

PROTOCOL FOR RESOLVING LOW-LEVEL MEMBER ON MEMBER CODE BREACH COMPLAINTS

Introduction and General Principles

Members' conduct is regulated by the Code of Conduct for Members and complaints alleging breaches of the Code are currently required to be made to the Public Services Ombudsman for Wales.

However, the Ombudsman and Welsh Government have expressed concern about the volume of low-level member on member Code complaints being made which results in the Ombudsman's Office's time and resources being tied up.

The "Programme for Government" published in September 2011 included a commitment to review the process for making a complaint under the Code of Conduct for members to ensure that it was used only for the purpose for which it was intended.

The "Promoting Local Democracy" White Paper published in 2012 conveyed Welsh Government's view that there was scope for a more local approach to the resolution of low-level complaints, without immediate resort to the full and potentially costly investigatory role of the Public Services Ombudsman for Wales, in some circumstances. The White Paper indicated that Welsh Government wished to see such processes implemented by all County and County Borough Councils as soon as practicable after the May 2012 elections.

To facilitate the introduction of local resolution procedures Welsh Government intends to remove the obligation on members contained in para. 6 (1)(c) of the Code to report potential breaches of the Code to the Ombudsman, but considers that the need for that amending legislation should not delay the implementation of local resolution procedures.

What is a low-level complaint ?

The Ombudsman defines low-level complaints as typically being complaints made by a member against another member about:

- failures to show respect and consideration for others as required by para. 4(b) of the Code of Conduct; or
- the duty not to make vexatious, malicious or frivolous complaints against other members under para. 6(1)(d).

Resolution Procedure for Low-Level Complaints

A low-level complaint by a member relating to a member of the same Group will be referred to and resolved by the Group Leader in consultation with the Chief Executive.

A low-level complaint by a member against a member of a different political group will be referred to the complainant's own Group Leader, who will if s/he deems it necessary refer the complaint to the Group Leader for the member complained of who shall resolve the complaint in consultation with the Chief Executive

A low-level complaint by an Unaffiliated Member shall be made to the Chair of Council who shall refer the complaint to the Group Leader for the member complained of for resolution in conjunction with the Chief Executive

A low-level complaint against an Unaffiliated member shall be referred to the complainant's own Group Leader, who will if s/he deems it necessary refer the complaint to the Chair of Council for resolution in consultation with the Chief Executive.

Appropriate sanctions

Where a complaint is upheld appropriate sanctions may include:

- A requirement for the member in breach to provide an apology.
- A requirement for the member in breach to undergo appropriate training

The Group Leader resolving the complaint (or the Chair of Council in the case of the resolution of a complaint against an Unaffiliated member) shall keep a record of the decision and the sanction imposed, and shall notify the Monitoring Officer.

Persistent Breaches

Where a member has repeatedly breached the Code and/or Protocol the member's persistent conduct may be referred through to the Ombudsman's Office.