

APPENDIX 3 TO SECTION 18

LOCAL DISPUTE RESOLUTION PROCEDURE FOR DEALING WITH LOW LEVEL ALLEGATIONS OF BREACHES OF THE MEMBERS' CODE OF CONDUCT AND THE VALE OF GLAMORGAN COUNCIL'S PROTOCOL - STANDARD OF CONDUCT EXPECTED BY MEMBERS

**INTRODUCTION**

1. The Public Services Ombudsman for Wales' Guidance on the Code of Conduct for Members of Local Authorities in Wales (September 2012) expects Local Authorities throughout Wales to implement a Local Dispute Resolution Procedure to deal with low level complaints which are made by a Member against a fellow Member.
2. This Procedure is introduced to meet the Public Services Ombudsman for Wales' ("the Ombudsman") above expectations.
3. Typically the following will fall within the category of low level complaints:
  - 3.1 failure to show respect and consideration for others contrary to paragraph **18.2.4(b)** of the Members' Code of Conduct ("the Code") and
  - 3.2 making vexatious, malicious or frivolous complaints against other Members under paragraph 18.2.6(d) of the Code.

Other breaches of the Code may also be determined by the Monitoring Officer to be low level complaints and dealt with under the Vale of Glamorgan Council's Local Dispute Resolution Procedure ("the Procedure").

4. The Procedure is to be read in conjunction with the Code and the Council's Protocol - Standard of Conduct Expected by Members ("the Protocol").
5. The Protocol establishes the behaviour which is acceptable and unacceptable between Members. It sits alongside the Code and fills the gap between behaviour which possibly in itself is not serious, but creates unpleasantness between Members, and behaviour that is approaching the threshold and serious enough for the Ombudsman to hold an investigation. Breaches of the Protocol will also be dealt with under this Procedure.
6. The Ombudsman assumes that where a Member repeatedly breaches this Procedure, the Monitoring Officer will refer the matter to the Ombudsman.
7. Members will continue to be able to complain directly to the Ombudsman where a breach of the Code has occurred. Should the complainant exercise that right then this procedure will not be used, and any efforts to resolve a complaint using this procedure will be stopped. The process will only resume if the matter is referred back for local resolution.

8. The Procedure applies to Vale of Glamorgan Council Member complaints against a fellow Member, and not Members of Town and Community Councils. Complaints made by the public will not be dealt with under this Procedure.
9. The key objectives of the Procedure are:
  - 9.1 resolve low level allegations of breaches of the Code and Protocol locally and quickly,
  - 9.2 avoid unnecessary escalation of the situation which might impact on personal relationships within the Council and damage the Council's reputation,
  - 9.3 avoid unnecessary involvement of the Ombudsman so that his resources are devoted to the investigation of more serious or repeated complaints.

### **GENERAL PRINCIPLES**

10. Members will make all reasonable efforts to resolve disputes via the Procedure.
11. Group Leaders individually and collectively will work to ensure compliance with the Procedure.

### **WORKING TO AVOID PROBLEMS**

12. To minimise the number of instances of alleged breaches the Council has committed to:
  - 12.1 a Member Development Strategy
  - 12.2 providing relevant Member training events.

### **STAGE 1 OF THE PROCEDURE**

13. Any Member who wishes to submit an allegation under the Procedure is to send the complaint to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer or the Deputy Monitoring Officer will indicate whether the **complaint** may be dealt with under this Procedure or whether it should be referred to the Ombudsman as an allegation of breach of the Code.
14. **Within 7 working days of receipt of the complaint, the Monitoring Officer will bring the complaint to the attention of the Member against whom the complaint has been lodged.**
15. **If the Monitoring officer or Deputy Monitoring Officer determine that this Procedure applies, the complaint will be referred to a mandatory conciliation meeting (Stage 2).**

## STAGE 2 OF THE PROCEDURE

### CONCILIATION MEETING

16. A meeting will be held between the Member making the complaint, the Member against whom the complaint is made, the Leader of the Political Group for the Member who is the subject of the complaint and the Managing Director (or a nominated Director as determined by the Managing Director). The purpose of this meeting will be to attempt to resolve the matter. If deemed necessary the Managing Director or the nominated Director may call on the Monitoring Officer or the Deputy Monitoring Officer for advice and assistance.
17. Where the complaint is made by or concerns a Group Leader, or concerns a non-aligned or unaffiliated Member, the conciliation meeting will be attended by the Member making the complaint, the Member against whom the complaint is made, the Managing Director (or a nominated Director as determined by the Managing Director) and the Monitoring Officer or the Deputy Monitoring Officer.
18. An Independent Member of the Standards Committee (to be appointed by the Chairman of the Standards Committee on a rotational basis) may sit as an observer at the mandatory Stage 2 part of the process.
19. If the complaint is not resolved at Stage 2, it will be referred to a hearing before an Independent Member of the Standards Committee (Stage 3) if the complainant wishes to proceed.

## STAGE 3 OF THE PROCEDURE

### HEARING

20. The third stage is a hearing before the Independent Member nominated by the Chair of the Standards Committee (the nomination will be on a rotational basis subject to availability). The Member making the complaint will be asked to submit the substance of his/her complaint in writing and the Member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be provided to the Independent Member (copies of the same are to be exchanged between the Members involved in the complaint in advance of being provided to the Independent Member).
21. Both Members involved in the complaint have the right to appear before the Independent Member and to submit evidence from witnesses.
22. **If a witness(es) are to be called, details of the complaint and response (redacted if considered necessary by the Monitoring Officer or Deputy Monitoring Officer) will be provided to the witness(es).**
23. Both Members will have the right to representation. The Council will not meet the costs of representation.

24. If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
25. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Independent Member will come to a conclusion on the allegation. The Monitoring Officer or Deputy Monitoring Officer will attend the hearing throughout and advise the Independent Member.
26. The Independent Member may come to one of three conclusions, namely:-
  - 26.1 That there is no basis to the complaint.
  - 26.2 That there is a basis to the complaint but that no further action is required.
  - 26.3 That there is a basis to the complaint and that the Member be censured.

In addition the Independent Member may make recommendations to the Council regarding changing any procedures or taking any further action.

## **SUPPLEMENTARY MATTERS**

27. Publicity will not be given to the names of the Members involved in the complaint unless it is decided that there is a basis to the complaint and that the Member be censured.
28. The hearing at Stage 3 will be dealt with in private.
29. Stages 2 and 3 **must** follow sequentially. **If** the Member submitting the complaint remains dissatisfied after the conciliation meeting, **he / she may** ask for the matter to be referred to a hearing before the Independent Member. **A matter will only** proceed to the hearing before the Independent Member **if the complaint has been considered at** a conciliation meeting.
30. There is no internal right of appeal against the decision made by the Independent Member at Stage 3 of the Procedure.