

<b>CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>COMMITTEE:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>6 February 2025</b>
<b>REPORT TITLE:</b>	<b>Local Resolution Protocols adopted by authorities in Wales.</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To inform the Standards Committee of the work done by the Public Services Ombudsman for Wales in relation to Local Resolution Protocols at different authorities</b>
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## **1 INTRODUCTION**

The Public Services Ombudsman for Wales (“**PSOW**”) has collated the Local Resolution Protocols (“**LRPs**”) from authorities in Wales and obtained a legal opinion on the status of some provisions within the LRPs. This report identifies the key principles arising from this legal opinion and the PSOW’s position on the use of LRPs.

## **2 LOCAL RESOLUTION PROTOCOL**

The legal opinion obtained by the PSOW has been summarised for Monitoring Officers, and key principles arising from this exercise that the Standards Committee should be aware of are:

- 2.1 LRPs are intended to deal with low level & trivial complaints, for example allegations of a failure to show respect and consideration at the very lowest level and which the right to free speech may indicate are not breaches of the Code of Conduct (the “**Code**”). Issues which are suitable for consideration under a LRP should be clearly defined to avoid any confusion arising. Matters that suggest a breach of the Code (for example, failures relating to the declaration of interests, bullying or disreputable conduct) should be expressly identified as being excluded from the matters suitable for consideration under the LRP (and, instead, require referral to the PSOW for consideration).

- 2.2 LRP's are drafted on the basis that the complainant and the subject of the complaint both agree to adhere to the LRP and agree to be bound by its outcome. However, this does not prevent a complaint being subsequently referred to the PSOW if it is considered appropriate to do so.
- 2.3 LRP's are informal and without any statutory basis. No decision under an LRP can remove the PSOW's power to investigate a potential breach of the Code under the Local Government Act 2000. This is a statutory power with the purpose of maintaining high standards of conduct in public life in Wales and cannot be limited by any agreement by individuals to submit to the LRP. The High Court have also found that any complaint received by the PSOW engages the Ombudsmen's powers under the Local Government Act 2000 – which states that on receipt of a written allegation, the PSOW may investigate. The presence of, or agreement to submit to, an LRP does not fetter or remove the PSOW's powers or duties.
- 2.4 The status of a LRP means that the facts considered as part of a matter proceeding in accordance with the LRP, and any outcome settled on pursuant to the LRP, may be revisited formally in the event that the subject of the complaint was referred to the PSOW, who subsequently referred the matter to the Standards Committee under the Local Government Act 2000. Public law principles and risk of pre-determination – or the perception of pre-determination – must be considered and steps taken to mitigate such risks.
- 2.5 These principles are consistent with the PSOW's published guidance ([found here at pages 12 to 14](#)) which refers to LRP's dealing with "low level" complaints and disputes, typically relating to a failure to show respect and consideration.

### **3 MATTERS FOR THE COMMITTEE TO CONSIDER IN RELATION TO THE COUNCIL'S LRP**

- 3.1 The Council's current LRP is included at **ENCLOSURE 1**.
- 3.2 It is advised that the Standards Committee considered making two minor amendments to the Council's LRP to reflect the above principles and assist in:
- 3.2.1 Delivering the central purpose of the LRP, namely the swift resolution and reconciliation of matters; and
- 3.2.2 Providing clear information to members when they are seeking to understand both the LRP itself and other processes that are available to them in the event there are concerns around standards of conduct.

- 3.3 The amendments identified in **ENCLOSURE 2** further reflect the legal opinion obtained by the PSOW and/or existing guidance published by the PSOW.
- 3.4 The recommended amendments, and rationale for the proposed amendments, are set out in **ENCLOSURE 2** for the Standard Committee's review and consideration.

#### **4 RECOMMENDATION**

- 4.1 For the Standards Committee to note the principles in paragraph 2 above. The Chair of the Standards Committee will lead a discussion on any matters of interest.
- 4.2 For the Standards Committee to resolve to share the above principles with Group Leaders to assist them in their duties to promote and maintain high standards of conduct and assist members in both their understanding of (i) the LRP; and (ii) the other processes available to members in the event concerns arise relating to members' standards of conduct.
- 4.3 For the Standards Committee to resolve that the recommended amendments to the LRP set out in **ENCLOSURE 2** are referred by the Monitoring Officer to the Group Leaders for their review and consideration, alongside a recommendation from the Standards Committee that the amendments are accepted.
- 4.4 The Standards Committee requests an update from the Monitoring Officer at the next Standards Committee meeting on matters relating to:
  - 4.4.1 Whether the recommended amendments to the LRP have been agreed by the Group Leaders;
  - 4.4.2 Whether the form of the LRP, following discussions with the Group Leaders, has been updated; and
  - 4.4.3 Whether any further consequential amendments to Council procedures or documentation are required to be considered by the Standards Committee to reflect any agreed changes to the LRP and the legal opinion obtained by the PSOW as reported on.

## LOCAL RESOLUTION PROTOCOL

<b>PART 1 – BACKGROUND</b>	
<b>Why do we need a Local Resolution Protocol (LRP)?</b>	<p>The purpose of the LRP is to:</p> <ul style="list-style-type: none"> <li>• promote high standards of conduct;</li> <li>• foster and maintain positive working relationships;</li> <li>• address low level behavioural complaints which do not meet the Public Services Ombudsman for Wales' (PSOW) threshold for investigations;</li> <li>• deal with matters arising as quickly as reasonably possible to avoid unnecessary escalation;</li> <li>• safeguard the Council's reputation.</li> </ul> <p><b><u>In Summary</u></b>, the LRP seeks to achieve swift resolution and reconciliation with the parties being assisted by the Standards Committee, where necessary.</p>
<b>Is it compulsory?</b>	<ul style="list-style-type: none"> <li>• It is not a statutory requirement to adopt such an LRP but both the Welsh Government and the PSOW have made it clear that they expect all local authorities to have such arrangements in place.</li> <li>• The Penn Report: 'Independent Review of the Ethical Standards Framework' states:</li> </ul> <p><b><i>“The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation”.</i></b></p> <ul style="list-style-type: none"> <li>• Members are not required to participate. This is a <u>voluntary mediation process</u>.</li> </ul>
<b>What other processes are available to members?</b>	<ul style="list-style-type: none"> <li>• The LRP is not intended to interfere with, or take the place of, group/party discipline. Each political party/group will have their own internal processes to follow in relation to party/group discipline.</li> <li>• The LRP is not intended to oust the jurisdiction of the PSOW but, rather, to deal with a limited category of complaints which would not meet the PSOW's threshold test for investigation.</li> </ul>

	<ul style="list-style-type: none"> <li>• It is NOT intended to replace the <a href="#">Code of Conduct</a>, rather, it is an informal means of supporting the Code, at a local level.</li> <li>• The LRP does not replace the <a href="#">Relationship Protocol for Members and Officers</a> set out in the Council's Constitution.</li> <li>• Members should make all reasonable attempts to resolve disputes through the LRP, where possible and appropriate, and always subject to their obligations under the Members' Code of Conduct.</li> </ul>
<p><b>What are the general principles of the LRP?</b></p>	<ul style="list-style-type: none"> <li>• To promote high standards of conduct as a way of strengthening respect and trust among members to enable members and officers to focus on “the work”.</li> <li>• Referral to external regulators is a last resort, unless there is a serious breach of the <a href="#">Code of Conduct</a>, eg where a member has sought to influence or participate in a decision which would benefit their personal interests. Such matters fall outside the scope of the LRP.</li> <li>• Members will avoid personal confrontation in any public forum, especially full Council, and through the media.</li> <li>• <b>These commitments to internal resolution must not stifle legitimate political debate, challenge or scrutiny.</b></li> <li>• Party/group conduct will be the primary focus, with group leaders taking management responsibility for their own members.</li> </ul>
<p><b>What are the responsibilities of the group leaders?</b></p>	<ul style="list-style-type: none"> <li>• The leader of a political group should take reasonable steps to promote and maintain high standards of conduct by the members of their group, in accordance with their statutory duty under the Local Government and Elections (Wales) Act 2021.</li> <li>• Reasonable steps that a group leader might undertake include:- <ul style="list-style-type: none"> <li>• Demonstrating personal commitment to and attending relevant development or training around equalities and standards;</li> <li>• Encouraging group members to attend relevant development or training around equalities and standards;</li> <li>• Ensuring nominees to a committee have received the recommended training for that committee;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Promoting civility and respect within group communications and meetings, and in formal Council and committee meetings;</li> <li>• Promoting informal resolution procedures in the Council, and working with the Standards Committee and Monitoring Officer to achieve local resolution;</li> <li>• Promoting a culture within the group which supports high standards of conduct and integrity;</li> <li>• Attending a meeting of the Council's Standards Committee, if requested, to discuss Code of Conduct issues;</li> <li>• Working to implement any recommendations from the Standards Committee about improving standards;</li> <li>• Working together with other group leaders, within reason, to collectively support high standards of conduct within the Council.</li> </ul>
<p><b>What are the responsibilities of the Standards Committee?</b></p>	<ul style="list-style-type: none"> <li>• To monitor and encourage group leaders to comply with their duty to promote and maintain high standards of conduct by members of their group;</li> <li>• To advise on the adoption or revision of the <a href="#">Code of Conduct</a>, this LRP, as well as any other documents/consultations within the Committee's remit;</li> <li>• To monitor the operation of the <a href="#">Code of Conduct</a>; including occasional attendance at Council / Committees meetings;</li> <li>• To provide advice, or provide or arrange, training on the Code for members;</li> <li>• To receive any reports from group leaders;</li> <li>• To share best practice;</li> <li>• To provide timely and meaningful feedback to group leaders.</li> </ul>
<p><b>PART 2 – HOW DOES THE LRP WORK?</b></p>	
<p><b>What is expected of the Group Leaders?</b></p>	<ul style="list-style-type: none"> <li>• A complaint by a member, relating to a member of their own group, will be dealt with by their group leader.</li> </ul> <p>A complaint by a member, about a member of a different political group, will first be raised by the complainant with their own group leader. Their group leader will then refer the matter to the group leader who has responsibility for the</p>

	<p>respondent.</p> <ul style="list-style-type: none"> <li>• Upon receiving a complaint, whether from a member of their own group, or from the leader of another group, it is the role of every group leader to take management responsibility (though not personal responsibility) for the conduct of their members.</li> <li>• Subject to existing processes/arrangements within each party/group, group discipline should seek to be informal, and resolved through face to face meetings, as quickly as possible.</li> <li>• Group leaders may choose to retain some records but the process should not be burdensome.</li> <li>• The emphasis should be on early resolution and may include mediation, conciliation, training, development or education; or some combination thereof. Clearly, it should seek to be fair and consistent.</li> <li>• During the course of this process, the group leader may, at any stage and at their discretion, consult with the Chair of the Standards Committee (or their nominee) about any proposed action the group leader intends to take. Group leaders may also use the Chair of the Standards Committee (or their nominee) as a “sounding board”.</li> <li>• Prior to considering any sanction, or training/development etc., the relevant group leader may consult with the Chair of the Standards Committee (or their nominee) who will use best endeavours to provide frank, fair, consistent and confidential advice to any group leader requesting such a discussion.</li> <li>• In cases of significant misconduct, or after persistent breaches, a complainant may be advised by the Monitoring Officer to refer the matter to the Public Services Ombudsman for Wales.</li> <li>• Where a complaint is made about a group leader, the Chair of the Council will be asked to consider how best to address the complaint, in consultation with the Chair of the Standards Committee (or their nominee)</li> <li>• If the issue involves an unaffiliated member or members, the Chair of the Council will undertake the role of Group Leader.</li> </ul>
<p><b>What is expected of the Standards Committee?</b></p>	<ul style="list-style-type: none"> <li>• In addition to the advisory and support role to the group leaders, described above, if the matter has not been capable of resolution through party/group discipline, a complainant</li> </ul>

	<p>may refer the matter to the Chair of the Standards Committee (or their nominee).</p> <ul style="list-style-type: none"> <li>• The member making the complaint will be asked to put their concerns in writing to the Chair of the Standards Committee (or their nominee). Alternatively, if the complainant prefers, to meet with the Chair of the Standards Committee (or their nominee). In either case, the purpose will be to confirm: <ul style="list-style-type: none"> <li>• when, where and how the relevant incident occurred</li> <li>• how and why the incident breached the <a href="#">Code of Conduct</a></li> <li>• what the complainant is seeking by way of resolution</li> </ul> </li> <li>• The Chair of the Standards Committee (or their nominee) will consider the complaint and advise the complainant as to whether or not the Standards Committee is willing to undertake a mediation role.</li> <li>• If the Chair of the Standards Committee (or their nominee) is willing to undertake a mediation role, then they will contact the respondent, explain the substance of the complaint, and ask whether or not the respondent is willing to participate in mediation with the complainant, and a member of the Standards Committee.</li> <li>• The respondent will be asked to respond to the offer of mediation within 7 days. If the offer of mediation is refused, or the respondent fails to respond, then there will be no further action and the Standards Committee will treat the matter as closed.</li> </ul>
<p><b>Are there any time limits?</b></p>	<ul style="list-style-type: none"> <li>• Any complaint should be made within 7 days of the date when party/group discipline has failed to resolve the matter.</li> <li>• Consideration of any complaint raised outside this time limit will be at the discretion of the Chair of the Standards Committee (or their nominee).</li> </ul>
<p><b>How many meetings may be necessary?</b></p> <p>Preliminary meeting 1</p>	<ul style="list-style-type: none"> <li>• The number of meetings held may vary according to the circumstances of the case and, in particular, the potential for resolution.</li> </ul> <p>So the following is a guide only with the number of meetings/process suggested not being mandatory. It very much depends on what the parties agree. Subject thereto, the following is an example of what may happen in practice:-</p> <ul style="list-style-type: none"> <li>• The Chair of the Standards Committee (or their nominee) will have a first meeting with the complainant, as described above, in order to receive necessary</li> </ul>



Preliminary meeting 2	<p>information about the complaint and establish the desired resolution</p> <ul style="list-style-type: none"> <li>• Similarly, a second meeting, with the respondent, will have taken place, as described above, to explain the complaint and confirm whether or not the respondent is willing to meet with the complainant and a member of the Standards Committee, to see whether it is possible to mediate a solution.</li> </ul>
Preliminary meeting 3	<ul style="list-style-type: none"> <li>• If the offer of mediation has been made and accepted, then the Chair of the Standards Committee (or their nominee) will meet with the respondent in order to discuss their response to the complaint/their point of view.</li> </ul>
Mediation meeting	<ul style="list-style-type: none"> <li>• The mediation meeting will take place between the complainant, the respondent, and the Chair of the Standards Committee (or their nominee). The purpose of the meeting will be to narrow down the issue/s in dispute and see if it is possible to reach an agreed resolution.</li> <li>• Further mediation meetings may take place if all parties are agreed that a further meeting or meetings are necessary/desirable and that there are reasonable prospects of achieving a resolution.</li> <li>• During the mediation meeting/s, and thereafter, the Chair of the Standards Committee (or their nominee) will not come to any view, apportion blame or make any findings. They may, however, make informal recommendations to the parties. Any such recommendations shall not be binding.</li> <li>• The Chair of the Standards Committee (or their nominee) will only facilitate a mediation meeting if they have already received training for this purpose and that the training they have received is current.</li> <li>• All the meetings shall take place in private. Discussions will remain confidential.</li> <li>• There will be no paperwork nor records retained after the completion of the mediation process. This applies equally to digital records.</li> <li>• There will be general feedback to group leaders, where both members concerned have agreed. Any feedback will be anonymous and will be focused on outcomes and good practice. <b>Absolutely no sensitive information will be shared.</b></li> </ul>

Footnotes:

1. There are several references in the LRP to the Chair of the Standards Committee (or their nominees). Nominees refer to lay members only. Elected members of the County Council, and co-opted members of the town and community councils, will not participate in the LRP mediation process.
2. As stated in the document, participation in the LRP is voluntary and the members concerned in any matter may withdraw from the process at any time; including where they have already given their consent/agreement to the mediation process. No inference may be taken from such a withdrawal.
3. Having been agreed by the group leaders, any changes to this LRP shall be made by the Monitoring Officer, but only after consultation and explicit agreement of all the group leaders.

**Recommended amendments to the Local Resolution Protocol (“LRP”):**

- 1. Additional final bullet point to be inserted in the row titled “What other processes are available to members” (Page 1) as follows:**

*“The LRP is not intended to be used to address alleged breaches of the Code of Conduct which includes failure to disclose interests, complaints relating to bullying or abuse of position, repeated behavioural complaints or disreputable conduct”*

**Reason for proposed amendment:** The PSOW legal opinion recently obtained expressly states that issues which are suitable for consideration under a LRP should be clearly defined to avoid any confusion arising. The examples included above reflect both the [PSOW guidance](#) and the [One Voice Wales’s LRP for Town & Community Councils](#), which has been expressly identified as an example of good practice in the context of identifying those issues suitable for consideration under the LRP.

- 2. Additional final bullet point to be inserted in the row titled “What is expected of Standards Committee?” (Pages 4-5) as follows:**

*“In the event that the Chair of the Standards Committee (or their nominee) has agreed to undertake a mediation role in relation to a complaint under the LRP and the same matter is subsequently referred by the PSOW to the Standards Committee for formal consideration in accordance with Local Government Act 2000, the Standards Committee will consider on a case by case basis whether the Chair of the Standards Committee (or their nominee) shall be involved in any formal consideration of the matter.”*

**Reason for proposed amendment:** If the Chair of the Standards Committee (or their nominee) has already heard the facts relating to a complaint, and potentially overseen a mediation and given an indication of what they believe may be a reasonable resolution, there is a risk that acting in such a role under the LRP could be, or could be perceived as being, a pre-determination of matters under the formal process provided for in the Council’s Procedure for Local Hearings. The proposed amendment seeks to ensure that a fair process for all relevant parties is adopted and followed by the Standards Committee and reflects good practices adopted in other LRPs, as identified by the PSOW legal opinion recently obtained.