

# Pecyn Dogfennau Cyhoeddus

Penallta House,  
Tredomen Park,  
Ystrad Mynach,  
Hengoed CF82 7PG

Ty Penallta,  
Parc Tredomen,  
Ystrad Mynach,  
Hengoed CF82 7PG



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Am bob ymholiad ynglŷn â'r agenda hwn cysylltwch â Emma Sullivan  
(Rhif Ffôn: 01443 864420 E-bost: [sullie@caerphilly.gov.uk](mailto:sullie@caerphilly.gov.uk))

**Dyddiad: Dydd Gwener, 26 Hydref 2018**

Annwyl Syr/Fadam,

Bydd cyfarfod **Pwyllgor Safonau** yn cael ei gynnal yn **Ystafell Sirhywi, Tŷ Penallta, Tredomen, Ystrad Mynach** ar **Dydd Gwener, 2ail Tachwedd, 2018** am **10.30 am** i ystyried materion a gynhwysir yn yr agenda canlynol. Mae croeso i chi ddefnyddio'r iaith Gymraeg yn y cyfarfod, a dylid rhoi cyfnod rhybudd o 3 diwrnod gwaith os ydych yn dymuno gwneud hynny. Bydd cyfieithu ar y pryd yn cael ei ddarparu ar gais.

Mae pob cyfarfod Pwyllgor yn agored i'r Wasg a'r Cyhoedd. Gofynnir i arsylwyr a chyfranogwyr ymddwyn gyda pharch ac ystyriaeth at eraill. Sylwer y bydd methu â gwneud hynny yn golygu y gofynnir i chi adael y cyfarfodydd ac efallai y cewch eich hebrwng o'r safle.

Yr eiddoch yn gywir,

**Christina Harrhy**  
PRIF WEITHREDWR DROS DRO

## AGENDA

Tudalennau

- 1 I dderbyn ymddiheuriadau am absenoldeb
- 2 Datganiadau o Ddiddordeb.

Atgoffi'r Cynghorwyr a Swyddogion o'u cyfrifoldeb personol i ddatgan unrhyw fuddiannau personol a/neu niweidiol mewn perthynas ag unrhyw eitem o fusnes ar yr agenda hwn yn unol â Deddf Llywodraeth Leol 2000, Cyfansoddiad y Cyngor a'r Cod Ymddygiad ar gyfer Cynghorwyr a Swyddogion.

**A greener place Man gwyrddach**



I gymeradwyo a llofnodi'r cofnodion canlynol:-

3 Pwyllgor Safonau 13 Medi 2018.

1 - 4

I dderbyn ac ystyried yr adroddiad(au) canlynol:-

4 Cwyn gan Aelod o Dan Brothocol Datrysiaid Lleol y Cyngor.

5 - 20

**Cylchrediad:**

Cynghorwyr: C.P. Mann a Mrs D. Price

Mr P. Brunt, Mrs M. Evans, Mrs D. Holdroyd, Mr D. Lewis a Mr M. Stone

Cynghorydd Cymunedol Mrs G. Davies

**Copi er gwybodaeth yn unig i:**

Cynghorwyr Mrs J.Gale a Mrs M.E. Sargent.

A Swyddogion Priodol

**SUT FYDDWN YN DEFNYDDIO EICH GWYBODAETH**

Bydd yr unigolion hynny sy'n mynychu cyfarfodydd pwyllgor i siarad/roi tystiolaeth yn cael eu henwi yng nghofnodion y cyfarfod hynny, weithiau bydd hyn yn cynnwys eu man gweithio neu fusnes a'r barnau a fynegir. Bydd cofnodion o'r cyfarfod gan gynnwys manylion y siaradwyr ar gael i'r cyhoedd ar wefan y Cyngor ar [www.caerffili.gov.uk](http://www.caerffili.gov.uk). ac eithrio am drafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig.

Mae gennych nifer o hawliau mewn perthynas â'r wybodaeth, gan gynnwys yr hawl i gael mynediad at wybodaeth sydd gennym amdanoch a'r hawl i gwyno os ydych yn anhapus gyda'r modd y mae eich gwybodaeth yn cael ei brosesu.

Am wybodaeth bellach ar sut rydym yn prosesu eich gwybodaeth a'ch hawliau, ewch i'r Hysbysiad Preifatrwydd Cyfarfodydd Pwyllgor Llawn ar ein gwefan <http://www.caerffili.gov.uk/Pwyllgor/Preifatrwydd> neu cysylltwch â Gwasanaethau Cyfreithiol drwy e-bostio [griffd2@caerffili.gov.uk](mailto:griffd2@caerffili.gov.uk) neu ffoniwch 01443 863028.



## STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN PARK  
ON 13TH SEPTEMBER 2018 AT 10.00 A.M.

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### PRESENT:

Mrs D. Holdroyd - Chair  
D. Lewis - Vice-Chair

P. Brunt, Mrs M. Evans

Community Councillor Mrs G. Davies

Councillors C.P. Mann and J. Gale (Substitute for Councillor D. Price)

### Together with:

R. Tranter (Head of Legal Services and Monitoring Officer), L. Lane (Interim Deputy Monitoring Officer), E. Sullivan (Senior Committee Services Officer).

### CHAIR'S ANNOUNCEMENT

The Chair welcomed Mr Robert Tranter to his first Standards Committee meeting following his appointment as the new Head of Legal Services and Monitoring Officer.

Mr Tranter thanked the Chair and Committee for their warm welcome and provided a brief outline of his experience and background for the benefit of those present and expressed his anticipation for what he hoped would be a long and successful working relationship.

#### 1. APOLOGIES

An apology for absence was received from Councillor Dianne Price.

#### 2. TO NOTE THE RESIGNATION OF MR MALDWYN STONE

The Standards Committee were advised that for personal reasons Mr Maldwyn Stone had resigned. The Standards Committee noted his resignation and expressed their thanks for his service to the committee.

It was noted that the appointment process and advertisement of the vacancy would commence as soon as possible.

#### 3. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

**4. MINUTES - 28TH SEPTEMBER 2018**

RESOLVED that the minutes of the meeting held on 28th September 2018, be approved as a correct record.

**5. MATTERS ARISING**

In relation to minute no. 3 and the resignation of Mr Abbas, clarification was sought as to whether the letter of thanks from the Committee had been sent. The Corporate Solicitor confirmed that she would make enquiries in this regard and provide feedback to the next meeting.

**REPORT OF OFFICERS**

Consideration was given to the following reports.

**6. WLGA SOCIAL MEDIA – A GUIDE FOR COUNCILLORS**

The Monitoring Officer referred the Committee to the updated guidance from the Welsh Local Government Association for Councillors in relation to Social Media, it was noted that the document had already been circulated to all County Borough Councillors and Community Councillors.

Reference was made to page 11 of the document which detailed the various forms of social media platforms and their uses. As well as tips on usage the guide also detailed the dangers associated with misuse and the drawbacks of having a social media presence. Consideration was given to implications for Welsh language content and safeguards whilst on line.

The Committee recognised the ever expanding use of social media and given the potential for referrals acknowledged the need to have a greater understanding of the medium. Concerns were expressed with regard to the impact on face to face communication as well as threatening or abusive messages which seem to be more freely posted on line than they would be through any other media.

The importance of keeping posts and messages professional, polite and positive was emphasised and the implications for Members Code of Conduct and public perception, most notable that of pre-determination which can be area of concerns within social media.

Civil law and criminal offences around social media were discussed and reference was made to negativity on line and how quickly these things escalate.

The Committee were then referred to the Councillors Guide to Handling Online Abuse which provided advice on how best to deal with instances of harassment or abuse. Clarification was sought as to whether the Council would expect to be notified if a Councillor was being targeted in this way and were assured that they would be encouraged to contact the Monitoring Officer.

Having fully considered the document the Standards Committee noted the WLGA Social Media Guide for Councillors.

## **6. ADJUDICATION PANEL FOR WALES – SANCTION GUIDANCE**

Consideration was given to the report which provided Members with the updated Sanctions Guidance issued by the Adjudication Panel for Wales (APW).

Members were advised that the APW had recently undertaken an exercise to improve and modernise its Sanction Guidance following consultation with Monitoring Officers, the Public Services Ombudsman for Wales and Welsh Government. It was noted that the Sanctions Guidance would come into force for cases heard after the 1st September 2018.

Reference was made to the fact that the APW viewed the guidance very much as a living document and as such would welcome any comments or feedback following its use Standards Committees. Members were referred to page 62 of the report pack which detailed the underlying principles of the tribunal's approach which included fairness, public interest, proportionate, consistent, equality and impartiality and human rights. The five stage process that case and appeal tribunals should follow when determining sanction were noted under section 33 of the guidance and details on mitigating circumstances and aggravating factors had also been included.

Clarification was sought in relation to the Panel procedures and the Monitoring Officer confirmed that this was more formal in nature than a Standards Committee being similar to court proceedings. The Panel would go through the various stages to determine whether there had been a breach of the code of conduct and then rule on the appropriate sanction if a breach was found. Members queried the number of cases adjudicated by the Panel in the last year and were advised that approximately 5-8 had been dealt with over the last twelve months, details of which were available through the APW website. It was noted that the number of referrals for breaches of the code of conduct being made to the Ombudsman was reducing year on year and the Ombudsman's role was outlined for Members information.

The Chair recommended that Members keep a copy of the guidance with them as it would be a very useful reference tool to have at hand.

Having fully considered its content the Standards Committee noted the Adjudication Panel for Wales Sanction Guidance.

## **7. MEMBERS' DECLARATION OF GIFTS AND HOSPITALITY SEPTEMBER 2017 TO AUGUST 2018**

Consideration was given to the report which detailed the gifts and hospitality declared by elected Members from 1st September 2017 to the 31st August 2018.

It was noted that there had been 3 declarations received during that timeframe, details of which were contained within appendix 1 of the report.

Having fully considered its content the Standards Committee noted the report.

## **8. ANY OTHER BUSINESS**

The Monitoring Officer advised that unfortunately a resolution had not been achieved in relation to a Member on Member complaint received under the Local Resolution Protocol and the matter would now be referred to a hearing of the Standards Committee.

A Member noted that this would be the first hearing under the protocol and sought advice with regard to declarations of interest as depending on the individuals concerned there was a possibility that they could be known to the Committee. The Monitoring Officer advised that the

need to declare an interest would depend on the extent of the relationship and would be happy to give individual advice in this regard. A personal and prejudicial interest in these circumstances is usually taken to be someone you live with or with whom you have a close personal association; just to know of someone would be unlikely to prevent participation.

The meeting closed at 11.15am

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes next meeting they were signed by the Chair

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CHAIR



## STANDARDS COMMITTEE – 2ND NOVEMBER 2018

**SUBJECT: COMPLAINT BY A MEMBER UNDER THE COUNCIL'S LOCAL RESOLUTION PROTOCOL**

**REPORT BY: HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

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### 1. PURPOSE OF REPORT

To enable the Standards Committee to consider a complaint made by a Member that another Member has failed to comply with the Council's Local Resolution Protocol.

### 2. SUMMARY

To consider a referral under the Local Resolution Protocol adopted by Council.

### 3. LINKS TO STRATEGY

The report contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:

- *A resilient Wales*
- *A more equal Wales*
- *A Wales of cohesive communities*

### 4. THE REPORT

#### **Background**

- 4.1 On 28<sup>th</sup> January 2014 Council adopted the Local Resolution Protocol which is attached at Appendix 1 to this report.
- 4.2 A complaint has been made under the Protocol by Councillor D. Poole against Councillor G. Simmonds.
- 4.3 The basis of Councillor Poole's complaint relates to remarks made by Councillor Simmonds in an exchange of emails between both Councillors, to which other elected members and officers were copied into. The email, sent on 28<sup>th</sup> July at 10:23am, which led to the complaint being made read as follows:-

*Morning David,*

*So nothing that happens in Caerphilly CBC is anything to do with you? Some would say that's about right, £45,000 a nice pick up for blaming others?*

*We have a cabinet with none of the talents at a cost of £285,000 plus expenses and they and you cannot answer simple questions.*

*David I'm sure you have heard the saying "those who fail to learn the lessons of history are doomed to repeat them" Caerphilly and their cabinet parade their failings daily.*

*You and your Labour chums determination to keep housing in house, has in this and the last financial years, added £120 million to HRA borrowing and £2,5 million in interest annually, I'm equally sure that's nothing to do with you as well?*

*This is a good game, would you like me to go through your cabinet and list department failings?*

*Starting with the shredding of the LDP by the assemblies consultee, at a cost of millions, 9360 additional houses added by your party but no additional land? Quite brilliant.*

*Could you please address the question of why Caerphilly fails to direct developers to build in the Upper Rhymney Valley where regeneration is so badly needed, Oh no, we have no working LDP it's been withdrawn, following its shredding by the assemblies consultee?*

*Regards Graham.*

- 4.4 Councillor Poole complained to the Interim Monitoring Officer on 30<sup>th</sup> July 2018 that he considered Councillor Simmonds had breached the Code of Conduct for Councillors in that he had failed to show respect to fellow Councillors.
- 4.5 The relevant paragraph of the Protocol on standards of conduct is as follows:-

**Public Behaviour**

- (a) *Show respect to each other*
  - (b) *Not make personal abusive comments about each other*
  - (c) *Not publish anything insulting about each other*
  - (d) *Not make malicious allegations against each other*
  - (e) *Not publish or spread any false information about each other*
  - (f) *Show respect to each other's diverse backgrounds and circumstances*
  - (g) *Use social media responsibly and in accordance with the Members' Code of Conduct and this protocol.*
- 4.6 Councillor Poole's complaint has been supported by all Cabinet Members who have described the email in the following terms:-

**Councillor Barbara Jones**

*Dear Lisa, I am extremely disturbed by the e. mail that has been received by the Leader from Cllr. Graham Simmonds, I wish to formally request that he now be referred to the Standards committee as I find his remarks offensive and totally untrue and misguided,*



**Councillor Carl Cuss**

*Dear Lisa*

*I am very insulted by Cllr Simmonds tone and conduct in emails, he's rude and insulting. I understand having a different opinion on matters but corresponding in this way is not acceptable.*

*This needs to be investigated by the standards committee.*

*Thanks*

*Carl*

**Councillor Eluned Stenner**

*Good afternoon*

*With regards to Cllr Simmonds e mails below I think some of the contents are unacceptable.*

*Regards*

*Cllr Eluned Stenner*

**Councillor Lisa Phipps**

*Dear Dave,*

*I am writing to complain about the comments made by Cllr Graham Simmonds in his e-mail to you dated 28 July 2018.*

*I was concerned to read the comments made by Cllr Simmonds about the Cabinet's talents - or lack of them!! The comments made by Cllr Simmonds are not appropriate and have offended me.*

*Kind Regards,*

*Lisa*

**Councillor Nigel George**

*Hi Rob,*

*I recently complained verbally to Lisa about the derogatory tone used by Cllr Simmonds when referring to the Snr Labour Leadership Team in his recent email dated 28/7/18. Every elected member of all parties should be big enough to accept criticism otherwise this job is not for them. That said, I can willingly accept the criticism without it being delivered in a derogatory, disrespectful and frankly insulting tone. Once again Cllr Simmonds's email has fallen into this category and well below an acceptable standard expected of a Councillor. I would appreciate it if you could investigate this matter further.*

*Regards,*

*Nigel*

**Councillor Colin Gordon**

*Hello Rob*

*I would like to make a complaint about an email sent by Councillor Simmonds on the 28/7/18 wherein he made derogatory and insulting remarks about the Labour Cabinet. I feel the content of his email is totally unacceptable and would appreciate it if you could look into this matter.*

*Thanks*

**Councillor Phillipa Marsden**

*Dear Dave,*

*I am writing to complain about the comments made by Cllr Graham Simmonds in his e-mail to you dated 28 July 2018.*

*I was concerned to read the comments made by Cllr Simmonds about the Cabinet's talents - or lack of them!! The comments made by Cllr Simmonds are not appropriate and have offended me.*

*Kind Regards,*

*Phillippa*

**Councillor Sean Morgan**

*Good morning Rob,*

*I would like to make a complaint about the derogatory tone used by Cllr Simmonds when referring to the Snr Labour Leadership Team in his recent email dated 28/7/18. All elected member should be big enough to accept criticism, especially from other parties, so I can willingly accept criticism but in this case it was delivered in a derogatory, disrespectful and personally insulting tone.*

*Cllr Simmonds's email, in my opinion, has fallen below standards expected of a Councillor, especially when you consider that other councillors and officers were copied in. I would appreciate it if you could investigate this matter further.*

*Regards, Sean.*

- 4.5 In accordance with paragraph 4.4 of the Protocol, the Interim Monitoring Officer met with Councillor Simmonds in an attempt to resolve the matter informally however this was not possible. As a result Councillor Poole requested that the complaint was progressed to Stage 2 of the Protocol.
- 4.6 Members will note at paragraph 4.5(xii) of the Local Resolution Protocol sets out the following procedure for a Stage 2 Hearing which is 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.*

*NB: There will be no cross examination of any of the parties save for questions asked by Committee members.*

- (xiii) *The Investigating Officer will be available to advise the Committee.*
  - (xiv) *The Committee can come to one or more of the following conclusions, namely:-*
    - (a) *that there is no basis to the complaint and no further action required*
    - (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 at the next meeting of Council and/or additional action should be taken*
    - (d) *referral to the Ombudsman for investigation and if the complaint is considered to be deserving of more serious sanctions than the Standards Committee has the power to impose.*
  - (xv) *The conclusion reached by the Committee will be minuted and reported to Council. In addition, the Committee can make recommendations to Council regarding changes to the Protocol or taking any further action (for example the removal of Members from specific committees or further training requirements).*
- 4.6 *In making a decision on the sanction to be imposed, the Standards Committee may take into account (but is not limited to considering):*
- a. *The severity of the offence;*
  - b. *The level of remorse the Member in question has shown and any apologies they have made.*

*NB: The time-limits and deadlines set out in these procedures are subject to there being flexibility in exceptional circumstances as determined by the Chairman.*

**5. WELL-BEING OF FUTURE GENERATIONS**

This report contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act.

**6. EQUALITIES IMPLICATIONS**

There are no equalities implications associated with this report

**7. FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report.

**8. PERSONNEL IMPLICATIONS**

There are no personnel implications associated with this report.

**9. CONSULTATIONS**

Due to the nature of the report, being a referral to the Standards Committee under the Council's Local Resolution Protocol, no consultation is necessary.

**10. RECOMMENDATIONS**

The Standards Committee is asked to consider whether or not the Member who is the subject of the complaint has breached the standards of conduct shown in paragraph 2 of the Local Resolution Protocol and if so, whether any further action is required.

**11. REASONS FOR THE RECOMMENDATIONS**

To comply with the procedure set out in the Local Resolution Protocol adopted by the Council.

**12. STATUTORY POWER**

12.1 Local Government Act 2000.

Author: Robert Tranter Head of Legal Services and Monitoring Officer

Appendices:  
Appendix 1 Local Resolution Protocol

Background papers

Report to Standards Committee November 2013 – PROPOSED INTRODUCTION OF A LOCAL RESOLUTION PROTOCOL - STANDARDS TO BE FOLLOWED BY MEMBERS

Report to Council 28<sup>th</sup> January 2014 - PROPOSED INTRODUCTION OF A LOCAL RESOLUTION PROTOCOL - STANDARDS TO BE FOLLOWED BY MEMBERS

Gadewir y dudalen hon yn wag yn fwriadol

**Caerphilly County Borough Council  
Local Resolution Protocol**

**1. Introduction**

- 1.1 By way of background, around a third of complaints referred to the Public Services Ombudsman for Wales (**Ombudsman**) are made by a Member against a fellow Member. Many of these complaints relate to low-level behavioural issues, typically during what may often be seen as the "cut and thrust" of normal Council debates and local politics. Many of these, if investigated by the Ombudsman, would not result in a sanction being imposed.
- 1.2 This Protocol has been adopted in response to the Ombudsman's latest guidance on the Code of Conduct for Members (**Code**) which states that "low-level, Member-on-Member" complaints relating to the breaches of the Code should be dealt with at a local level. The Ombudsman's aim of doing so is to seek the resolution of matters at an early stage so as to avoid unnecessary escalation. The Protocol should be read in conjunction with the Members Code. It adds to this document and does not detract from it.
- 1.3 This Protocol seeks to define what is meant by "low-level, Member-on-Member" complaints and sets out the procedure to be adopted in response to them.
- 1.4 It is important to note that this Protocol does not preclude Members from referring any complaint to the Ombudsman if they so wish. However Members should note that the Ombudsman has made clear that, in normal circumstances, it is expected that in the first instance Members should exhaust the procedures set out in this Local Protocol before referring low-level complaints to the Ombudsman.

**2. The Standards of Conduct**

Members shall:-

**2.1 Public Behaviour**

- (a) Show respect to each other
- (b) Not make personal abusive comments about each other
- (c) Not publish anything insulting about each other
- (d) Not make malicious allegations against each other
- (e) Not publish or spread any false information about each other

- (f) Show respect to each other's diverse backgrounds and circumstances
- (g) Use social media responsibly and in accordance with the Members' Code of Conduct and this protocol

## 2.2 Behaviour In Meetings

- (a) Behave with dignity
- (b) Show respect to the Chairman and obey his/her decisions and conversely Members can expect the Chairman to show mutual respect to Members
- (c) Not use indecent language nor make discriminatory remarks that may be deemed to be offensive to any section of society

## 3. What Is A "Low-Level, Member On Member" Complaint?

3.1.1 In order to fall within the remit of this Protocol a complaint should satisfy all of the following criteria:

- (a) The complaint made by a Member of the Council and relates to a breach of the Code by a fellow Member.
- (b) The complaint is "low-level" in nature. Whether or not a complaint is "low-level" in nature will be dependant on the individual circumstances of a complaint.

The Ombudsman has indicated that *"typically these complaints will be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code or the duty not to make vexatious, malicious or frivolous complaints against other Members under paragraph 6(1)(d) of the Code"*.

If you are unsure whether a matter you wish to complain about is "low-level" then you may wish to discuss this with the Monitoring Officer (who may consult with the Ombudsman's office) to obtain guidance.

- (c) The complaint does not relate to repeated occurrences of similar conduct that has already been dealt with under this Protocol or by the Ombudsman. In the event that the complaint relates to such a "repeated offence" it is likely that it will be appropriate to refer the matter to the Ombudsman directly.

## 4. Procedure

4.1 Allegations by a Member of a breach of one (or more) of the standards of conduct set out in paragraph 2 of the Protocol by another Member will be dealt



with in accordance with the procedures set out below.

4.2 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.

4.3 Should following commencement of the Protocol process any member elects at any time to refer the matter to the Ombudsman for investigation the Protocol process will be discontinued and cannot subsequently be resumed.

4.4 **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.

NB: 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 Member complainant(s).

4.5 **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 4.5(ii) and 4.5(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 the 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 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.

NB: There will be no cross examination of any of the parties save for questions asked by Committee members.

- (xiii) The Investigating Officer will be available to advise the Committee.
- (xiv) The Committee can come to one or more of the following conclusions, namely:-

- (a) that there is no basis to the complaint and no further action required
  - (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 at the next meeting of Council and/or additional action should be taken
  - (d) referral to the Ombudsman for investigation and if the complaint is considered to be deserving of more serious sanctions than the Standards Committee has the power to impose.
- (xv) The conclusion reached by the Committee will be minuted and reported to Council. In addition, the Committee can make recommendations to Council regarding changes to the Protocol or taking any further action (for example the removal of Members from specific committees or further training requirements).
- 4.6 In making a decision on the sanction to be imposed, the Standards Committee may take into account (but is not limited to considering):
- a. The severity of the offence;
  - b. The level of remorse the Member in question has shown and any apologies they have made.

NB: The time-limits and deadlines set out in these procedures are subject to there being flexibility in exceptional circumstances as determined by the Chairman.

## 5. **General**

- 5.1 Both the name of the complainant and the Councillor against whom the complaint has been made will be kept confidential at Stage 1 of the Protocol process.
- 5.2 Where complaints are resolved at Stage 1 the Monitoring Officer shall report to Standards Committee periodically the numbers and types of complaints determined under this Protocol, but shall maintain the anonymity of both the complainant and the Councillor concerned.
- 5.3 The Stage 2 hearing before the Standards Committee will generally be conducted in an open session of the Standards Committee.



Gadewir y dudalen hon yn wag yn fwriadol