After the evidence has been heard, both sides and their</p>

	<p>representatives will be asked to leave the Chamber and the Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.</p> <p>(v) The Committee can come to one of three conclusions, namely:-</p> <p>(a) That there is no basis to the complaint.</p> <p>(b) That there is a basis to the complaint but that no further action is required.</p> <p>(c) That there is a basis to the Complaint and that the Councillor should be censured.</p> <p>The conclusion by the Committee will be reported to Council. In addition, the Committee can make recommendations to the Council regarding changes to any procedures or taking any further action.</p>
4.4	<p>Council may resolve to:-</p> <p>(a) Accept the decision of the Committee or</p> <p>(b) Take no further action.</p>
5.	<u>Other Matters</u>
5.1	<p>(i) Publicity will not be given to the names of the Councillors involved unless it is decided to uphold the complaint and that the Councillor should be censured. The hearing before the Committee will be exempt.</p> <p>(ii) Stages Two and Three do not have to be followed sequentially. Although it is possible for a Councillor who remains dissatisfied after the intervention of the Members Champion Training and Development to ask for the matter to be referred to a hearing before the Committee, it is also possible for a matter to proceed directly to the Committee without being first submitted to the Members Champion Training and Development, provided the Chair of the Ethics and Standards Committee agrees.</p>

	<p>(iii) The aim of this Procedure is to try and resolve complaints regarding Councillors quickly and effectively. Nothing in this procedure prevents an officer or Councillor from submitting a complaint to the Ombudsman that a Councillor has breached the Councillors' Code of Conduct at any time before Stages Two (in the case of a Councillor) or Three (in the case of either an officer or a Councillor) of the Procedure is engaged.</p> <p>(iv) This Protocol is not designed for use by members of the Public. If there is a complaint by a member of the public against officer conduct or Councillor conduct, then that should follow normal processes, either through a complaint to the Chief Executive or relevant Chief Officer in respect of an officer or to the Monitoring Officer and/or the Ombudsman in respect of a Councillor.</p>
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ISLE OF ANGLESEY COUNTY COUNCIL

LOCAL RESOLUTION PROTOCOL

Generally

1. The purpose of the Protocol is to promote high standards of conduct, with a view to fostering positive working relationships among Members, and between Members and Officers, to avoid spurious complaints to the Public Services Ombudsman for Wales (PSOW) and to safeguard the Council's reputation.
2. The Protocol will only apply to cases of alleged misconduct against Members under paragraphs 4(b) and 6(1)(d) of the Code of Conduct. That is to say, allegations of failure to show respect and consideration for others, or allegations that a Member has made vexatious, malicious or frivolous complaints against other Members or anyone who works for, or on behalf of, the Council.
3. The Protocol seeks to achieve swift mediation and reconciliation. It is not punitive but it may become relevant to sanction if a formal complaint, involving a pattern of similar conduct, is made to the PSOW.
4. The Protocol is not intended to interfere with, or take the place of, group or party discipline.
5. The Protocol is not intended to interfere with, or take the place of, any statutory or contractual rights which Officers may have.
6. The Protocol is not intended to oust the jurisdiction of the PSOW but, rather, to deal with a limited category of cases, where a breach of paragraphs 4(b) or 6(1)(d) of the Code may have occurred, but where such a finding would probably not result in disciplinary action. Such cases, at least individually, would not meet the PSOW's threshold test for investigation.

Procedure

7. A Member or Officer wishing to use the Protocol must put their complaint in writing to the Monitoring Officer, explaining when and where the alleged breach occurred, how and why paragraph 4(b) and/or 6(1)(d) have been breached, together with the details of any witnesses and any relevant documentation.
8. Any written complaint must be sent to the Monitoring Officer within 7 working days from the date of the event which is the subject of the complaint, or 7 working days from the date when the event came to the knowledge of the complainant.
9. The Monitoring Officer, or his/her representative, will send a copy of the complaint, and any supporting evidence, to the Member who is the subject of the complaint. That Member will have 7 working days, from receipt, within which to send a written reply to the Monitoring Officer setting out their response and providing details of any witnesses and any relevant documentation.
10. Having received a reply from the Member complained of, or when the time for reply has elapsed, the Monitoring Officer will:-

- copy the full response to the complainant;
 - arrange a meeting of an informal Panel of the Standards Committee to consider the complaint on the first convenient date available for all concerned.
11. The meeting of the Standards Committee Panel will take place in private and any paperwork which it receives, or which it generates, will remain confidential to the Panel, its advisors, and the parties. This is, however, subject to any legal duty to disclose e.g. to the PSOW in the event that matters escalate.
 12. Any informal Panel of the Standards Committee will consist of two Members of the Committee, on a rotational basis, but will not include a Community Council Member.
 13. The parties will be asked to attend the Panel and will be responsible for bringing along any witnesses upon whom they intend to rely.
 14. In the absence of a party or witness it will be a matter for the discretion of the Panel as to whether or not they proceed, or reschedule.
 15. If the complainant, or the Member complained of, is a Member of a political group then he/she may invite their Group Leader to attend the Panel. Any relevant Group Leader is not required to attend, but is encouraged to do so.
 16. The Monitoring Officer, or his/her representative, will attend to advise the Panel.
 17. The procedure of any Panel will be informal. The Panel will endeavour to be fair and even handed to both parties. There will be no rules of evidence, as such, but any witnesses called will only attend to share their information with the Panel; they will not "sit in" during the meeting.
 18. After hearing from the parties, and any witnesses, together with the Group Leaders (should there be Group Leaders in attendance and should they wish to address the Panel) the Panel will then retire to private session, returning to express its view and to put forward any recommendations it may have for resolution. The Panel has no disciplinary powers but may make recommendations to Group Leaders individually, in relation to Members of their Group and, to the Group Leaders collectively in relation to any unaffiliated Member.
 19. There will be no right of appeal under this process.
 20. The parties will receive written confirmation of the Panel's findings and the outcome of all Panels will be reported, albeit in an anonymised format only, to all quarterly meetings of the Standards Committee.
 21. The outcome of any Panel will also be discussed as a standing item at Group Leaders' meetings.

CEREDIGION COUNTY COUNCIL

MEMBERS' LOCAL RESOLUTION PROCEDURE

1. General Principles

- 1.1 The Council wishes to promote high standards of conduct and behaviour as a means of strengthening respect and trust among members. This procedure is not intended to replace the Code of Conduct, rather it is intended to sit alongside the Code, enabling behaviour which may not reach the threshold of referral to the Public Services Ombudsman for Wales to be dealt with swiftly and effectively.
- 1.2 This procedure does not replace the Protocol on Member/Officer Relations set out in the Council's Constitution.
- 1.3 Members will make all reasonable attempts to resolve disputes informally and through agreed internal processes, subject to their obligations under the Members' Code of Conduct.
- 1.4 Referral to external regulators will become a last resort, subject to members' obligations under the Code of Conduct.
- 1.5 Members will avoid personal confrontation in any public forum, especially full Council and through the media.
- 1.6 These commitments will not stifle legitimate political debate or scrutiny.
- 1.7 Group discipline will become the cornerstone of self-regulation, with Group Leaders taking responsibility for their own members.
- 1.8 Group Leaders individually and collectively will work to ensure compliance with this procedure.
- 1.9 Members will commit to training and development in support of this procedure.

2. Working to avoid problems

- 2.1 To minimise the number of instances of alleged breaches of the Code of Conduct, members have:
 - (i) resolved to adopt a Member Development Strategy - all reasonable endeavours will be made to ensure that the Member Development Strategy identifies and responds to the needs of members.
 - (ii) committed to attend relevant member training events and in particular those relating to the Code of Conduct.

(iii) demonstrated commitment to obtaining the WLGA's Charter for Member Support and Development and supporting its objectives.

3. Role of Group Leaders

- 3.1 A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.
- 3.2 Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should be informal and difficulties resolved through face to face meetings where possible. Group Leaders will need to retain some records, but the process will not be "document heavy". The emphasis should be on training, education, mediation and conciliation.
- 3.3 When appropriate, a sanction such as removal from a committee or an outside body may be used in extreme cases or after persistent breaches and the matter may also be referred to the Public Services Ombudsman for Wales.
- 3.4 Prior to considering any sanction or training, the relevant Group Leader may consult with an independent member of the Ethics and Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Ethics and Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.
- 3.5 At the next available Group Leaders' meeting, any issue of discipline which has been referred to a Group Leader will be discussed with the Group, with the objective of seeking to ensure that fair and consistent sanctions are applied.
- 3.6 Where the complaint relates to the Group Leaders themselves, the Chairman of the Council will be requested to consider the complaint, as with non-aligned or unaffiliated members and the Chairman may consult with an independent member of the Ethics and Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer.

4. Non Aligned or Unaffiliated Members

- 4.1 As far as non-aligned or unaffiliated members are concerned, the Chairman will fulfil the role of "Group Leader". Concerns regarding the conduct of an unaffiliated member should be referred to the Chairman who will apply the same principles and standards as those of the Group Leaders in terms of training, education, mediation and conciliation.

5. Persistent Breaches

- 5.1 In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging relations between political groups or the reputation of the Council, then the Group Leaders will meet with the Chief Executive, the Monitoring Officer and an independent member of the Ethics and Standards Committee to agree a way forward. Consideration will be given to joint references to the Public Services Ombudsman for Wales by the Group Leaders for persistent low level breaches.

6. Ethics and Standards Committee

- 6.1 Owing to any potential issues of conflict, any involvement as referred to in paragraph 3.4, 3.6 and 5.1 above will include no more than one independent member of the Ethics and Standards Committee. This will be determined at the discretion of the Monitoring Officer in accordance with availability.
- 6.2 The independent members of the Ethics and Standards Committee will play a supporting / advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader in a particular case.
- 6.3 Such meetings will be private and informal.
- 6.4 Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chairman) and the independent members of the Ethics and Standards Committee shall remain private and confidential (subject to compliance with legislation including Freedom of Information, Environmental Information and Data Protection legislation).

CONWY COUNTY BOROUGH COUNCIL

MEMBERS' CODE OF CONDUCT

MEMBERS' SELF REGULATORY PROTOCOL

1. General Principles

- 1.1 To promote high standards of conduct and behaviour as a means of strengthening respect and trust among Members. It is NOT intended to replace the Code of Conduct but is intended to sit alongside that Code
- 1.2 The aim is for the Protocol to provide a framework for dealing with a complaint by a Member against another Member of the Authority relating to behaviour which may not reach the threshold to become a breach of the Code of Conduct or behaviour which may not justify a formal complaint to the Public Services Ombudsman for Wales in the first instance
- 1.3 The Protocol does not replace the Member-Officer Relations Protocol adopted by the Authority
- 1.4 Members will make all reasonable attempts to resolve disputes through agreed internal processes subject to their obligations under the Members' Code of Conduct.
- 1.5 Referral to external regulators will become a last resort subject to Members' obligations under the Code of Conduct.
- 1.6 Members will avoid personal confrontation in any public forum, especially in Council, its Committees and through the media
- 1.7 These commitments will not stifle legitimate political debate or scrutiny
- 1.8 Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for reinforcing the principles of the Protocol with their own members
- 1.9 Group Leaders individually and collectively will work to ensure compliance with this Protocol
- 1.10 Members will commit to training and development in support of this Protocol
- 1.11 This Protocol will NOT apply to a complaint that a Member has failed to declare an interest
- 1.12 Complaints by members of the public or employees will not be dealt with under this Protocol and will be referred to the Ombudsman for consideration or dealt with under the Member/Officer Protocol as appropriate

2. Working to avoid problems

To minimise the number of instances of alleged breaches all Group Leaders will commit to:-

2.1 A Member Development Strategy – to which they will seek to secure the commitment of their group members. All reasonable endeavours will be made to ensure that the Member Development Strategy identifies and responds to the needs of members.

2.2 Attending relevant Member training events - in particular those relating to the Code of Conduct or probity courses within the scope of their role.

3. Role of Group Leaders

3.1 Complaints should be made in the first instance to the Monitoring Officer (or Deputy Monitoring Officer)

3.2 A complaint by a Member relating to a Member of the same group will be referred by the Monitoring Officer to the Group Leader. A complaint by a Member concerning the activities of a Member of a different political group will be referred to the complainant's own Group Leader, who will then refer the issue to the Group Leader with responsibility for the Member against whom the complaint is made.

3.3 Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal and resolved through face to face meetings whenever possible. Group Leaders will need to retain some records but the process will not be "document heavy". The emphasis should be on training, mediation and conciliation.

3.4 The relevant Group Leader must consult with an Independent Member of the Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The involvement of a Standards Committee Member will seek to ensure fairness and consistency in the discipline imposed within each Group.

3.5 When appropriate, a sanction such as removal from a committee or an outside body may be imposed by the relevant Group Leader or the matter may still be referred to the Public Services Ombudsman for Wales by the complainant Member.

- 3.6 Whenever any issue of discipline is referred to a Group Leader, a meeting shall be convened (as soon as practicable) between all the Group Leaders and the Chair of the Authority to debate the issue and ensure that fair and consistent sanctions are applied. The Monitoring Officer or Deputy Monitoring Officer may give advice at that meeting if required.
- 3.7 Where the complaint relates to a Group Leader, the Chair will be requested to consider the complaint.
- 3.8 The timetable for dealing with complaints is shown on the flowchart attached.

4. Unaffiliated Members

- 4.1 The Chair of the Council will fulfil the role of Group Leader in respect of any unaffiliated Members. Concerns regarding the conduct of an unaffiliated Member should be referred by the Monitoring Officer to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation.

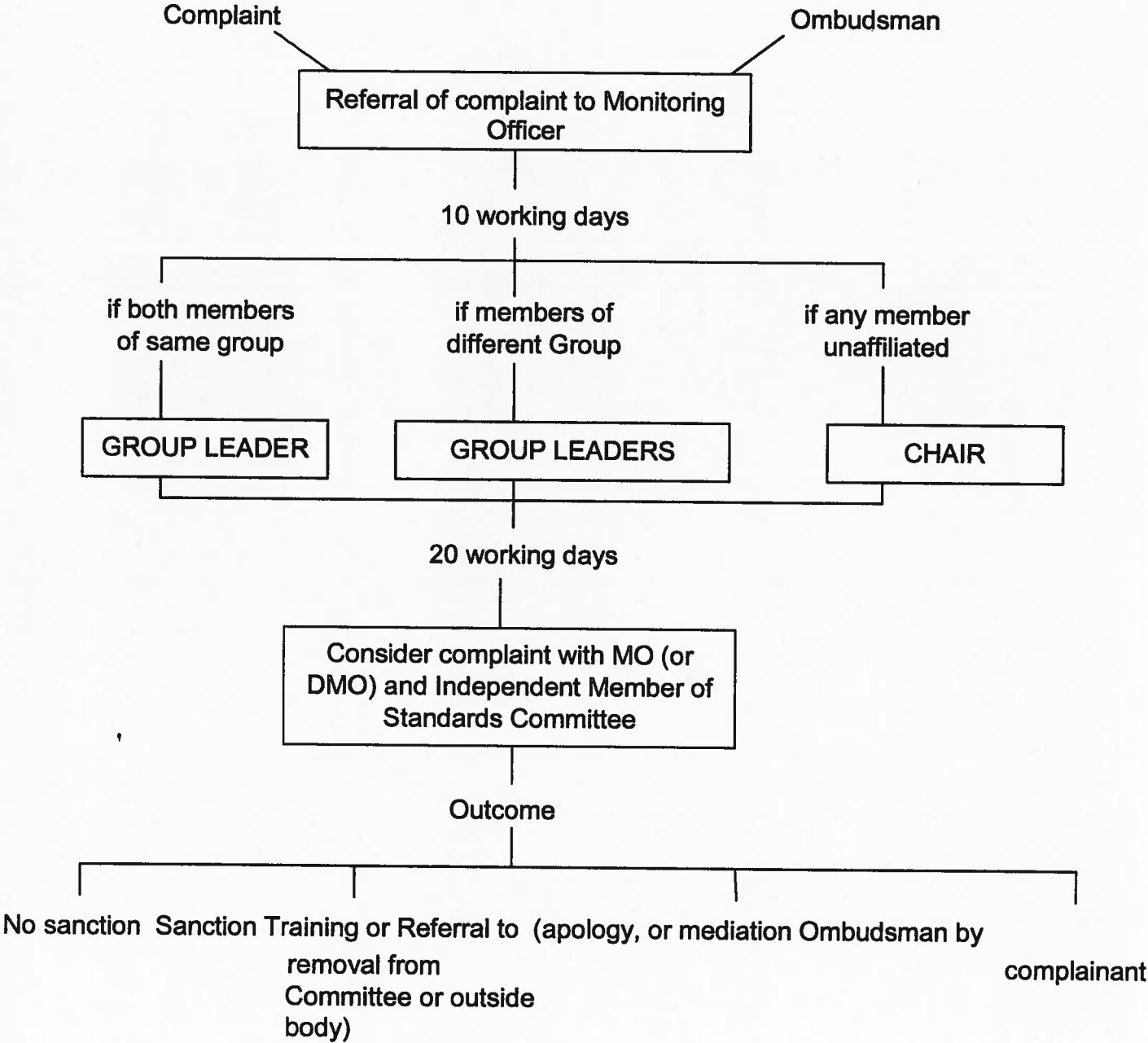
5. Persistent Breaches

- 5.1 In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual Member or Members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Monitoring Officer (or Deputy Monitoring Officer) to agree a way forward. Consideration will be given to joint references to the Ombudsman by the Group Leaders, for persistent low level breaches.

6. Standards Committee

- 6.1 Owing to any potential issues of conflict, any involvement in this Protocol will include no more than one independent Member of the Standards Committee. This will be subject to a rotational basis and in accordance with availability.
- 6.2 The Standards Committee Member will play a supporting/advisory role to the Group Leaders/Chair. This process will be initiated at the request of the Group Leader in any particular case through consultation with the Monitoring Officers (or Deputy Monitoring Officer).
- 6.3 Such meetings will be private and informal.
- 6.4 Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the Member of the Standards Committee shall remain private and confidential.

Local Protocol on Complaints
FLOWCHART



STANDARDS COMMITTEE

Extract from the Minutes of a meeting held on 22nd September, 2016.

365 LOCAL DISPUTE RESOLUTION PROCEDURE (MO) –

On 11th April, 2014 the Standards Committee considered and agreed an informal Local Dispute Resolution Procedure to address low level complaints and breaches of the Members' Code of Conduct (the Code) and Protocol – Standards of Conduct Expected by Members, in response to Welsh Government and the former Public Services Ombudsman for Wales' wishes. The Public Services Ombudsman for Wales ('the Ombudsman'), in guidance on the Code of Conduct for Members of Local Authorities, had stated there was an expectation that Local Authorities throughout Wales would implement a Local Dispute Resolution Procedure to deal with low level complaints which were made by a Member against a fellow Member. At the Full Council meeting on 25th June, 2014, a Local Dispute Resolution Procedure ('the Procedure') was duly approved and had been incorporated into the Council's Constitution. For ease of reference a copy of the Council's current Procedure was attached at Appendix A to the report.

The Procedure in summary incorporated a three Stage process as follows:

- Stage 1 – determination by Monitoring Officer or Deputy Monitoring Officer of whether the Procedure is applicable.
- Stage 2 – conciliation meeting to be held to attempt to resolve the matter.
- Stage 3 – hearing before an Independent Member of the Standards Committee, as nominated by the Chair of the Standards Committee, advised by the Monitoring Officer or Deputy Monitoring Officer.

The Procedure permitted the Member submitting the complaint to request the matter to proceed directly to a Stage 3 hearing without a conciliation meeting being held.

The Procedure also allowed for the Independent Member at a hearing to make recommendations to Council regarding changing any procedures or taking any further action. Hearings at Stage 3 were dealt with in private and publicity was not to be given to the names of the Members involved in the complaint unless it was decided that there was a basis to the complaint and the Member was censured.

Following consideration by the Standards Committee on 7th July, 2016 of a number of suggested amendments to the Council's Procedure it was resolved:

"(1) THAT Stage 2 of the Local Dispute Resolution Procedure should not become mandatory.

(2) THAT internal procedures relating to the Members' Code of Conduct be revised to provide that any complaint lodged under the Procedure be brought to the attention of the Member against whom the complaint has been lodged within seven working days of it being received by the Monitoring Officer. Furthermore, if a Member, in lodging a complaint, has identified a specific witness(es) whom they wish to call to

give evidence, details of the complaint (redacted if considered necessary) should also be forwarded to the witness(es), the contents of the Guidance be noted.

(3) THAT a future report be submitted to a future Standards Committee meeting following a review of the Welsh Local Authorities Local Dispute Resolution Procedures."

As with the Constitution generally, the Procedure was subject to review and changes could be proposed if considered appropriate (either by the Monitoring Officer or the Standards Committee itself).

At the Committee meeting on 7th July, 2016 comments relating to the Procedure which had been received from Members were considered. These included:

- Delay in dealing with complaints under the Procedure and bringing the same to the attention of the Member complained about;
 - this had been addressed by of the Resolutions of the Standards Committee on 7th July, 2016.
- Witnesses at Stage 3 hearings not having an awareness of the nature of the complaint;
 - this had been addressed by the Resolutions of the Standards Committee on 7th July, 2016.
- Delay in progressing with Stage 2 of the Procedure.
- A call for Stage 2 of the Procedure to be rescinded.
- Overall timescales within the Procedure to be tightened up.
- An increased role for the Monitoring Officer in the Procedure when "personal attacks" occurred with regard to officers.
- Process to be streamlined.
- Some support for a mandatory conciliation stage within the Procedure to settle disagreement and conflict between elected Members, but not in cases of potential breaches of the Members' Code of Conduct.
- Introduction of an independent investigation role to assess whether there was a case to answer in instances of alleged breaches of the Members' Code of Conduct.
- Standards Committee to consider matters at Stage 3.
- Consideration to be given to the Procedure being extended to allow employees and members of the public to use the Procedure.

The views of the Standards Committee on 7th July, 2016 were detailed in the minutes of that meeting, which in summary were:

- There was merit in considering whether any revisions to the Procedure should be made.
- Reference was made to the need to distinguish between actual Members' Code of Conduct complaints and disputes / disagreements between individual Councillors; and that there was merit and potential for agreement being reached through mediation in the case of the latter.
- That Stage 2 of the Procedure should not become mandatory.

- There was some hesitation with regards to the suggestion that an independent member should observe at Stage 2 of the Procedure, and that this would be reconsidered in line with the further information to be presented to the Standards Committee.
- Consideration be given to increasing the existing sanctions under the Procedure.
- An acknowledgement that the Procedure, on occasions, had proved to be somewhat slow.
- Whether the existence of internal procedures within political groups was likely to result in a more disciplined approach amongst Members and, consequently, less likelihood of a Code of Conduct or the Local Dispute Resolution Procedure having to come into effect.
- The need to ensure Members' "rights" were not prejudiced as a result of any changes to the Procedure.
- The need for Members to remain aware of the potential seriousness of breaches of the Members' Code of Conduct and of the important role of the Standards Committee.
- Whether any scope might exist for strengthening the existing provisions available within the Local Dispute Resolution Procedure in the event of a basis to the complaint being determined (a censure currently being the ultimate sanction).

In line with the Committee's request, the Monitoring Officer had liaised with all Welsh Monitoring Officers and requested sight of their individual Council's Local Dispute Resolution Procedures. Out of the 21 Welsh Local Authorities, responses were received from the following 13 Councils:

Merthyr Tydfil County Borough Council,
 Rhondda Cynon Taff County Borough Council,
 Flintshire County Council,
 Powys County Council,
 Gwynedd Council,
 Neath Port Talbot County Borough Council,
 Blaenau Gwent County Borough Council,
 Monmouthshire County Council,
 Torfaen County Borough Council,
 Isle of Anglesey County Council,
 Ceredigion County Council,
 Conwy County Borough Council; and
 Pembrokeshire County Council.

Copies of 12 of those Council's Local Dispute Resolution Procedures were attached at Appendix B to the report (save for Pembrokeshire's which was currently under review), together with a summary of the key points relating to the same and how they differed from this Council's Procedure.

As requested, a summary of the cases / findings to date pursuant to the Procedure was set out under Part II of this agenda, given that not all cases had resulted in a censure, and, therefore, the details relating to the same were not in the public domain.

The Monitoring Officer advised of the key differences highlighted by the responses from the 13 Local Authorities, which were:

- Referral to the Ombudsman if it was considered that a Councillor may have breached the Code of Conduct.
- A hearing before the Standards Committee as opposed to an Independent Member.
- Use of a Local Resolution Panel comprising 3 members, including Independent and Elected Members.
- Strict timescales around swift mediation and reconciliation, such as those used by the Isle of Anglesey.
- Mediation and resolution through significant input of Group Leaders.
- The appointment of a mediator.
- A time limit in which to resolve the complaint.
- The undertaking of a preliminary investigation to establish facts and areas of dispute.
- The powers to remove Members from Committees or outside bodies in cases of persistent breaches.
- The ability to make recommendations to the Standards Committee regarding training and changes to any procedures.

In discussing the responses received, the Committee noted the various approaches that had been adopted. It was suggested that consideration be given in using aspects from each Authority in order to provide a wide range of options, that would allow the Council to 'pick and choose' which ones were most relevant to each individual case. The Committee, in discussing this suggestion, felt that determination of the relevant processes and mechanisms could be something that was considered at Stage 1.

The Committee also discussed if there was a need to look at how the hearings were conducted and whether there was a need to increase the number of members. The Committee considered the merits of cases being heard by a panel of 2 or more members or for a hearing before the full Standards Committee. The Committee also considered the pros and cons of Group Leaders being present. Subsequently, it was the Committee's view that the current practice of choosing one independent member from the Committee to hear each individual case was working well.

The Monitoring Officer, in referring to the main areas in which the Vale's Local Dispute Resolution Procedure could be strengthened, highlighted:

- extended to include complaints brought by a Council employee;
- the tightening up of timescales; and
- reviewing the powers to sanction Councillors who had been found to have breached the Members' Code of Conduct.

In considering Stage 2 - conciliation meeting, the Committee noted that this would be of particular importance in cases involving complaints made by Council employees. The Monitoring Officer outlined that the Council's Constitution contained a section on

how Councillors and the staff should interact, but there was no formal mechanism in which officer complaints could be dealt with internally, with the only option being a referral to the Ombudsman.

With regard to improving timeliness, some Local Authorities had set strict timescales that had to be adhered to. The Monitoring Officer advised that she considered that cases should be dealt with more swiftly and that, in some instances, the Stage 2 process had 'drifted'. The Monitoring Officer advised that there may also be merit in including an investigating officer role, in which, the Monitoring Officer or Legal/Deputy Monitoring Officer would present a report to the Independent Member dealing with stage 3. The Committee considered that an investigatory role was something that could be explored further.

Turning to increased powers to sanction Councillors found to have breached the Code of Conduct, the Monitoring Officer raised the need to factor in Councillors offering an apology and consideration of the approach adopted in Ceredigion and Conwy Councils, where their Local Dispute Resolution Procedure has a sanction which removes Councillors from sitting on committees or an outside body. The Committee also highlighted that in some Authorities, cases could be referred on to the full Standards Committee. The Committee noted that guidance would be devised if it was decided to increase powers of sanction.

In terms of going forward, the Monitoring Officer advised that a further report would be provided at a future meeting, with particular emphasis on improving timescales and conciliation. The Committee was also advised that the views of the Group Leaders would be sought.

RESOLVED – T H A T a further report be submitted to a future Standards Committee.

Reason for decision

In order to progress the Committee's review of the Council's Local Dispute Resolution Procedure.