

Monmouthshire County Council

Local Resolution Protocol

1. Introduction

- 1.1 This Protocol has been established in accordance with the Ombudsman's guidance on the Code of Conduct for Members ("the Code") which states that "low-level, member-on member" complaints relating to breaches of the Code should be dealt with at a local level. The aim of the Protocol is to avoid the unnecessary escalation of situations which may damage personal relationships within the Council and the Council's reputation.
- 1.2 This Protocol does not prevent members from referring any complaint to the Ombudsman if they wish. However, members should be aware that the Ombudsman has made it clear that, in normal circumstances, it is expected that in the first instance members should exhaust the procedures set out in this Local Resolution Protocol before referring low-level complaints to the Ombudsman.
- 1.3 Whether or not a complaint is "low level" in nature will depend upon the individual circumstances of each case. However, 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.'
- 1.4 If you are unsure whether a matter you wish to complain about is 'low-level', then you should seek advice from the Monitoring Officer.

2. Scope

- 2.1 In order to fall within the scope of this Protocol complaints must meet all three of the following criteria:
 - be made by a member of the Council and relate to a breach of the Member Code of Conduct;
 - be low-level in nature; and
 - not relate to repeated occurrences of similar conduct that has already been dealt with under this Protocol or by the Ombudsman.

3. Procedure

- 3.1 Complaints will be dealt with in accordance with the procedures set out below.
- 3.2 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 under the Protocol as a matter of priority and within the timescales set out in this Protocol.

3.3 If 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.

3.4 Stage One - Making The Complaint And Informal Resolution

3.4.1 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.

3.4.2 The complaint must set out the relevant details of the behaviour or conduct complained of and which paragraphs of the Code the member believes has been breached.

3.4.3 Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within the Protocol or whether the complainant(s) should instead consider referring the matter to the Ombudsman.

3.4.4 If the Monitoring Officer determines that the allegation falls within the remit of the Protocol he/she will seek to try and resolve the matter informally with the agreement of all parties concerned.

3.4.5 The relevant Group Leaders may also be involved at this stage given their statutory obligations pursuant to s.52A Local Government Act 2000 to take reasonable steps to promote and maintain high standards of conduct by the members of their group and to co-operate with the council's Standards Committee in the exercise of the Standards Committee's functions.

3.4.6 All parties involved at Stage One will take into account any advice and guidance of the Monitoring Officer.

3.4.7 If the matter is not capable of resolution at Stage One the complainant may ask that the matter be considered by a hearing of the Standards Committee under Stage Two of this Protocol.

3.4.8 The Chair of the Standards Committee will make a determination as to whether it is in the public interest for the matter to proceed to Stage Two. This determination will be final. In making this determination, the Chair of the Standards Committee must take into account the advice of the Monitoring Officer and any guidance of the Ombudsman.

3.4.9 Stage Two – Standards Committee Hearing

3.4.10 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 paragraphs of the Code they believe have been breached, together with all the written evidence they wish to submit for consideration at the hearing. This written submission must be provided within two weeks of the member notifying the Monitoring Officer they wish the complaint to progress to Stage Two.

- 3.4.11 The member(s) who is the subject of that complaint must provide a written response to that complaint within one month of receipt of it, together with all written evidence they wish to submit for consideration at the hearing.
- 3.4.12 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 relevant officer (“Legal Adviser”) will advise the Standards Committee on legal and procedural issues during this process and at the hearing.
- 3.4.13 All members 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.
- 3.4.14 The papers referred to in paragraphs 3.4.10 and 3.4.11 will be distributed to the members of the Standards Committee in accordance with the Council’s Access to Information Rules.
- 3.4.15 No additional evidence may be produced without the prior consent of the Chair of the Standards Committee.
- 3.4.16 Each member must give notification in writing to the Legal Adviser 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.
- 3.4.17 If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
- 3.4.18 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.
- 3.4.19 The proceedings at the Standards Committee hearing shall be conducted in the following order:
- Opening address by the Chairman;
 - The complainant will be invited to address the Committee to outline their complaint;
 - Committee members may ask the complainant questions about their complaint;
 - The member who is subject to the complaint will be invited to address the Committee;

- Committee members may ask that member questions about their submissions;
- Witnesses for the complainant will be invited to address the Committee;
- Committee members may ask those witnesses questions about their evidence;
- Witnesses for the member who is the subject of the complaint will be invited to address the Committee;
- Committee members may ask those witnesses questions about their evidence;
- If any officers have been invited to attend the Standards Committee hearing to give evidence, then members of the Committee shall ask them questions at this stage;
- The complainant will be invited to make any closing remarks, but shall not be permitted to introduce new evidence at this stage;
- The member subject to the complaint shall be invited to make any closing remarks, but shall not be permitted to introduce new evidence at this stage;
- The Standards Committee shall then retire to deliberate in private on the representations. The Committee must make a determination as to whether there has been a breach of the Code , and if so, whether a sanction should be imposed. In coming to their findings, the Standards Committee should seek and take into account the advice of the Legal Advisor.
- The Standards Committee shall reconvene for the Chairman to announce the Committee's finding.

3.4.20 The Committee can come to one or more of the following determinations, namely:-

- i) that there is no basis to the complaint and no further action required;
- ii) that there is a basis to the complaint but that no further action is required in the public interest;
- iii) 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;
- iv) referral to the Ombudsman for investigation if the complaint is considered to be deserving of more serious sanctions than the Standards Committee has the power to impose.

3.4.21 During proceedings, members are not entitled to cross examine each other or each other's witnesses.

3.4.22 The Chair may at his/her sole discretion vary the procedure and order of the hearing to ensure a fair and efficient hearing.

4. General

4.1 Where complaints are considered under stage 1, the monitoring officer shall report to standards committee periodically the numbers and types of complaints involved, and whether a mutually acceptable resolution was achieved, but the parties names shall remain confidential

4.2 The Stage Two hearing before the Standards Committee will generally be conducted in an open session of the Standards Committee, subject to the Council's Access to Information Rules.

4.3 Any member aggrieved by a decision under Stage Two may refer the matter to the Public Sector Ombudsman for Wales.