

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **FLINTSHIRE COUNTY COUNCIL**

**DATE:** **TUESDAY, 25 JUNE 2013**

**REPORT BY:** **HEAD OF LEGAL AND DEMOCRATIC SERVICES**

**SUBJECT:** **LOCAL RESOLUTION PROCEDURE**

**1.00 PURPOSE OF REPORT**

1.00 To consider a Local Resolution Procedure for complaints in respect of Members.

**2.00 BACKGROUND**

2.01 The Public Services Ombudsman's Guidance on the Code of Conduct for Members of Local Authorities in Wales, first published in April 2010 contains the following section:

“Local Resolution Process

During the course of the life of this guidance I expect local authorities across Wales to have implemented local resolution procedures to deal with low level complaints which are made by a member against a fellow member. 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 not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code. Whilst a member may still complain directly to me about a fellow member if the matter being complained about concerns paragraph 4b and 6(1)(d) I am likely to refer the matter back to the Council's Monitoring Officer for consideration under this process.

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. The process may result in an apology being made by the member concerned. However, where a member has repeatedly breached their authority's local protocol then I would expect the Monitoring Officer to refer the matter back to me.”

2.02 So far 8 Councils in Wales have adopted the Local Resolution Procedure (Blaenau Gwent, Denbighshire, Isle of Anglesey, Gwynedd, Monmouthshire, Rhondda Cynon Taff, Swansea and Torfaen). I have obtained copies of their Local Resolution Procedures and they largely appear to be based on one of 2 models:-

- i) Those based on the Gwynedd Standard (attached at Appendix 1); and
- ii) Those based on the Denbighshire Standard (Appendix 2).

In addition, Swansea City Council has its own unique procedure attached at Appendix 3.

### **3.00 CONSIDERATIONS**

3.01 In adopting a local resolution process I believe it is important that the process is clear, simple and relatively informal in its early stages. The process should not be seen as a replacement for investigation by the Public Services Ombudsman for Wales (PSOW), which will still remain appropriate for repeated or serious breaches of the Code of Conduct. The procedure should instead be used to address behaviour which either falls short of the breach of the Code or, even though amounting to a breach of the Code, which the Ombudsman would be unlikely to investigate.

N.B. The adoption of a local resolution procedure does not remove the PSOW's discretion to investigate any complaint that is referred to him though his staff will no doubt take into account the existence of such a procedure when deciding how to handle a complaint.

3.02 Since the PSOW made his statement about local resolution procedures, the Welsh Government and the WLGA have also agreed that local resolution procedures should be adopted. They have suggested that such procedures should apply to complaints from officers as well as members. At the All Wales Standards Conference on 17 April 2013 the PSOW said he did not see why local resolution could not apply to complaints from officers provided the procedure was sufficiently independent of the political process.

3.03 Having weighed up the two different models I would make the following comments:

- The Gwynedd Standard is very simple, is independent of the political process and has the advantage of a clear positive statement of what is expected of Members.
- The Denbighshire model places strong emphasis on training and conciliation and gives the group leaders the prominent role within the process thus encouraging self regulation.

- The Swansea model gives Group Leaders a prominent role thus encouraging self regulation. It is also clear and simple to understand.
- 3.04 Of the two procedures I believe that the Gwynedd Standard is simpler to operate and could be adapted to our circumstances very positively. I have at Appendix 4 set out a suggested Flintshire Local Resolution Procedure.
- 3.05 Local resolution procedures were considered by Group Leaders at their meeting on 6 June 2013. They helpfully suggested that there should be a time limit on being able to bring complaints under the Local Resolution Procedure, as is the case with complaints about maladministration to the PSOW. The time limit for complaints about maladministration is 12 months and that seems to be a sensible limit on complaints under the Local Resolution Procedure.
- 3.06 The Standards Committee also considered the Local Resolution Procedure at its meeting of 10 June and suggested that a note of explanation be added to the proposed Flintshire Standard to clarify that any behaviour will be judged objectively. That is to say it will be judged on the basis of what a reasonable person would think looking at the behaviour rather than specifically what the member had in their own minds when they were behaving in that way. They also suggested that all complaints under the Local Resolution Procedure should be in writing in order to increase clarity, transparency and openness. Lastly, the Committee suggested that the Procedure should specify that it would be the Monitoring Officer to decide whether a breach of the Code of Conduct was too serious to be handled by way of local resolution.
- 3.07 It should be noted that the Welsh Government is considering removing the obligation on members to report suspected breaches of the code in order to facilitate the operation of local resolution procedures.
- 3.08 Also at its meeting on 10 June the Standards Committee consider the Code of Conduct and whether it needed to be amended in order to facilitate local resolution. Paragraph 6.02 of the Code of Conduct at the moment requires Members to cooperate with the Monitoring Officer and the PSOW in the event of a complaint. The Standards Committee believes that a similar obligation should be introduced in respect of the Local Resolution Procedure and that members should be obliged to adhere to the Flintshire Standard.

#### **4.00 RECOMMENDATIONS**

- 4.01 That the Standards Committee recommends that Council adopts the Flintshire Local Resolution Procedure at Appendix 4 with effect from the 25 June 2013.

4.02 That paragraph 6.02 of the Code of Conduct is amended to include an obligation to adhere to the Flintshire Standard and to cooperate with the Local Resolution Procedure.

4.03 That the Monitoring Officer be given delegated authority to include the Local Resolution Procedure and the amendment to the Code of Conduct within the Constitution.

**5.00 FINANCIAL IMPLICATIONS**

5.01 None as a result of this report.

**6.00 ANTI POVERTY IMPACT**

6.01 None as a result of this report.

**7.00 ENVIRONMENTAL IMPACT**

7.01 None as a result of this report.

**8.00 EQUALITIES IMPACT**

8.01 None as a result of this report.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None as a result of this report.

**10.00 CONSULTATION REQUIRED**

10.01 None as a result of this report.

**11.00 CONSULTATION UNDERTAKEN**

11.01 Standards Committee

**12.00 APPENDICES**

Appendix 1 – Gwynedd Standard

Appendix 2 – Denbighshire Standard

Appendix 3 – Swansea Standard

Appendix 4 - Suggested Flintshire Local Resolution Procedure

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985  
BACKGROUND DOCUMENTS**

As referred to in the report.

**Contact Officer: Gareth Owens**

**Telephone:**  
**Email:**

**01352 702344**  
**[gareth.legal@flintshire.gov.uk](mailto:gareth.legal@flintshire.gov.uk)**