

Magor with Undy Community Council

Local Resolution Protocol

Background

The Public Service Ombudsman for Wales has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution. However, to date there has not been a common process for Community and Town Councils to follow in dealing with such matters. To assist the sector, One Voice Wales has drawn up the following as a model protocol which any Community and Town Council can use in dealing with such complaints.

This model protocol is meant as a starting point for Community and Town councils. Individual councils may wish to add or amend this model to suit their particular needs. Councils wishing to use this process should first of all be clear about its purpose and intention, formally adopt it in its current or in a revised form and ensure that all Councillors are provided with a copy for their attention. The Council should then determine the framework through which it is operated which may require the establishment of a Committee or Panel or an extension of the terms of reference of an existing Panel or Committee such as a Complaints Panel or Committee. In the case of establishment of a new Panel it is important that terms of reference are prepared and approved by the Council. In either case it will be important for Councils to document in the terms of reference as to what will happen if there is a lack of co-operation shown by the member concerned or a breakdown occurring during the operation of the process. For example, in such cases the default position might be that the matter is referred to the Public Service Ombudsman for Wales.

The Local Resolution Process

(For the purpose of this document, an Officer is defined as a paid employee of the Council, and a Member is an elected or co-opted Community Councillor, also, a minor complaint is considered to be a failure to show respect and consideration to others)

Issues which should be considered under this process

Low level complaints about Members, including:

- Minor complaints from Members about Members
- Minor complaints from Officers about Members
- Members alleged to have not shown respect and consideration for others – either verbally or in writing
- Any alleged breaches of Code of Conduct should be referred to the Public Service Ombudsman for Wales

Issues which should not be considered under this process

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

- Complaints instigated by a member of the public
- Serious complaints – breaches of the Code of Conduct/failure to disclose interests/bullying/abuse of position or trust/repeated breaches
- Complaints made by the Clerk

- Vexatious, malicious or frivolous complaints
- Officer's complaints about members which cannot be dealt with using the Council's internal complaints process
- Repetitive low level complaints

The Process

The complaint

The complaint would need to be sent to the Clerk of the Council. The Clerk will then acknowledge receipt within 10 working days and share details of the complaint with the Chair of the Council who will 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. If appropriate, therefore, the Clerk/Chair of the Council should firstly seek an early resolution of any such dispute by liaising informally with the individual members concerned prior to the resolution process described below. It is vitally important that the 'accused' member is given full details of the complaint against them so that in the interests of natural justice they are in a position to prepare their response to the accusation.

All parties will adhere to the Data Protection Act taking especial note of confidentiality and work within the auspices of the Council's Code of Conduct.

Resolution Process

The involvement of the Chair of the 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.

The Clerk/Chair of the Council/Chair of the Human Resources (HR) Committee will act as a panel to facilitate the resolution process below.

If the complaint is between Members other than the Chair of the Council, the panel will meet individually with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint is between Members, one of whom is the Chair of the Council, but not the Chair of the Human Resources (HR) Committee, the Clerk and the Chair of the Human Resources (HR) Committee will meet with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint is between Members, one of whom is the Chair of the Human Resources (HR) Committee, but not the Chair of the Council, the Clerk and the Chair of the Council will meet with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk, against a Member other than the Chair of the Council, the Clerk and the Chair of the Council and the Chair of the Human Resources (HR) Committee will meet with the officer and the Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk, against the Chair of the Council, the Clerk and the Chair of the Human Resources (HR)

Committee will meet with the officer and the Chair of the Council to seek an agreed resolution.

If the complaint has been made by the Clerk, then it is likely to be best practice that this complaint is forwarded by way of a complaint to the Ombudsman.

Possible results of the process

If an agreement is reached by Members and/or officers during this stage, then no further action is required and the decision recorded

Examples of agreements might include issue of a letter of apology, a written undertaking or commitment not to breach the Code of Conduct in the future, a commitment to undertake training or an agreement that on the basis of the evidence that no further action should be taken and the matter be closed.

If agreement cannot be reached e.g. all parties do not attend facilitation meeting, the aggrieved Member/officer would always have the opportunity of referring the matter to the Ombudsman.

Time for the process

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.

Important Points to Note

Panel members will undertake appropriate training in facilitation and mediation.