

COUNCIL:

30<sup>th</sup> NOVEMBER 2017

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## REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER

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### LOCAL RESOLUTION PROTOCOL

#### Reason for this Report

1. To enable the Council to consider amendments to the Local Resolution Protocol recommended by the Standards and Ethics Committee.

#### Background

2. In May 2013, Cardiff Council adopted a Local Resolution Protocol, upon the recommendations of the Standards and Ethics Committee, to deal with relatively low-level 'member on member' complaints.
3. The Local Resolution Protocol was developed in response to representations made by the Ombudsman advising Councils to establish local resolution procedures to reduce the number of complaints referred to the Ombudsman relating to 'low-level' behavioural issues between Members, which typically arise in what may be regarded as the "cut and thrust" of normal Council debates and local politics. In the Ombudsman's guidance on the Members' Code of Conduct, the Ombudsman states that "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."
4. The Standards and Ethics Committee reviewed the Local Resolution Protocol at its meeting on 22nd March 2017.

#### Issues

5. The Standards and Ethics Committee has recommended various amendments to the Protocol, which are marked up and shown in the draft revised Protocol attached as **Appendix A**.
6. A number of the amendments are intended to ensure that the Protocol remains up to date and fit for purpose, specifically to:

- a. Update the Introduction section to refer to current guidance from the Ombudsman (paragraph 1);
  - b. Provide further guidance on the types of complaints suitable for local resolution under the Protocol (paragraph 2);
  - c. Give the Monitoring Officer discretion to decide the most appropriate method to seek informal resolution (paragraph 3); and
  - d. Add to the list of factors which may be relevant to the Hearing Panel's decision on an appropriate sanction (paragraph 4.3).
7. The Committee also recommended that, subject to the agreement of the Council's Senior Management Team, the Protocol should be extended to low level complaints made by officers about the conduct of a Member. It was noted that such complaints are generally dealt with informally by the Monitoring Officer. However, the extension of the Local Resolution Protocol would make Hearing Panel proceedings available where necessary, and may similarly help to avoid unnecessary escalation of a difficult situation and damage to personal relationships within the Council and the Council's reputation. The Committee noted that some other local authorities extend their local resolution process to officers. The Senior Management Team have confirmed their support for this change.
8. Members may wish to note that the Protocol on Member / Officer Relations (paragraph 19) makes provision for complaints about officers which may be raised by a Councillor with the relevant Director, or the Chief Executive if the complaint concerns a Director, or the Leader if the complaint concerns the Chief Executive.
9. It is also recommended that the Monitoring Officer should have discretion to apply the Local Resolution Protocol to complaints made by members of the public about the conduct of a Councillor, provided all parties are in agreement. The right to refer a complaint to the Ombudsman would remain at all times.
10. Members may wish to note that the Standards and Ethics Committee also agreed that Community Councils should be invited to adopt the Protocol for low-level Member-on-Member complaints involving Community Councillors. However, the organisation representing Community Councils in Wales, One Voice Wales, subsequently developed a bespoke protocol, in consultation with the Ombudsman, specifically tailored for Community Councils. With the endorsement of the Standards and Ethics Committee, the Monitoring Officer has encouraged Cardiff's Community Councils to adopt this bespoke protocol.

## **Legal Implications**

10. The recommended amendments to the Local Resolution Protocol adopted by Council in May 2013 require the approval of full Council.
11. Other relevant legal implications are set out in the body of the report.

## **Financial Implications**

12. There are no direct financial implications arising from this report.

## **RECOMMENDATION**

The Committee is recommended to:

1. Approve the recommended amendments to the Local Resolution Protocol shown in **Appendix A**; and
2. Authorise the Monitoring Officer, in consultation with the Standards and Ethics Committee Chairperson, to make any minor amendments to the Protocol as may be required from time to time.

**Davina Fiore**

**Director of Governance and Legal Services and Monitoring Officer**

15<sup>th</sup> November 2017

## **Appendices**

Appendix A              Local Resolution Protocol – proposed amendments

## **Background Papers**

Local Resolution Protocol, Council report 23/05/13

Standards & Ethics Committee report 'Local Resolution Protocol' 22/03/17; and minutes thereof