

ISLE OF ANGLESEY COUNTY COUNCIL

MEETING:	County Council
DATE:	15 th May 2018
TITLE:	Local Resolution Protocol
REPORT BY:	Michael Wilson, Chair and Independent Member of the Standards Committee
PURPOSE OF REPORT:	To report to Members on an amended Local Resolution Protocol and for the same to be approved by full Council
CONTACT OFFICER:	Lynn Ball, Head of Function (Council Business) / Monitoring Officer (ext 2568)

1. Introduction

- 1.1 The Public Services Ombudsman for Wales (PSOW) following revision of his test for investigating complaints, encouraged local authorities in Wales to deal with low level misconduct complaints between members through an informal local resolution protocol.
- 1.2 There were a number of objectives behind this development, including:-
 - 1.2.1 to reduce complaints submitted to the PSOW;
 - 1.2.2 earlier resolution of local issues to avoid escalation;
 - 1.2.3 the fostering of good and positive relationships between members.
- 1.3 Each local authority in Wales was responsible for adopting its own protocol. The PSOW/Welsh Government (which strongly supported the initiative) did not specify the requirements of a protocol, nor provide any standard format to be followed.
- 1.4 The Isle of Anglesey County Council has a Local Resolution Protocol. The Protocol in its current format was adopted on 23 May 2013. A copy of the current Protocol is at **Enclosure 1**.
- 1.5 The current Protocol, although approved by full Council, has no statutory force and is a voluntary and informal scheme. It is not mandatory for any member to submit to the Protocol. However, such a Protocol is considered to afford members an effective and fair way of dealing with low level disputes and is evidence of good local governance.
- 1.6 Owing to recent discussions within the North Wales Standards Committee Forum, the Standards Committee has decided to amend the current Local Resolution Protocol so that it involves a simpler process of mediation between the relevant elected members and two independent members of the Standards Committee.

Documentation is to be kept to a minimum and early and swift resolution is a priority. The current Protocol is deemed too complex and burdensome.

2. Amended Local Resolution Protocol

- 2.1 The draft amended Local Resolution Protocol proposed is at **Enclosure 2**.
- 2.2 The purpose of the draft amended Protocol is to:
- promote high standards of conduct;
 - foster and maintain positive working relationships between members;
 - address low level behavioural complaints which do not meet the PSO's threshold in relation to evidence and public interest;
 - deal with matters arising as quickly as reasonably possible to avoid unnecessary escalation of issues;
 - safeguard the Council's reputation.
- 2.3 The draft amended Protocol seeks to achieve swift resolution and reconciliation by way of a mediation process. It is a voluntary arrangement, so both parties must agree to mediate.
- 2.4 The draft amended Protocol may only be utilised when the alleged misconduct against the member falls under one of two paragraphs of the Code of Conduct, namely:
4(b) - allegations of failure to show respect and consideration for others; and/or
6(1)(d) - allegations that a member has made vexatious, malicious or frivolous complaints against other members.
- 2.5 When a member wishes to use the draft amended Protocol, s/he must put the complaint in writing to the Chair of the Standards Committee (in the form attached to the draft amended Protocol) within 14 days from the date of the event which is the subject of the complaint, or 14 days from the date when the event came to the knowledge of the complainant. The Chair of the Standards Committee will then share the complaint with the member who is the subject of the complaint and s/he will have 14 days to send a written reply to the Chair of the Standards Committee. The Chair of the Standards Committee will copy the full response to the complainant and arrange a private meeting between the complainant, and the member who is the subject of the complaint, together with any two independent members of the Standards Committee. However, if no response has been received from the member who is the subject of the complaint, within the 14 day period, then no meeting shall be arranged. This is because of the voluntary nature of the draft amended Protocol; for the mediation process to succeed, the voluntary cooperation of both parties is required.
- 2.6 If the parties agree to the meeting, the aim would be for the two parties to come to an agreed resolution. The Standards Committee members will not come to a view or make any findings but may make informal recommendations to the parties, which will not be binding. The process is confidential, meetings are held in private, and the minimal paperwork is also treated as confidential.

- 2.7 It should be noted that, despite the contents of the draft amended Protocol, members are still encouraged to resolve any issues direct with one another, or through group leaders.

3. Consultation

- 3.1 The draft amended Protocol at **Enclosure 2** was circulated by the Chair of the Standards Committee to the Council's four Group Leaders prior to a Group Leaders' Meeting on 26th April 2018.
- 3.2 The Chair of the Standards Committee also attended the Group Leaders' Meeting on 26th April 2018, in order to address the Group Leaders on this issue, and all four confirmed the agreement of their groups to the draft amended Protocol.

4. Further Considerations

- 4.1 Independent Standards Committee Members will be required to facilitate any meetings arranged under the draft amended Local Resolution Protocol.
- 4.2 Upon approval by the Council of the draft amended Local Resolution Protocol in **Enclosure 2** arrangements will be made for the independent members of the Standards Committee to receive relevant training in mediation.

5. Recommendation

- 5.1 To abolish the current Local Resolution Protocol at **Enclosure 1** and adopt the draft amended Local Resolution Protocol at **Enclosure 2**.

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.

ISLE OF ANGLESEY COUNTY COUNCIL LOCAL RESOLUTION PROTOCOL

Generally

1. The purpose of this informal Protocol is to:
 - promote high standards of conduct;
 - foster and maintain positive working relationships between members;
 - address low level behavioural complaints which do not meet the Public Services Ombudsman for Wales' (PSOW) threshold in relation to evidence and public interest;
 - deal with matters arising as quickly as reasonably possible to avoid unnecessary escalation of issues;
 - safeguard the Council's reputation.

2. The Protocol will only apply to cases of alleged misconduct against members under two paragraphs of the Code of Conduct, namely:
4(b)
allegations of failure to show respect and consideration for others;
and/or
6(1)(d)
allegations that a member has made vexatious, malicious or frivolous complaints against other members.

3. The Protocol does not apply to complaints by third parties.

4. The Protocol seeks to achieve swift resolution and reconciliation by way of a mediation process. It is a voluntary arrangement, so both parties must agree to mediate. The process has no statutory basis. It is not a legal requirement to adopt such a Protocol but both the Welsh Government and the PSOW have advised, in the strongest terms, that Local Authorities should have such arrangements in place.

5. The Protocol is not intended to interfere with, or take the place of, group or party discipline; nor self-regulation by members.

6. The Protocol 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.

Procedure to instigate a mediation meeting

7. A member wishing to use the Protocol must put their complaint in writing to the Chair of the Standards Committee (form attached) explaining:
 - when and where the alleged breach occurred;
 - how and why paragraph 4(b) and/or 6(1)(d) has been breached;

8. Any written complaint must be sent to the Chair of the Standards Committee within 14 days from the date of the event which is the subject of the complaint, or 14 days from the date when the event came to the knowledge of the complainant.

9. The Chair of the Standards Committee will share the complaint with the member who is the subject of the complaint.
10. The member receiving the complaint will have 14 days, from receipt, within which to send a written reply to the Chair of the Standards Committee setting out their response.
11. Having received a reply from the member complained of, the Chair of the Standards Committee will:-
 - copy the full response to the complainant; and
 - arrange a mutually convenient and private meeting between the complainant and the member who is the subject of the complaint, together with two independent members of the Standards Committee. This will take place as soon as reasonably practicable.
12. The meeting shall take place in private.
13. If no response has been received under paragraph 10 above, within the 14 day period, then no meeting shall be arranged. In order for the mediation process to succeed, the agreement of both parties is required.
14. **The Mediation Meeting**
 - 14.1 The informal “panel” of the Standards Committee shall consist of any two independent members of the Committee, on a rotational basis. Members of the Standards Committee will only facilitate a mediation meeting if they have received training for this purpose.
 - 14.2 Paperwork shall be limited to the initial complaint and response.
 - 14.3 The purpose of the meeting will be for the parties to come to an agreed resolution. The Standards Committee members will not come to a view or make any findings but may make informal recommendations to the parties. Any such recommendations shall not be binding.



LOCAL RESOLUTION PROTOCOL FORM – TO INSTIGATE THE MEDIATION PROCESS

A: Your Details

Surname:	Forename(s):	Title:
Address and Postcode:		
E-mail Address:		
Daytime contact telephone number:		
Mobile Number:		

Please state by which of the above methods you would prefer me to contact you

B: About your complaint (please continue your answers to the following questions on a separate sheet(s) if necessary)

- C.1 Name of the member you are complaining about:
- C.2 What do you think they did wrong?
- C.3 Do you think they broke the Members' Code of Conduct and why?
- C.4 Describe how you have been affected by the conduct which is the subject of your complaint
- C5. When did you first become aware of the matter which is the subject of your complaint?

C.6 Have you already tried to resolve your complaint with anyone else, e.g the member direct, group leader etc? If so, please give brief details of how, when you did so and any outcome.

C.7 What is your expectation at the end of the process?

Signature: _____

Date: _____

When you have completed this form, please send it to:

The Chair of the Standards Committee

Email : mxwcs@ynysmon.gov.uk

Please note that a copy of your completed form will be shared with the member who is the subject of your complaint.