



RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

18 SEPTEMBER 2018

**LOCAL RESOLUTION PROCEDURE FOR COMMUNITY AND TOWN COUNCILS
– ONE VOICE WALES**

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

- 1.1 To provide Members with information and seek the Committee's endorsement in respect of One Voice Wales' Local Resolution Procedure for Community and Town Councils.

2. RECOMMENDATIONS

- 2.1 That the Committee endorses the One Voice Wales Local Resolution Procedure and notes its level of adoption by Community and Town Councils within Rhondda Cynon Taf.

3. BACKGROUND

- 3.1 For some time the Public Services Ombudsman for Wales (PSOW) has been concerned about the growing number of, generally, low level complaints under the Code. His office has instituted a two stage test to carve out those cases not worthy of investigation, so that only the most serious are allocated scarce investigation resources.
- 3.2 The Ombudsman's guidance on the Code of Conduct for Community and Town Councils encourages the use of local resolution for low level complaints. This Council adopted a local protocol in January 2011 which was revised in July 2013. That protocol and associated procedures would not have been appropriate for Community and Town Councils and until recently there was no suitable precedent for them to adopt.
- 3.3 One Voice Wales have now produced a protocol, attached as Appendix 1 to this report. It is relatively simple in nature, which should make it easy to use and/or adopt to local circumstance. The procedure will only work where both parties try to make it work, and the same is true with Rhondda Cynon Taf's own local resolution process. Failure to cooperate might therefore be a factor in favour of referral to the PSOW for formal investigation.

- 3.4 The procedure is intended for use where complaints are low level and have been made by an officer (not the clerk) or another member. Serious complaints, or those made by the clerk or a member of the public are recommended for referral to the PSOW.
- 3.5 The simple nature of the document does mean that some flexibility and a willingness to make the process work will be required. Experience with our own local protocol indicates that it works best with willing participants as well. If one party refuses to cooperate then it is still open, and perhaps preferable, to refer the matter to the PSOW.
- 3.6 The Committee is therefore asked to endorse the procedure. An oral update will be provided at the meeting in respect of the current adoption rate of the procedure by Rhondda Cynon Taf Community and Town Councils.

4. LEGAL IMPLICATIONS

- 4.1 There are no legal implications arising from this report.

5. CONSULTATION

- 5.1 There are no consultation implications arising from this report.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 There are no equality and diversity implications arising from this report.

7. FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 Council officers give governance advice to town and community councils. Resources are insufficient to operate such a local resolution process for other councils. Town and community councils will therefore have to operate this process themselves. There would therefore be minimal resource implications for this Council.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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18 SEPTEMBER 2018

REPORT OF THE MONITORING OFFICER

Background Papers: Freestanding matter

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Un Llais Cymru



One Voice Wales

**Model Local Resolution Protocol
for Community and Town Councils**



ONE VOICE WALES

Model Local Resolution Protocol for Community and Town Councils

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. 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 Ombudsman for Wales.

The Local Resolution Process

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

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/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

The Process

The complaint

The complaint would need to be sent to the Clerk/Proper Officer 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/Proper Officer 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.

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/officers involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis.

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

If the complaint is between Members other than the Chair of the Council, the Clerk/Proper Officer and the Chair 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 Council, but not the Vice Chair, the Clerk/Proper Officer and the Vice Chair 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/Proper Officer, against a Member other than the Chair of Council, the Clerk/Proper Officer and the Chair of Council 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/Proper Officer, against the Chair of Council, the Clerk/Proper Officer and the Vice Chair of Council will meet with the officer and the Chair to seek an agreed resolution.

If the complaint has been made by the Clerk/Proper Officer, 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.

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

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.

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 in preparing a process for use by the Council

The Clerk/Proper officer, Chair and Vice Chairs of Councils should consider receiving appropriate training in facilitation and mediation to be in a position to maximise the benefit of this process. Councils wishing to pursue this route should contact One Voice Wales for guidance.

Councils might want to include some guidance where complaints which are most appropriately dealt with under this process are referred back to the Council by PSOW. The PSOW could actively do this if the Council has an approved process.

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.



ABOUT ONE VOICE WALES

One Voice Wales is the national representative organisation for Community and Town Councils throughout Wales. The vision subscribed to by One Voice Wales is:

“Working with local councils in Wales to shape places communities want to live in”

One Voice Wales aims to support Community and Town Councils in achieving this vision and has adopted the following Mission Statement to guide its work:

“To represent the interests of Community and Town Councils; raise awareness and understanding of this primary tier of government; and work collaboratively with our partners to ensure the sector contributes fully to the goal of developing dynamic and sustainable communities in Wales.”

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