

ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	COUNCIL
DATE:	23 MAY 2013 @ 11.00AM
TITLE OF REPORT:	TO ADOPT A NEW LOCAL RESOLUTION PROTOCOL IN PLACE OF THE CURRENT PROTOCOL FOR SELF REGULATION
REPORT BY:	THE CHAIRMAN OF THE STANDARDS COMMITTEE
PURPOSE OF REPORT:	TO IMPROVE THE EXISTING ARRANGEMENTS FOR DEALING WITH SOME CODE OF CONDUCT COMPLAINTS

BACKGROUND

1. In July 2009 the Wales Audit Office concluded that the Council was poor at regulating its own behaviour, and that improvements were required.
2. In response to that concern, on the 4th March 2010, the Council adopted a Protocol for Self Regulation, which had been devised by the Council's Group Leaders. A copy of the Protocol is attached at **Enclosure 1**.
3. The Protocol was unanimously adopted by the Council and its operation came to be reviewed, by the Standards Committee, as part of the Standards Committee's Work Programme.
4. The Standards Committee, on its first review of the Protocol, decided not to recommend any changes as it appeared (at that time) that a national model protocol was likely to be devised as a result of work being undertaken by the Welsh Local Government Association, the Public Services Ombudsman for Wales (PSOW) and ACSes (The Wales Monitoring Officers' Group).
5. The Standards Committee also made its view clear to the Welsh Government, on the desirability of a national model, in its consultation response on the Welsh Government's White paper on promoting local democracy. A copy of that response is attached at **Enclosure 2**.
6. However, when the Standards Committee came to review the Protocol again, it was clear that there was no significant progress on a national basis, save for a summary document which outlined the practices of those eight County Councils in Wales which had adopted some type of local resolution. A copy of that summary is attached at **Enclosure 3**.
7. Given the lack of progress on a national basis, despite the expectations expressed by the PSOW in September 2012 (**Enclosure 4**) the Standards Committee established a Panel to look at this Council's existing Protocol and to put forward recommendations for improvements.

CURRENT CONTEXT

8. In broad terms, the Panel concluded that the Protocol adopted in 2010 is too slow, too bureaucratic, and too inaccessible, in that it requires complaints to be pursued through Group Leaders (or the Chair of the Council for unaffiliated Members). The Standards Committee also wanted to depoliticise the role of the Council Chair.
9. Against those findings, the Panel devised a set of sixteen general principles for a new Local Resolution Protocol. These principles were presented, by the Chair and Vice-Chair of the Standards Committee, to the Group Leaders, in a meeting on the 14th February 2013.
10. The Group Leaders endorsed the general principles, and on the 26th February 2013, they were circulated to all Members and Senior Officers, by way of consultation. A copy of the consultation is at **Enclosure 5**.
11. Members should also be aware that, during the period when revision of the Protocol was ongoing, the Minister for Local Government and Communities circulated a letter to the Leaders of all County Councils requesting that those without such protocols adopt them as soon as possible. A copy of the Minister's letter is attached at **Enclosure 6** with the relevant sections highlighted.
12. As a result of the Minister's letter, discussion around the implementation of a single national model protocol has been reinvigorated but, as yet, there is no tangible progress or timetable. If the position changes then, of course, a further Report will be brought to Council for consideration.

RECOMMENDATION

13. In the meantime, given the lack of certainty on the development of a national protocol, and given the Standards Committee's concerns about the current local arrangements, it is recommended that the Council abolish the Protocol adopted on the 4th of March 2010 and, in its place, adopt the new Protocol attached at **Enclosure 7**.

RESOLUTION

14. "The Council resolves to abolish the Self Regulation Protocol adopted on the 4th March 2010 and, with immediate effect, adopts a new Local Resolution Protocol in accordance with the document attached at **Enclosure 7** to this Report".

PAPUR / ENCLOSURE

1

ISLE OF ANGLESEY COUNTY COUNCIL

PROTOCOL FOR SELF REGULATION

General Principles

- To promote high standards of conduct and behaviour as a means of strengthening respect and trust among members and between members and officers
- In all but serious cases* of alleged misconduct members will make all reasonable attempts to resolve disputes through agreed internal processes
- Referral to external regulators will become a last resort
- Members will avoid personal confrontation in any public forum, especially full Council and through the media
- These commitments will not stifle legitimate political debate or scrutiny
- Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for their own members
- Group Leaders individually and collectively will work to ensure compliance with this protocol
- Members will commit to training and development in support of this protocol

*evidence of criminality or tangible damage to a third party which is incapable of remedy, or conduct which involves significant evidence of a serious breach of the Code of Conduct which, if proved, would be likely to result in a sanction being applied by the Standards Committee or Adjudication Panel.

Working to avoid problems

To minimise the number of instances of alleged breaches all Group Leaders have committed to :-

- **A Member Development Plan** – to which they will secure the commitment of their group members. All reasonable endeavours will be made to ensure that the Development Plan is tailored to meet the needs of members and that the training provided will be “short, sharp and punchy” as opposed to some of the “lengthy, technical and tedious” training which some members may feel they have been subjected to in the past. A joint working group of members, including a Member Development Champion, a member of the Standards Committee, officers and a representative of the WLGA will be established to drive the Plan, measure its success and make any changes or adjustments to the Plan as it evolves.
- **Job Descriptions and Annual Reports** - Group Leaders have committed to ensuring that all their group members, including those on the back benches, agree to and sign

“Job Descriptions” and “Person Specifications”, as a way of reinforcing the principles described above and bringing additional clarity to the roles and responsibilities of members.

- **WLGA Charter** – The Council will sign up to the Charter, fully support its objectives, including appointing a Member Development Champion. Group Leaders will secure individual member commitment to training and keep this under review.

Role of Group Leader in Serious Cases

Serious cases are defined as :

***evidence of criminality or tangible damage to a third party which is incapable of remedy, or conduct which involves significant evidence of a serious breach of the Code of Conduct which, if proved, would be likely to result in a sanction being applied by the Standards Committee or Adjudication Panel.**

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant’s own Group Leader, who will refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.

The Group Leader with responsibility for the member against whom the complaint has been made will refer the matter to the appropriate authority. Before making such a referral, the Group Leader may seek the views of the other Group Leaders. Technical advice concerning the filing of complaints may be obtained from the Managing Director or the Monitoring Officer.

Role of Group Leaders and Less Serious Complaints

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant’s own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.

Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal, resolved through face to face meetings. Group Leaders will need to retain some records but the process will not be “document heavy”. The emphasis should be on training, education, mediation and conciliation.

When appropriate, a sanction such as removal from a committee or an outside body, may be used in extreme cases or after persistent breaches.

Prior to considering any sanction, or training, the relevant Group Leader may consult with an informal panel (meeting in private) consisting of any two members of the Standards Committee. The Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each group.

At the next available Group Leaders' meeting any issue of discipline which has been referred to a Group Leader will be discussed with the group and with the objective of seeking to ensure that fair and consistent sanctions are applied.

Unaffiliated Members

As far as unaffiliated members are concerned, the Chair of the Council will fulfil the role of Group Leader. Concerns regarding the conduct of an unaffiliated member should be referred to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation.

In the event that an unaffiliated member refuses to provide reasonable co-operation to the Chair of the Council, or if the breach is significant, or in the event of repeated breaches, then the Council may remove the unaffiliated member from any committee seats allocated by the full Council. Such a proposal should be put to the Council jointly by the Group Leaders.

Again, an informal panel of the Standards Committee might be asked by the Chair, or the Group Leaders, to advise on an appropriate sanction.

Persistent Breaches

In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Managing Director and the Monitoring Officer to agree a way forward. Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches. The collective Group Leaders will also assume this responsibility in relation to unaffiliated members.

Action Outside Protocol

Group Leaders will regard any member taking action outside this Protocol (eg referring the matter direct to the Ombudsman, or the Auditors, or the media etc) as a serious breach of discipline. The Chair will take the same view with regard to the conduct of unaffiliated members.

Investigation

In the event that any complaint requires a degree of internal investigation, then the Group Leader, against whose member the complaint has been made, may ask the Managing Director to arrange for this to take place. Bearing in mind the need to ensure that Council resources are properly utilised, this shall be at the absolute discretion of the Managing Director who will need to be satisfied that investigation is necessary and appropriate taking into account the principles of proportionality, including the nature of the allegation/s and the level of resources required.

Standards Committee

- Owing to any potential issues of conflict, any involvement will include no more than two members of the Standards Committee. This will be subject to a rotational basis and in accordance with availability.
- The Standards Committee Members will play a supporting/advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader, in a particular case.
- Such meetings will be private and informal.
- Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the members of the Standards Committee shall remain private and confidential.
- When acting in an advisory role to the Group Leaders/Chair of the Council, the Standards Committee has no right of sanction. However, it shall be open to the Group Leader to request that the Standards Committee, as a last resort, issue a public censure against a group member. Where this is to be considered, the member who may be subject to censure, will be provided with a reasonable opportunity to make submissions to the Standards Committee members, either in person or in writing.
- The recommendations available to the Standards Committee will include a recommendation that a Group Leader takes action against one of their members, including removal from committee or outside body or even that they report their member to the Ombudsman or another appropriate regulator.

Complaints by Officers

- The principles and procedures outlined in this Protocol shall apply equally to complaints made by officers save that :-
 - any such complaint must first be referred, via the relevant Head of Service, to the Managing Director. The Managing Director will, if appropriate, refer the matter to the relevant Group Leader or Council Chair.
 - This Protocol shall not affect the contractual rights of officers to pursue complaints through other HR procedures or processes.

PAPUR / ENCLOSURE

2

**RESPONSE OF THE STANDARDS COMMITTEE IN RESPECT OF THE WELSH GOVERNMENT'S
WHITE PAPER ON PROMOTING LOCAL DEMOCRACY**

Question 29: Should the Panel be empowered to require local authorities to publish information relating to all remuneration received by individual councillors in connection with the performance of public duties?

Yes ✓

No

But it should include expenses and there should be clarity around the definitions of key elements like "publish", "remuneration", "public duties"; to ensure consistency and comparability.

Question 38: What are the practical barriers to extending the local resolution process to community and town councils and how might they be overcome?

Any process / mechanism for local resolution needs to remain within the relevant Town / Community Council as there are significant resource implications if Standards Committees and Monitoring Officers are required to support the process.

Question 39: To what extent is it desirable or necessary to modify the current statutory framework or model code of conduct to facilitate local resolution of complaints?

- To achieve consistency, the first sift, currently required by statute, should remain. However, matters referred to the PSOW, which fail to meet his threshold test, should be referred back for a decision to be taken at local level as to whether or not the matter is suitable for local resolution. As things stand, that decision will be discretionary falling outside the statutory framework.
- However there is no statutory requirement for authorities to adopt a local resolution procedure, much less a requirement for consistency in local protocols. We consider that a model local resolution protocol would be desirable to ensure consistency, transparency and to avoid duplication. At the very least, guidance should be issued setting out the general principles, which would need to address key issues, such as :-
 - Local resolution protocols should relate only to Member / Member complaints;
 - Having completed the first sift, and failing to reach the PSOW's threshold, a matter referred back for local resolution must be capable of early rejection if spurious, trivial or time wasting. There needs to be clarity about who exercises that discretion, as well as how it is exercised, as the process may attract controversy. Our view is that the decision should be taken by an independent member of the Standards Committee, in consultation with the Monitoring Officer. We appreciate that there are other options.
 - There needs to be clarity around the role of the Standards Committee in any local resolution process.
 - There needs to be clarity around potential outcomes from such a process.

Question 40: Should the ethical framework in Wales be more radically modified (e.g. to introduce local assessment and investigation of all alleged breaches of the code of conduct) and, if so, how?

Yes

No

√

A first sift at national level is still desirable for fairness and consistency, and to avoid “tit for tat” complaints.

Question 41: Are the “call-in” arrangements sufficient, or should cases which fall just short of the Ombudsman’s current criteria be routinely referred for local investigation and determination?

Yes

No

√

All cases of Member / Member complaints, which fall short of PSOW’s current threshold, should be referred for local resolution but there must be a discretion at a local level about whether or not to pursue local resolution, or reject the complaint; a kind of informal second sift. Please see the response to question 39.

Question 42: Is the voluntary cap on indemnities provided for this purpose appropriate and sufficient?

Yes

No

√

Question 43: Should the Welsh Government introduce a statutory limit on indemnities through subordinate legislation?

Yes

√

No

We suggest there should be different caps for hearings before Standards Committees, Adjudication Panel for Wales or High Court, with an overall cap of 20k.

Question 44: What are the perceived barriers, if any, to the establishment of regional standards committees?

We favour maintaining local Standards Committees but providing power to “share” independent members, if and when required, on a sub-regional basis

PAPUR / ENCLOSURE

3

Informal Local Resolution – ACSeS Update November 2011

Background

1. A number of authorities have developed or are considering local protocols and processes around managing 'low level' member-on-member complaints. A number of authorities also have similar protocols to manage officer-on-member complaints.
2. The Ombudsman is keen to see a common, national approach implemented and the issue been discussed at the recent Standards Conference, ACSeS meeting and a WLGA-convened working group including ACSeS members, Ombudsman, Chair of the Adjudication Panel and WLGA and WG officials.
3. The working group agreed to refer key issues back to ACSeS for consideration.

Why have an informal local approach to resolution?

4. A significant number of member-on-member complaints referred to the Ombudsman relate to low-level, behavioural issues, typically during the 'cut and thrust' of council debates. Most, if investigated, would not result in sanction.
5. Such complaints could therefore be more appropriately resolved informally and locally in order to:
 - Speed up the 'complaints' process
 - Avoid unnecessary escalation
 - of the situation which might impact on personal relationships and potential wider damage to corporate governance or wider reputational damage
 - of the formal complaints process and involvement of Ombudsman
6. Such an approach would also complement a new approach that the Ombudsman is planning to introduce in the near future, where low-level complaints, where there is evidence of a breach of the Code but which the Ombudsman considers to be unlikely to attract a sanction, will be referred back for local consideration/investigation.

Protocol: What might be the key features of any local Members' Protocol?

7. For any local approach to be successful, it would need to be based on consistent principles and features and therefore agreed nationally (via WLGA, ACSeS and Ombudsman). National agreement would ensure consistency around principles and features of both a local protocol and features of a local resolution process.
8. There has been some discussion about the definition or interpretation of a 'low level complaint'. Consensus suggests that it fundamentally relates to behaviour

and conduct, rather than more significant breaches of the code and broadly relates to Paragraph 4 of the Code:

4. You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

9. It could possibly also cover Paragraph 6 (1) d:

6.—(1) You must —

....

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

10. The local protocol could therefore reasonably cover a complaint from a member about a member or an officer about a member

11. Should there be agreement (nationally and locally) to introduce informal local protocols, the Ombudsman should revise his guidance to clarify that:

- Although the Code of Conduct states that members have a duty to refer any breach of the Code to the Ombudsman, the Ombudsman would regard any such referral of an alleged breach of the Code to an agreed local resolution process as satisfying this requirement of the Code
- Whilst, members could not and would not be precluded from referring any complaint to the Ombudsman if they so wished, the Ombudsman expects that members would commit to instigate the local resolution process in the first instance.
- Any repeated breach of a local protocol would be referred to Ombudsman.

12. A local Member Protocol would need to complement the Code of Conduct, and might specifically state that it covered Paragraph 4 and 6 (1) d of the code and any local officer-member protocols.

13. The protocol would need to outline the local resolution process (see below).

14. Although the Protocol and resolution process is designed to promote speedy redress and resolution rather than sanction per se, the protocol would need to specify potential 'outcomes'. These could include:

- Awareness raising about appropriate and acceptable future behaviour or conduct, which might be supported by relevant training (where appropriate)
- Apology (public nature of apology would be dependent on public nature and/or severity of the complaint)

- Group discipline were relevant and appropriate, including temporary removal from committee or outside body
- Referral to Ombudsman for persistent breaches

Process: What might be the key features of any local resolution process?

15. Although a local approach aims to speed up the complaints process and reduce bureaucracy (in particular in terms of escalation to the Ombudsman), there would need to be a clear and consistent set of stages within which matters could be resolved locally:

Stage 1

- Complaint raised with Monitoring Officer (or other designated person) and he/she determines whether complaint relates to Paragraph 4 and 6 (1) d breaches of the Code of Conduct.
- Complainant is advised of the options available to him/her in resolving the complaint:
 - Mutual Resolution – where the Monitoring Officer/designated person meets with individual members to resolve informally
 - Group Leaders’ Resolution (i.e. complainant’s Group Leader and subject member’s Group Leader) – used where breach/complaint is clear i.e. behaviour witnessed in council or public meeting (This option will not be appropriate in some councils)
 - Local Resolution Panel
 - Ombudsman

Stage 2a – Mutual Resolution

- Monitoring Officer/designated person manages a meeting of key parties and seeks informal resolution
- If this is not successful members will then have a choice as to which one of the following resolution processes to follow – either 2(b) or (c)

Stage 2b – Group Leaders’ Resolution

- Monitoring Officer refers complaint to relevant Group Leaders (Council Chair and/or Chair of Democratic Services could be involved for unaffiliated members)
- Group Leaders liaise with complainant/member subject to complaint and Deputy Monitoring Officer/Head of Legal Services (in order to avoid potential future conflict of interest for Monitoring Officer should complaint progress).
- Group Leaders agree and record appropriate sanction which would be actioned immediately and reported to next relevant committee meeting (should committee membership be temporarily suspended) and to next full Council meeting. A public apology (if appropriate) would take place at the next relevant meeting of the council i.e. full council or the committee meeting in which the original breach occurred.

Stage 2c – Local Resolution Panel

- Monitoring Officer convenes Local Resolution Panel within **x** days and asks complainant to submit nature of complaint in writing, with the member (subject of complaint) providing a written response.
- Member Resolution Panel should include Group Leaders and Council Chair/Chair of Democratic Services Committee
- Local Resolution Panel meets with complainant and member subject to complaint. The Panel is supported by Deputy Monitoring Officer/Head of Legal Services to avoid future potential conflict of interest should a complaint escalate.
- Contempt and/or unreasonable non-participation at process from member (subject of complaint) would be regarded as escalation and complaint would then be referred to Ombudsman.
- Local Resolution Panel determines whether there is basis to allegation. Unanimity is necessary.
- Local Resolution Panel agree appropriate sanction which would be actioned immediately and reported to next relevant committee meeting (should committee membership be temporarily suspended) and to next full Council meeting. A public apology (if appropriate) would take place at the next relevant meeting of the council i.e. full council or the committee meeting in which the original breach occurred.

Stage 2d - Ombudsman

- The complainant can refer matter directly to Ombudsman, and can do throughout process if not content with the process or outcome.

Issues to consider

16. One person's 'low-level' is another's 'serious breach' - some aspects of Paragraph 4 are serious e.g. bullying, sexism, racism etc. The authority needs to be seen to be dealing with such breaches consistently, proportionately and publicly. It is likely that any conduct in breach of the equality duties will be serious enough to refer to the Ombudsman.

17. Are all stages appropriate? In particular

- During discussions at the working group, some monitoring officers were keen to maintain an informal role to seek mutual resolution. Is this necessary if a consistent informal process is introduced, and also does this risk compromising the Monitoring Officer's role should a complaint escalate? Does this need to be included in a written protocol at all, could it not still be an option to deal with low-level misunderstandings etc.
- Stage 2c – Local resolution Panel is more bureaucratic and requires some organising e.g. getting together a range of Group Leaders within an appropriately short space of time. Although low-level complaints are a rarity currently, if a formal process is introduced, might more members seek to use this process (and therefore consequent implications on Monitoring Officers and Group Leaders time) where they may not have taken an issue further previously as they realised it was perhaps not severe enough to warrant raised a formal complaint to the Ombudsman?

18. What happens where Group Leader/s are the subject of a complaint? Should this automatically be a Stage 2c Local Resolution Panel issue, whereby colleague Group Leaders together with the Council Chair/Chair of Democratic Services considers the issue?
19. What is the appropriate role for the Chair and members of the Standards Committee in this process?

Daniel Hurford, Welsh Local Government Association
17th November 2011

PAPUR / ENCLOSURE

4



The Code of Conduct

for members of local authorities in Wales

Guidance from the
Public Services Ombudsman for Wales
for members of county and county borough councils,
fire and rescue authorities, and
national park authorities

However, if I am aware of previous complaints about the same member and believe these may be indicative of a pattern of breaches, I will then often choose to investigate. Where there is prima facie evidence of a breach of the Code, and I do not decide to investigate, I will almost always write to the member concerned making it clear that my decision should not in any way be regarded as approval for any breach of the Code and making clear that I will take it into account if there are further reported breaches.

The process I use for investigating complaints is on my website at www.ombudsman-wales.org.uk. If I find that a complaint is justified, I may refer it either to your Standards Committee or to a tribunal convened by the Adjudication Panel for Wales. If it then finds the complaint proven, it can impose a range of sanctions.

Local Resolution Process

During the course of the life of this guidance I expect local authorities across Wales to have implemented local resolution procedures to deal with low level complaints which are made by a member against a fellow member. 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. Whilst a member may still complain directly to me about a fellow member if the matter being complained about concerns paragraphs 4b and 6(1)(d) I am likely to refer the matter back to the Council's Monitoring Officer for consideration under this process.

In my view such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that my resources are devoted to the investigation of serious complaints. 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. The process may result in an apology being made by the member concerned. However, where a member has repeatedly breached their authority's local protocol then I would expect the Monitoring Officer to refer the matter back to me.

When I have investigated a complaint I may refer the matter to a Standards Committee or the Adjudication Panel for Wales which have the following roles:

Standards Committee

Where a Standards Committee concludes that a member or co-opted member has failed to comply with the relevant authority's code of conduct, it may determine that:

1. no action needs to be taken in respect of that failure;
2. the member or co-opted member should be censured; or
3. the member or co-opted member should be suspended or partially suspended from being a member of that authority for a period not exceeding six months.

A censure takes the form of a public rebuke of the member concerned.

PAPUR / ENCLOSURE

5

Medwen Jones

From: Medwen Jones
Sent: 26 February 2013 10:11
To: RPJED@anglesey.gov.uk; Bethan Jones; Gwynne Jones; Arthur Owen; Gwen Carrington; Mike Barton; Anwen Davies; Carys Edwards; Carys Emyr Edwards; John Fidoe; Anwen M. Hughes; 'J Huw. Jones (JHJCE@anglesey.gov.uk)'; 'J Huw. Jones (JHJCE@anglesey.gov.uk)'; Gwyn Parry (GXPED@anglesey.gov.uk); Einir W. Thomas; John Rees. Thomas; Dewi R. Williams; Dylan Williams; Shan Lloyd. Williams; Jim Woodcock; Gill Lewis; Lynn Ball; Clare J. Williams; John Chorlton; Eufryn Davies; Lewis Davies; Jim Evans; Richard Dew; Cliff Everett; Fflur Hughes; Kenneth Hughes; Robert Ll Hughes; Trefor Lloyd Hughes; R Vaughan Hughes; William I Hughes; Aled M. Jones; Dylan Jones; Eric Jones; Gwilym Jones; Hywel Eifion Jones; O Glyn Jones; Raymon Jones; Robert Llewelyn Jones; Thomas H Jones; Clive McGregor; Rhian Medi; Bryan Owen; John Victor Owen; Richard Owen; Bob Parry; Goronwy Parry; ARWEL ROBERTS; Eric Roberts; Gareth Winston Roberts; Peter Rogers; Elwyn Schofield; Ieuan Williams; Selwyn Williams; Alun W. Mummery; Vaughan Hughes
Cc: Michael Wilson; Islwyn Jones; Leslie Lord; Denise-Harris Edwards; Dilys Shaw; williamevansandsonsltd@hotmail.co.uk; drharrisedwards@yahoo.co.uk; John Roberts; 'hsb1@btinternet.com'; 'shw127@hotmail.co.uk'
Subject: PROTOCOL HUNAN REOLEIDDIO / SELF REGULATION PROTOCOL
Attachments: 165338 - PDF COPY CYM - Revised Protocol for Self Regulation - Suggested Principles.pdf; 165337 - PDF COPY ENG - Revised Protocol for Self Regulation - Suggested Principles.pdf

Fel yr ydych yn gwybod, mae'r Cyngor Sir wedi mabwysiadu Protocol Hunan Reoleiddio i ddatrys anghydfodau bychan sy'n ymwneud ag Aelodau, gyda golwg ar osgoi iddynt gael eu cyfeirio i'r Ombwdsmon.

Fel rhan o'i Raglen Waith ar gyfer 2012/13 mae'r Pwyllgor Safonau wedi adolygu'r Protocol cyfredol, ac wedi rhoi argymhellion ymlaen ar gyfer newid.

Mae'r newidiadau a awgrymir wedi eu hymgorffori mewn cyfres o egwyddorion cyffredinol, ac y mae copi ohonynt ynghlwm.

Mae'r rhain wedi derbyn cytundeb yr Arweinyddion Grwpiau ond cyn i'r Pwyllgor Safonau ddechrau drafftio protocol newydd, byddent yn falch o dderbyn eich barn a'ch sylwadau, yn cynnwys unrhyw gynigion eraill.

Os bydd gennych unrhyw sylwadau, byddwn yn ddiolchgar o'u derbyn, yn ysgrifenedig, erbyn diwedd mis Mawrth.

Llawer o ddiolch,

As you know, the County Council adopted a Self Regulation Protocol to resolve minor disputes involving Members, with a view to avoiding escalation of complaints to the Ombudsman.

As part of its Work Programme for 2012/13 the Standards Committee has reviewed the current Protocol, and put forward recommendations for change.

The suggested changes are embodied in a set of general principles, a copy of which is attached.

These have the agreement of the Group Leaders but, before the Standards Committee embarks on drafting a revised Protocol, they would be grateful for your comments and observations, including any alternative proposals.

If you have any comments, I would be glad to receive them, in writing, by the end of March.

Many thanks

Lynn

Pennaeth Adnoddau Cyfreithiol a Gweinyddol/Swyddog Monitro

Head of Function Legal and Administration/Monitoring Officer

Cyngor Sir Ynys Môn / The Isle of Anglesey County Council

Ffôn / Phone: 01248 752586

E-bost / E-mail: LBXCS@anglesey.gov.uk

Document: CC-016592-LB/165334

Isle of Anglesey County Council's Revised Protocol for Self Regulation

Suggested Principles :

1. Change the name to Local Resolution Protocol
2. Limit the Protocol to dealing with paragraphs (4)(b) and (6)(1) (d) of the Code i.e. alleged failure to show respect and consideration for others and not to make vexatious, malicious or frivolous complaints against Members or Officers (copy extracts attached).
3. Purpose is swift mediation and reconciliation and not punishment.
4. Complaints may be made by any Member against any other Member or by any Officer against any Member.
5. A Member or Officer wishing to use the Protocol will put their complaint in writing to the Monitoring Officer, on a short, standard form.
6. Any complaint must be lodged within 7 working days from the date of the event, or 7 working days from the date when the event came to the knowledge of the complainant.
7. The Monitoring Officer will send a copy of the complaint to the Member who is the subject of the complaint.
8. The Member who is the subject of the complaint will have 7 working days within which to send a reply to the Monitoring Officer.
9. Upon receipt of any reply, or when the 7 working days for reply has elapsed, the Monitoring Officer will arrange an informal Panel of the Standards Committee, to consider the complaint, on the first convenient date available.
10. The Panel will consist of two Members of the Standards Committee (on a rotational basis, and will not include Community Councillors).
11. The Panel meeting will take place in private and any paperwork it receives, or generates, will remain confidential (subject to any legal duty to disclose eg to the Ombudsman; if the matter escalates).
12. The parties concerned will be invited to attend the Panel, and may bring any witnesses upon whom they intend to rely.
13. Group Leaders will be invited and may attend if they wish.
14. The Monitoring Officer, or her representative, will attend to advise the Panel.
15. After hearing from the parties, and any witnesses, the Panel will express a view and make recommendations for resolution. Such recommendations may include a request that action be taken by Group Leaders, including, in relation to unaffiliated Members.
16. The outcome of all Panels will be reported, in anonymised format, to quarterly meetings of the Standards Committee.

council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.

Part 2 - General Provisions

2. (1) Save where paragraph 3(a) applies, you must observe this code of conduct —

(a) whenever you conduct the business, or are present at a meeting, of your authority;

(b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;

(c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —

(a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or

(b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

(a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

6. (1) You must —

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

(c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of your authority —

(i) imprudently;

(ii) in breach of your authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

PAPUR / ENCLOSURE

6

Carl Sargeant AC / AM
Y Gweinidog Llywodraeth Leol a Chymunedau
Minister for Local Government and Communities



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref SF/CS/0102/13

To:
Leaders, County and County
Borough Councils

Chairs, Fire and Rescue
Authorities

Chairs, National Park Authorities

15th January 2013

LOCAL GOVERNMENT ETHICAL FRAMEWORK

I am writing to follow up aspects of last year's 'Promoting Local Democracy' White Paper covering matters relating to the operation of the ethical framework established under the Local Government 2000 ("the 2000 Act").

The 'Programme for Government', published in September 2011, included a commitment to review the process for making a complaint under the local government member code of conduct to ensure that it is used only for the purpose for which it was intended.

Last year's White Paper conveyed our view that the current framework in Wales, founded upon a common set of guiding principles and a statutory model code of conduct, provides an appropriate balance between guiding members on standards of conduct and giving reassurance to the public that misconduct will be dealt with consistently and appropriately. However, I believe that there is scope for a more local approach to the resolution of low-level complaints, without immediate resort to the full and potentially costly investigatory role of the Public Services Ombudsman for Wales, in some circumstances.

With this in mind, the White Paper welcomed discussions that had already taken place on the voluntary adoption by local authorities of a common, national approach to informal local processes for dealing with member-on-member and officer-on-member complaints. The White Paper indicated that the Welsh Government wished to see such processes

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implemented by all county and county borough councils, national park authorities and fire and rescue authorities as soon as practicable following last year's local elections.

The White Paper also welcomed discussions that have taken place on the introduction of a voluntary cap of £20,000 on the level of indemnity offered by authorities to members subject to misconduct proceedings under the 2000 Act. Authorities powers to provide indemnities are derived from the 'Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006'. These powers would enable them to set such a limit and, again, the White Paper indicated that the Welsh Government wished to see this implemented soon after last year's elections.

I understand that some authorities have responded positively to these proposals. However, I am concerned that perhaps not all authorities have made progress and, through this letter, I want to impress upon those who have yet to do so the importance that I place on taking this forward.

In order that I have a complete picture of the current position across Wales, I ask that you report back to me on what steps your authority has taken, or plans to take (with timescales), to introduce a local resolution process and to adopt the voluntary cap on indemnities for member code of conduct proceedings. This information should be sent by email by the end of February to: CorrespondenceMail-CS@Wales.GSI.Gov.UK.

To facilitate the introduction of local resolution processes, I intend to remove the obligation on members contained in paragraph 6(1)(c) of the model code of conduct to report potential breaches of the code to the Ombudsman. The Ombudsman has issued guidance on how he will deal with low-level alleged breaches made to his office and this obligation need not, therefore, give cause for delay in the introduction of local resolution processes where this has yet to be done.

In addition to removing the obligation to report breaches to the Ombudsman, I intend to address concerns arising from the interpretation of paragraph 10(2)(b) by removing this from the model code. Members taking decisions, whether acting collectively or individually, would still be required by paragraph 8 of the code to act objectively and in the public interest when doing so. I consider, therefore, that paragraph 10(2)(b) can be removed without detriment to the code.

Also in relation to the code, you will no doubt be aware of the High Court ruling last year – '*R (Calver) v the Adjudication Panel for Wales*' - in relation to the requirement in paragraph 4(b) of the code for members to show respect and consideration for others. The Ombudsman has revised his guidance to take account of the ruling, but I have also asked my officials to consider whether any modification of the code is necessary.


Whilst writing, I note with concern that the Ombudsman has again found it necessary to make reference in his latest annual report to the number of member on member complaints which might be regarded as vexatious. Paragraph 6(1)(d) of the code could not be clearer in stipulating that members must not make vexatious, malicious or frivolous complaints against other members or anyone who works for their authority. If unchecked, such actions have potential to clog up the system and divert resources from more important matters. I would ask that this issue is given some prominence when refresher training on the code is arranged for members.

Also, you will not have failed to have seen recent reporting in the media of unfortunate events arising from the inappropriate use of social media. The Ombudsman's guidance on the code makes clear the circumstances in which use of electronic and social media is covered by the code. This is a continually evolving area and again it is timely, I believe, to

encourage members to avail themselves of the training which authorities provide on the use of social media and the potential pitfalls to be avoided.

Any observations or comments that you may wish to make in relation to these or other aspects of the code when responding as requested above would be most welcome.

Finally, I would like to take this opportunity to mention an issue that has been raised with me recently regarding the publication of registers of members' interests maintained under section 81 of the 2000 Act. At present, registers must be available at an office of the authority for inspection by members of the public at all reasonable hours. However, citizens increasingly expect to be able to access information about councils and their elected members via the internet. Consequently, I have sympathy with the view expressed to me that authorities should be required to additionally publish these registers on their websites to facilitate access and to improve transparency. I am, therefore, minded to bring forward an amendment to the Local Government (Democracy) (Wales) Bill to give effect to this. There is a brief window of opportunity for bringing forward such an amendment but, before doing so, I would welcome any views that you may have on this.

A handwritten signature in blue ink, appearing to read 'CS', is positioned above the printed name and title.

Carl Sargeant AC / AM

Y Gweinidog Llywodraeth Leol a Chymunedau
Minister for Local Government and Communities

PAPUR / ENCLOSURE

7

ISLE OF ANGLESEY COUNTY COUNCIL

LOCAL RESOLUTION PROTOCOL

Generally

1. The purpose of the Protocol is to promote high standards of conduct, with a view to fostering positive working relationships among Members, and between Members and Officers, to avoid spurious complaints to the Public Services Ombudsman for Wales (PSOW) and to safeguard the Council's reputation.
2. The Protocol will only apply to cases of alleged misconduct against Members under paragraphs 4(b) and 6(1)(d) of the Code of Conduct. That is to say, allegations of failure to show respect and consideration for others, or allegations that a Member has made vexatious, malicious or frivolous complaints against other Members or anyone who works for, or on behalf of, the Council.
3. The Protocol seeks to achieve swift mediation and reconciliation. It is not punitive but it may become relevant to sanction if a formal complaint, involving a pattern of similar conduct, is made to the PSOW.
4. The Protocol is not intended to interfere with, or take the place of, group or party discipline.
5. The Protocol is not intended to interfere with, or take the place of, any statutory or contractual rights which Officers may have.
6. The Protocol is not intended to oust the jurisdiction of the PSOW but, rather, to deal with a limited category of cases, where a breach of paragraphs 4(b) or 6(1)(d) of the Code may have occurred, but where such a finding would probably not result in disciplinary action. Such cases, at least individually, would not meet the PSOW's threshold test for investigation.

Procedure

7. A Member or Officer wishing to use the Protocol must put their complaint in writing to the Monitoring Officer, explaining when and where the alleged breach occurred, how and why paragraph 4(b) and/or 6(1)(d) have been breached, together with the details of any witnesses and any relevant documentation.
8. Any written complaint must be sent to the Monitoring Officer within 7 working days from the date of the event which is the subject of the complaint, or 7 working days from the date when the event came to the knowledge of the complainant.
9. The Monitoring Officer, or his/her representative, will send a copy of the complaint, and any supporting evidence, to the Member who is the subject of the complaint. That Member will have 7 working days, from receipt, within which to send a written reply to the Monitoring Officer setting out their response and providing details of any witnesses and any relevant documentation.
10. Having received a reply from the Member complained of, or when the time for reply has elapsed, the Monitoring Officer will:-

- copy the full response to the complainant;
 - arrange a meeting of an informal Panel of the Standards Committee to consider the complaint on the first convenient date available for all concerned.
11. The meeting of the Standards Committee Panel will take place in private and any paperwork which it receives, or which it generates, will remain confidential to the Panel, its advisors, and the parties. This is, however, subject to any legal duty to disclose e.g. to the PSOW in the event that matters escalate.
 12. Any informal Panel of the Standards Committee will consist of two Members of the Committee, on a rotational basis, but will not include a Community Council Member.
 13. The parties will be asked to attend the Panel and will be responsible for bringing along any witnesses upon whom they intend to rely.
 14. In the absence of a party or witness it will be a matter for the discretion of the Panel as to whether or not they proceed, or reschedule.
 15. If the complainant, or the Member complained of, is a Member of a political group then he/she may invite their Group Leader to attend the Panel. Any relevant Group Leader is not required to attend, but is encouraged to do so.
 16. The Monitoring Officer, or his/her representative, will attend to advise the Panel.
 17. The procedure of any Panel will be informal. The Panel will endeavour to be fair and even handed to both parties. There will be no rules of evidence, as such, but any witnesses called will only attend to share their information with the Panel; they will not "sit in" during the meeting.
 18. After hearing from the parties, and any witnesses, together with the Group Leaders (should there be Group Leaders in attendance and should they wish to address the Panel) the Panel will then retire to private session, returning to express its view and to put forward any recommendations it may have for resolution. The Panel has no disciplinary powers but may make recommendations to Group Leaders individually, in relation to Members of their Group and, to the Group Leaders collectively in relation to any unaffiliated Member.
 19. There will be no right of appeal under this process.
 20. The parties will receive written confirmation of the Panel's findings and the outcome of all Panels will be reported, albeit in an anonymised format only, to all quarterly meetings of the Standards Committee.
 21. The outcome of any Panel will also be discussed as a standing item at Group Leaders' meetings.