



## 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.

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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