



STANDARDS COMMITTEE – 27TH NOVEMBER 2013

SUBJECT: PROPOSED INTRODUCTION OF A LOCAL RESOLUTION PROTOCOL – STANDARDS TO BE FOLLOWED BY MEMBERS

REPORT BY: INTERIM MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To seek Standards Committee's comments and views on the introduction of a Local Resolution Protocol - Standards to be followed by Members (Protocol) in the draft format attached at Appendix 1.
- 1.2 Subject to Members comments received in respect of paragraph 1.1 above to recommend to Council the adoption of a Protocol.

2. SUMMARY

- 2.1 The purpose of the Report is to seek the views of the Committee on the draft Protocol in relation to the resolution of conduct issues at a local level in response to the guidance issued by the Public Services Ombudsman For Wales ("the Ombudsman").
- 2.2 The Ombudsman has indicated that such complaints could be more appropriately resolved informally and locally by the adoption of a "Local Resolution Protocol". The perceived advantages of doing so are that it: -
 - (a) speed up complaints process;
 - (b) avoid unnecessary escalation of the situation which might impact on personal relationships and potentially cause damage to the reputation of the Council; and
 - (c) avoid unnecessary "formal" complaints and the involvement of the Ombudsman.
- 2.3 Low level, Member-on-Member complaints are typically those complaints about the alleged failure by Members to show respect and consideration for others as required by the Code of Conduct and making vexatious, malicious or frivolous complaints against other Members under the Code.

3. LINKS TO STRATEGY

- 3.1 By virtue of the Local Government Act 2000 Members are required to comply with the Council's Code of Conduct for Members. The Code is supplemented by guidance issued by the Ombudsman, which encourages Council's to adopt an informal Local Resolution Protocol to deal with low-level complaints between Members.

4. THE REPORT

- 4.1 Members will be aware that the formal route for complaints made by one Member against another relating to breaches of the Code of Conduct for Members would be for the complaint to be made directly to the Ombudsman.
- 4.2 However in the most recent guidance issued by the Ombudsman on the Code of Conduct For Members of Local Authorities, there is an expectation that Local Authorities throughout Wales will implement a Local Resolution Protocol to deal with low-level complaints made by one Member against a fellow Member.
- 4.3 The Ombudsman has indicated that the following would fall into this category:-
- (i) Failing to show respect and consideration for others contrary to paragraph 4(b) of the Code.
 - (ii) Duty not to make vexatious, malicious or frivolous complaints against other Members under the paragraph 6 (1) (d) of the Code.
- 4.4 Welsh Government has also acknowledged that there is scope for a more local approach to the resolution of low-level complaints and the Minister For Local Government has written to Local Authorities reiterating the importance for all Local Authorities to implement a Local Resolution Protocol. Most Local Authorities in Wales have now or are currently implementing a Protocol. As such it is essential that Caerphilly also introduce its own Protocol at the earliest opportunity.
- 4.5 The perceived advantages of such a Protocol are that it:-
- 4.5.1 speeds up the complaints process permitting a local and quick resolution of lower Order issues
 - 4.5.2 avoids unnecessary escalation of a situation, which might impact on personal relationships and potentially cause wider damage to the Authority's reputation
 - 4.5.3 avoids unnecessary "formal" complaints and the involvement of the Ombudsman.
- 4.6 As mentioned above most Local Authorities have developed their own local protocols to determine low-level complaints without the need for referral to the Ombudsman. There are however a number of variations in the protocols adopted by various Local Authorities as it is accepted that each Authority requires the discretion and flexibility to resolve complaints having regard to specific local circumstances.
- 4.7 Some Authorities have promoted a more informal "political" resolution procedure, which involves Group Leaders and/or the Mayor. The process may progress to the involvement of an Independent Member of the Standards Committee if the matter cannot be resolved at the first stage. The final stage would be sanctions or referral to the full Standards Committee.
- 4.8 Other authorities have adopted a more structured approach with a more prominent role for the Standards Committee. The initial stage would involve the Monitoring Officer who will arrange a meeting of the Members concerned to seek an informal resolution. If the complaint cannot be resolved at this stage then it would be referred to the Standards Committee.
- 4.9 Members are aware that the Council has set up Constitution Review Group (the Group) with cross party membership, which is currently undertaking a full review of the Constitution. As part of the review the Group discussed the proposed implementation of a Local Resolution Protocol. It was the view of the majority of the Group that this more structured approach set out in paragraph 4.8 would be the most appropriate way forward.

- 4.10 Members will appreciate that it is an integral part of their role is to monitor ethical standards of the Council therefore it would be entirely appropriate for the Standards committee to be involved in any local process adopted by the Council.
- 4.11 A draft Local Resolution Protocol is attached at Appendix 1 and follows the structured approach mentioned above. The Protocol is designed to ensure that any allegations are dealt with quickly and effectively. It essentially follows a 2-stage process.
- 4.12 Stage 1 sets out how and when the complaint is made and the initial informal resolution stage. The complaint must be submitted within one month of the event giving rise to the complaint occurring or one month of the substance of the complaint coming to the attention of the Member.
- 4.13 The Monitoring Officer will determine if it is appropriate to deal with the complaint under the protocol. If it falls within the protocol he/she will try to resolve the matter informally. (Stage 1)
- 4.14 If the complaint cannot be resolved at Stage 1, the Protocol provides that the complaint will be referred to Stage 2 of the Protocol, which will include a formal hearing before the Standards Committee. The protocol sets out timescales which unless agreed with the Chair must be complied with by the parties involved. It also sets out how the hearing will be conducted.
- 4.15 The Standards Committee may at the end of a Hearing come to one or more of the following conclusions namely: -
- (a) there is no basis to the complaint and no further action is required;
 - (b) 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.
- 4.16 The conclusion of the investigation will be minuted and reported to Council. In addition the Standards 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).
- 4.17 Members are asked to consider the report together with the draft Protocol attached at Appendix 1 and provide their comments.

5. EQUALITIES IMPLICATIONS

- 5.1 Should any of the low level complaints as covered in 4.3, alleging failure to show respect and consideration for others, contain aspects of discriminatory comments or actions, the Standards Committee can recommend an informal and local resolution using existing methods already in operation to deal with similar issues in terms of complaints by public and between staff members.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no direct financial implications associated with this report.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no direct financial implications associated with this report.

8. CONSULTATIONS

- 8.1 The views of the Leaders of the declared political groupings are being sought and will be reported to the Standards Committee.

9. RECOMMENDATIONS

- 9.1 It is recommended that Members consider the report and provide appropriate comments on the draft Protocol. The report will be placed before Council at its next meeting.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To introduce a Local Resolution Protocol to deal with low-level complaints between members.

11. STATUTORY POWER

- 11.1 Local Government Act 2000
11.2 Public Services Ombudsman (Wales) Act 2005

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Appendices:
Appendix 1 Draft Local Resolution Protocol - Standards to be followed by Members