

Bridgend County Borough Council Local Resolution Protocol

General Principles

- This Protocol for self-regulation of Member conduct has been adopted in response to the Public Services Ombudsman for Wales guidance on the Code of Conduct for Members which states that “low level” complaints which are made by a Member against a fellow Member regarding alleged failures of the Code should be dealt with at a local level. The aim 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 Council and the Council’s reputation.
- It should be noted that this Protocol does not replace the Code of Conduct rather it is intended to sit alongside it enabling complaints which may not reach the Ombudsman’s threshold to be dealt with.
- Members are not precluded from referring any complaint to the Ombudsman at any time if they so wish, however, it should be noted that the Ombudsman is likely to refer the matter back to the Monitoring Officer in the first instance so that the procedures set out in this Protocol are fully exhausted.
- If a complaint is referred to the Ombudsman, then the use of this Protocol will be stopped; and will only resume if the complaint is referred back to the Council for local resolution.
- All Members will work to ensure compliance with this Protocol and will commit to training and development in support of the Protocol and in compliance with Section 7 of the Local Government Measure 2011.
- This Protocol does not apply to complaints from members of the public (which should instead be raised directly with the Ombudsman) or complaints by Members about officers (which should instead be raised in accordance with the Protocol on Member / Officer Relations within the Constitution and may be investigated under the Disciplinary Policy).

Criteria

For a complaint to fall within the remit of this Protocol, it should satisfy the following criteria:

- The complaint is made by a Member (or Co-Opted Member) of the Council and relates to a breach of the Code by a fellow Member or the complaint is made by an Officer of the Council and relates to a breach of the Code by a Member or Co-Opted Member of the Council.

- The complaint is “low level”. The Ombudsman has advised that, “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”. Complaints which, in the opinion of the Monitoring Officer, potentially involve a serious breach of the Code shall be referred to the Ombudsman for consideration and expressly excluded (please see examples at Appendix 1).
- The complaint does not relate to repeated occurrences of similar conduct that has already been dealt with under this Protocol or by the Ombudsman. In the event that the complaint relates to such a “repeated offence” it is likely that it will be appropriate to refer the matter to the Ombudsman directly.
- If a Member or officer is unsure whether a matter they wish to complain about is “low level” or within the remit of this Protocol, they may wish to discuss with the Monitoring Officer (who may consult with the Ombudsman) to obtain further guidance.

Procedure

- The Member seeking to make a complaint under this Protocol should in the first instance arrange to discuss the matter with the Monitoring Officer (or in their absence the Deputy Monitoring Officer who may assume the role of the Monitoring Officer under this Protocol). The purpose of doing so is to determine whether the matter should be dealt with under this Protocol or whether the complainant should be advised of the option to instead refer their complaint directly to the Ombudsman for investigation.
- The operation of this Protocol is subject to the agreement of both parties to participate in the process, as set out, and to comply with its agreed outcome.
- If the Monitoring Officer advises that the matter is suitable to be dealt with under this Protocol, and the complainant is content to use this Protocol, the Monitoring Officer will arrange a meeting of the Members concerned (either together or separately) with the aim of resolving the matter by conciliation at an early stage so as to avoid the unnecessary escalation of the situation.
- The Monitoring Officer will adopt such arrangements as he /she deems necessary in an attempt to resolve the complaint and may require the attendance of any Member or Officer at a meeting as he /she determines beneficial. This may involve reliance upon the Group

Leaders if initial attempts at resolution have not been successful by the Monitoring Officer, noting they have a statutory duty to take reasonable steps to promote and maintain high standards of conduct by the members of their group which may include supporting informal resolution procedures in the Council, and working with the Standards Committee and Monitoring Officer to achieve local resolution.

- The parties may agree that the matter has been satisfactorily resolved by those discussions or subject to: (a) any appropriate remedial action being taken; (b) the offer of an apology or apologies; and or (c) an agreement to attend any specific training. There can be no statutory determination of a breach of the Code of Conduct or the imposition of any sanction/s other than an invitation to take one or more of the options listed above.
- If the matter cannot be resolved by mutual resolution, the Member bringing the complaint may refer the matter to the Ombudsman.

Appendix 1 – Outside the remit of this Protocol

Examples of the types of complaints which may be regarded as a serious breach of the Code of Conduct, and therefore outside the remit of the Protocol, include (but are not limited to):

- a) where it is alleged that the member deliberately sought personal gain for themselves or another person at the public expense
- b) where the circumstances of the breach are such that a member is alleged to have misused a position of trust or authority and caused harm to a person
- c) where the breach is alleged to be motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity
- d) where there is evidence of previous similar behaviour, or the member has previously been found to have breached the Code by a standards committee or the Adjudication Panel for Wales
- e) where there is evidence of a course of conduct, the conduct is ongoing, or the misconduct is escalating
- f) where an investigation or referral to a standards committee or the Adjudication Panel for Wales is required to maintain public confidence in elected members in Wales
- g) where it is likely that the breach would lead to a sanction being applied to the Member and where the use of resources in carrying out an investigation or hearing by a standards committee or the Adjudication Panel for Wales would be regarded as proportionate when weighed against any likely sanction.