

Council 6th November 2023 Minute 522 refers

Local resolution complaints policy and procedures.

The Public Service Ombudsman for Wales has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution. To assist town and Community Councils, One Voice Wales has drawn up a model protocol which any Community and Town Council can use in dealing with such complaints. In July 2017 The Standards Committee resolved that all Town and Community Councils in the Vale of Glamorgan be recommended to consider adopting the Model Local Resolution Protocol or to use the Model version to draw up their own Protocol. This has now been adopted by all but 2 TCC's (one of which was Penllyn) within the Vale of Glamorgan Council area.

Policy

It is the Community Council's policy to locally resolve low level complaints about Members including –

- Minor complaints from Members about Members
- Minor complaints from Officers about Members
- Members alleged to have not shown respect and consideration for others – either verbally or in writing

Complaints which will not be considered under this Policy and will be directed to the Public Services Ombudsman for Wales are –

- Complaints instigated by a member of the public
- Serious complaints – breaches of the Code of Conduct/failure to disclose interests/bullying/abuse of position or trust/repeated breaches
- Complaints made by the Clerk/Proper Officer
- Vexatious, malicious or frivolous complaints
- Members' complaints about officers which should be dealt with using the Council's internal complaints process
- Repetitive low level complaints

Procedure

For the purpose of clarification, the Proper Officer (Clerk/Responsible Financial Officer) is accountable to the Council as a whole, but on a day to day basis the Chair of the Council will act as the Line Manager where this Protocol refers to the Chair or Vice Chair of the Council.

The Process

The Complaint

The complaint would need to be sent to the Clerk as the Proper Officer of the Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman. If appropriate, therefore, the Clerk/Proper Officer should firstly seek an early resolution of any such dispute by liaising informally with the individual Members concerned prior to the resolution process described below. It is vitally important that the 'accused' Member is given full details of the complaint against them so that in the interests of natural justice they are in a position to prepare their response to the accusation.

Resolution Process

The involvement of the Chair/Vice Chair in the following process is not to adjudicate on the complaint, but to attempt to get the Members/officers involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis. The Clerk/Proper Officer will act as a facilitator for the resolution process below. If the complaint is between Members other than the Mayor, the Clerk/Proper Officer and the Mayor will meet individually with the complainant and Member subject of the complaint to seek an agreed resolution. If the complaint is between Members, one of whom is the Chair, but not the Vice Chair, the Clerk/Proper Officer and the Vice Chair will meet with the complainant and Member subject of the complaint to seek an agreed resolution. If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against a Member other than the Chair, the Clerk/Proper Officer and the Chair will meet with the officer and the Member subject of the complaint to seek an agreed resolution. If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against the Chair, the Clerk/Proper Officer and the Vice Chair will meet with the officer and the Chair to seek an agreed resolution. If the complaint has been made by the Clerk/Proper Officer, then it is likely to be best practice that this complaint is forwarded by way of a complaint to the Ombudsman.

Possible Results of the Process

If an agreement is reached by Members and/or officers during this stage then no further action is required. If agreement cannot be reached the aggrieved Member/officer would always have the opportunity of referring the matter to the Ombudsman. Examples of agreements might include issue of a letter of apology, a written undertaking or commitment not to breach the Code of Conduct in the future, a commitment to undertake training or an agreement that on the basis of the evidence that no further action should be taken and the matter be closed.

Time for the Process

It is the intention that all of the processes can be completed as quickly as possible to resolve the issue. However exact timing will depend on the availability of individuals to attend the meetings.

Recording of Meetings

Any meetings held with a view to discussing the issues of complaints and/or resolving matters will be minuted and recorded. This is to ensure that agreements

are captured. This will also be useful in the event that matters break down or escalate and need to be referred to the Ombudsman. It may also be useful as evidence in the event of further similar breaches of the conduct and future conduct.

Breaches of Code of Conduct

The Community Council must be clear on its powers in respect of Code of Conduct matters. Investigations of possible breaches of the Code are matters for the

Ombudsman.

The Local Government Act 2000 gives him the authority to carry out such investigations. The Council has no legal authority to undertake such investigations or to make findings of a breach of the Code of Conduct, which are decisions that can only be reached by a Standards Committee or the Adjudication panel for Wales.”

Resolved: That the policy as set out above be adopted.