

CARDIFF COUNCIL Local Resolution Protocol

1. Introduction

- 1.1. This Protocol has been adopted in response to the Ombudsman's view that "low-level, Member-on-Member" complaints relating to breaches of the Code should be dealt with at a local level. The aim of this Protocol is to seek the resolution of matters at an early stage so as to avoid unnecessary escalation of the situation which may damage personal relationships within the Council and the Council's reputation.
- 1.2. This Protocol seeks to define the types of "low-level" complaints which are suitable for local resolution and sets out the procedure to be adopted in response to them.
- 1.3. It is important to note that this protocol does not preclude anyone from referring any complaint to the Ombudsman if they so wish. However Members should note that the Ombudsman has made clear that, in normal circumstances, it is expected that in the first instance Members should exhaust the procedures set out in this Local Protocol before referring low-level complaints to the Ombudsman.

2. What type of complaints fall within the remit of the Protocol?

The Monitoring Officer will use the following criteria to decide whether a complaint falls within the remit of this Protocol:

Within the remit of this Protocol:

- a. 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
- b. 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 Cardiff Council

AND

- c. The complaint is "low-level" in nature. Whether or not a complaint is "low-level" in nature will be dependant on the individual circumstances of a complaint.

The Ombudsman has indicated 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 to not make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code”.

AND

- d. 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.

Outside the remit of this Protocol:

- Complaints made by members of the public, although if the Monitoring Officer considers it to be appropriate, s/he may with the agreement of the member of the public, deal informally with the complaint, while informing them of their right to complain to the Ombudsman.

If you are unsure whether a matter you wish to complain about is “low-level” or within the remit of this Protocol, then you may wish to discuss this with the Monitoring Officer (who may consult with the Ombudsman’s office) to obtain guidance.

3. Procedure

- 3.1. In the event of a Member or Officer seeking to make a complaint that may fall within the definition of a “low-level” complaint, they should first raise the matter with the Monitoring Officer (or their deputy or other appointed 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 matter should be referred directly to the Ombudsman.
- 3.2. If it is decided that the matter should be dealt with under this Protocol, the following procedure shall be followed.
- 3.3. Firstly, the Monitoring Officer will consider whether the matter may be able to be resolved by mutual resolution. If so, then the Monitoring Officer will make any appropriate arrangements with the aim of seeking an informal resolution of the matter. In doing so the Monitoring Officer may:
 - i Arrange to meet with the individuals concerned, either together or separately;

- ii require the attendance of any Group Leader, Member or Officer as they determine may be beneficial to resolving the complaint; and
- iii adopt such arrangements (such as “breaking out” of any joint meeting to meet with the individuals concerned privately or adjourning the meeting to ask individuals to reflect on their position) as they deem beneficial in an attempt to resolve the complaint.

3.4. If the matter cannot be resolved by mutual resolution, the person bringing the complaint may ask the Monitoring Officer to refer the matter to the Standards & Ethics Member Hearing Sub-Committee (**Hearing Panel**) and, subject to paragraph 3.5 below, the Monitoring Officer will then make arrangements to convene a meeting of the Hearing Panel and to refer that matter to it, as requested.

3.4.3.5. The Monitoring Officer shall not refer a complaint to the Hearings Panel unless s/he is satisfied that there is direct evidence of a breach of the Code and that it is in the public interest to do so, with the proviso that any decision to not refer an unresolved complaint to the Hearings Panel must be made with the agreement of the Chair of the Standards and Ethics Committee (or the Vice-Chair, in the absence of the Chair).

4. Standards & Ethics Hearing Panel Proceedings

- 4.1. The Hearing Panel shall adopt and make available upon request a procedure under which it shall carry out hearings. If a matter is brought before the Hearing Panel then the Hearing Panel shall hold a hearing to determine the matter in accordance with its hearing procedure.
- 4.2. The sanctions available to the Hearing Panel should it find that there has been a breach of the Code shall be:
 - a. A statement that the complaint has substance, but no further action is required.
 - b. Referral of the member for training on a particular topic.
 - c. A private or public written warning. If public, that warning shall be announced and circulated at the next meeting of Council.
 - d. Censure of the Member at the next meeting of Council.
 - e. Referral to the Ombudsman for investigation if the complaint is considered to be deserving of more serious sanctions than the Hearing Panel has the power to impose.
- 4.3. In making a decision on the sanctions to be imposed, the Hearing Panel may take into account (but is not limited to considering):

- a. The severity of the offence.
- b. Impact on others and any reputational impact on the Council
- c. The level of remorse the Member in question has shown and any apologies they have made.
- d. Any other action taken by the Member to redress the complaint.
- e. Whether there is an indication of the behaviour being repetitious or whether the Member has previously been found to have committed similar offences.

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