

LOCAL RESOLUTION PROTOCOL FOR COMMUNITY AND TOWN COUNCILS

1. Purpose of the report

It was resolved at the meeting on the 10th of January 2019 that the Town Clerk look into a policy for the use of a local resolution for complaints. The following draft policy is taken from information the Town Clerk has gathered from other Town Councils, One Voice Wales Website and the Public Service Ombudsman.

2. Background

The Public Service Ombudsman has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution and to adopt their own local protocol.

The following protocol is relatively simple in nature, which should make it easy to use and/or adopt to local circumstances. The procedure will only work where both parties try and make it work. Failure to cooperate might therefore be a factor in favour of referral to the County Council Monitoring Officer or to the Public Services Ombudsman for Wales.

3. 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

3a. Issues which should not be considered under this process

Complaints which must be directed to the Public Services Ombudsman for Wales. The Code of Conduct for members of local authorities in Wales – Guidance from the Public Service Ombudsman for Wales is available on the Rhuddlan Town Council's website under Policies:

- 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/Proper Officer.
- Vexatious, malicious or frivolous complaints.
- Members' complaints about officers which should be dealt with using the Council's internal complaints process.
- Repetitive low-level complaints.

4. The Complaint

All complaints must be made in writing to the Clerk of the Council to 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 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.

5. Resolution Process

The involvement of the Chair/Vice-Chair of the Council in the following process is not to adjudicate on the complaint, but to attempt to get the members involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis.

The Clerk will act as a facilitator for the resolution process below.

- a. If the complaint is between Members other than the Chair** of the Council, the Clerk and the Chair will meet individually with the complainant and Member subject of the complaint to seek an agreed resolution.
- b. If the complaint is between Members, one of whom is the Chair** of the Council, but not the Vice-Chair, the Clerk and the Vice-Chair will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
- c. If the complaint has been made by an employee, but not the Clerk** against a Member other than the Chair of Council, the Clerk and the Chair of Council will meet with the officer and the Member subject of the complaint to seek an agreed resolution.
- d. If the complaint has been made by an employee, but not the Clerk against the Chair of Council**, the Clerk and the Vice-Chair of Council will meet with the officer and the Chair to seek an agreed resolution.
- e. 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.

6. Possible results of the process

If an agreement is reached by Members and/or employee during this stage then no further action is required.

If agreement cannot be reached the aggrieved Member/employee would always have the opportunity of referring the matter to the Ombudsman.

Examples of agreements might include issue 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.

7. 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.

8. Important Points to note in preparing a process for use by the Council

It is suggested that any meetings held with a view to discussing the issues of complaints and/or resolving matters are at the very least minuted, if not recorded. This is to ensure that agreements are captured. This will also be useful in the event that matters break down or escalate and need to be referred to the PSOW. It may also be useful as evidence in the event of further similar breaches of the conduct and future conduct.

Councils need to be clear on their powers in respect of code of conduct matters. The Ombudsman has seen examples of councils who have deemed it appropriate to fully investigate a code complaint, decide that there has been a breach and some have even thought it appropriate to consider the issue of a sanction. Investigations of possible breaches of the Code are matters for the Ombudsman. The Local Government Act 2000 gives him the authority to carry out such investigations. The Council has no legal authority to undertake such investigations or to make findings of a breach of the Code of Conduct, which are decisions that can only be reached by a Standards Committee or the Adjudication Panel for Wales.

Protocol adopted by Rhuddlan Town Council on 13th February 2019.