

CEREDIGION COUNTY COUNCIL

Report to: Ethics and Standards Committee

Date of meeting: 17 September 2021

Title: The Local Resolution Procedure and Flowchart

Purpose of the report: To provide the Committee with a copy of the current Local Resolution Procedure and Flowchart

At a recent Monitoring Officer Network meeting authorities were requested to share their Local Resolution Procedure with the WLGA. This would provide an opportunity to compare and contrast all Local Resolution Procedures with a view to revising them.

The Local Resolution Procedure is intended to sit alongside the Code, enabling behaviour which may not reach the threshold of referral to the Public Services Ombudsman for Wales to be dealt with swiftly and effectively.

Ceredigion County Council's current Local Resolution Procedure and flowchart is contained in Appendix A.

One Voice Wales has also produced guidance to assist town and community councils to support them with the local resolution process (Appendix B).

The results of the review that is being undertaken by the WLGA will be shared with the Committee in due course.

Recommendation(s): To review and suggest changes to the current Local Resolution Procedure.

Reasons for decision: The Ethics and Standards Committee shall be kept informed of developments in relation to updating the Local Resolution Procedure.

Contact Name: Lisa Evans

Designation: Scrutiny and Standards Officer

Date of Report: 1 September 2021

Acronyms:

CEREDIGION COUNTY COUNCIL

MEMBERS' LOCAL RESOLUTION PROCEDURE

1. General Principles

- 1.1 The Council wishes to promote high standards of conduct and behaviour as a means of strengthening respect and trust among members. This procedure is not intended to replace the Code of Conduct, rather it is intended to sit alongside the Code, enabling behaviour which may not reach the threshold of referral to the Public Services Ombudsman for Wales to be dealt with swiftly and effectively.
- 1.2 This procedure does not replace the Protocol on Member/Officer Relations set out in the Council's Constitution.
- 1.3 Members will make all reasonable attempts to resolve disputes informally and through agreed internal processes, subject to their obligations under the Members' Code of Conduct.
- 1.4 Referral to external regulators will become a last resort, subject to members' obligations under the Code of Conduct.
- 1.5 Members will avoid personal confrontation in any public forum, especially full Council and through the media.
- 1.6 These commitments will not stifle legitimate political debate or scrutiny.
- 1.7 Group discipline will become the cornerstone of self-regulation, with Group Leaders taking responsibility for their own members.
- 1.8 Group Leaders individually and collectively will work to ensure compliance with this procedure.
- 1.9 Members will commit to training and development in support of this procedure.

2. Working to avoid problems

- 2.1 To minimise the number of instances of alleged breaches of the Code of Conduct, members have:
 - (i) resolved to adopt a Member Development Strategy - all reasonable endeavours will be made to ensure that the Member Development Strategy identifies and responds to the needs of members.
 - (ii) committed to attend relevant member training events and in particular those relating to the Code of Conduct.

(iii) demonstrated commitment to obtaining the WLGA's Charter for Member Support and Development and supporting its objectives.

3. Role of Group Leaders

- 3.1 A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.
- 3.2 Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should be informal and difficulties resolved through face to face meetings where possible. Group Leaders will need to retain some records, but the process will not be "document heavy". The emphasis should be on training, education, mediation and conciliation.
- 3.3 When appropriate, a sanction such as removal from a committee or an outside body may be used in extreme cases or after persistent breaches and the matter may also be referred to the Public Services Ombudsman for Wales.
- 3.4 Prior to considering any sanction or training, the relevant Group Leader may consult with an independent member of the Ethics and Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Ethics and Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.
- 3.5 At the next available Group Leaders' meeting, any issue of discipline which has been referred to a Group Leader will be discussed with the Group, with the objective of seeking to ensure that fair and consistent sanctions are applied.
- 3.6 Where the complaint relates to the Group Leaders themselves, the Chairman of the Council will be requested to consider the complaint, as with non-aligned or unaffiliated members and the Chairman may consult with an independent member of the Ethics and Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer.

4. Non Aligned or Unaffiliated Members

- 4.1 As far as non-aligned or unaffiliated members are concerned, the Chairman will fulfil the role of "Group Leader". Concerns regarding the conduct of an unaffiliated member should be referred to the Chairman who will apply the same principles and standards as those of the Group Leaders in terms of training, education, mediation and conciliation.

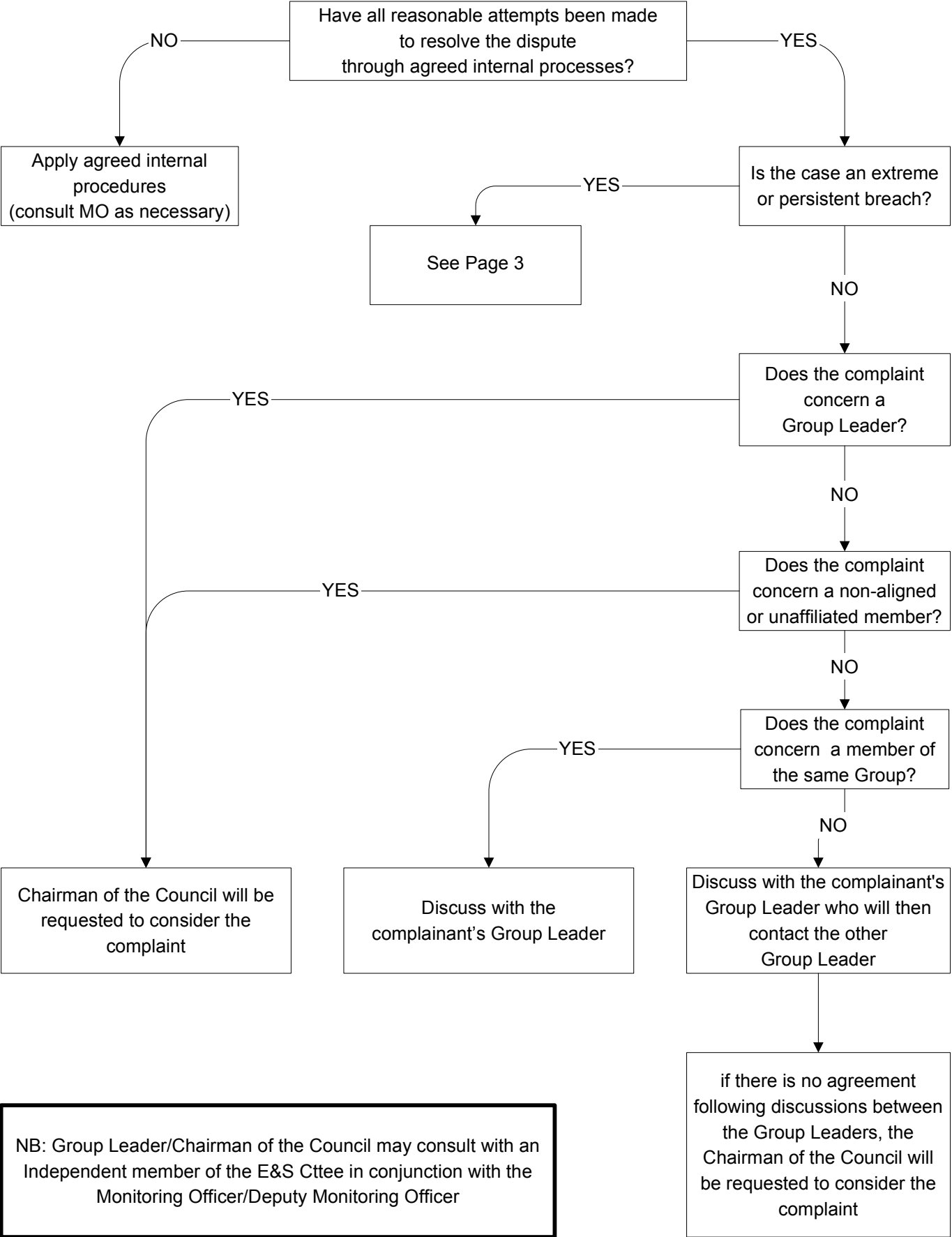
5. Persistent Breaches

- 5.1 In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging relations between political groups or the reputation of the Council, then the Group Leaders will meet with the Chief Executive, the Monitoring Officer and an independent member of the Ethics and Standards Committee to agree a way forward. Consideration will be given to joint references to the Public Services Ombudsman for Wales by the Group Leaders for persistent low level breaches.

6. Ethics and Standards Committee

- 6.1 Owing to any potential issues of conflict, any involvement as referred to in paragraph 3.4, 3.6 and 5.1 above will include no more than one independent member of the Ethics and Standards Committee. This will be determined at the discretion of the Monitoring Officer in accordance with availability.
- 6.2 The independent members of the Ethics and Standards Committee will play a supporting / advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader in a particular case.
- 6.3 Such meetings will be private and informal.
- 6.4 Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chairman) and the independent members of the Ethics and Standards Committee shall remain private and confidential (subject to compliance with legislation including Freedom of Information, Environmental Information and Data Protection legislation).

Ceredigion County Council MEMBERS' LOCAL RESOLUTION PROCEDURE

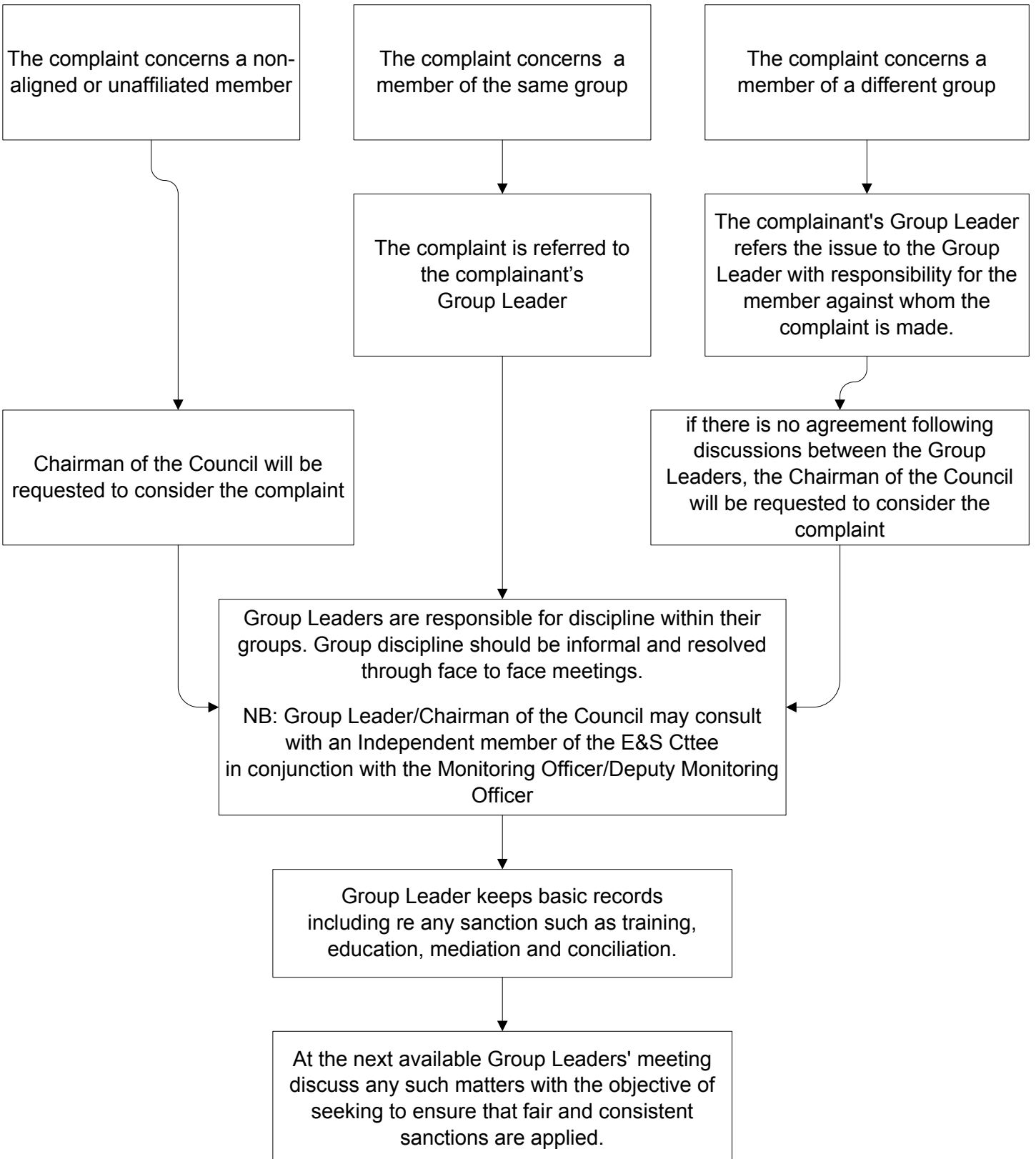


NB: Group Leader/Chairman of the Council may consult with an Independent member of the E&S Cttee in conjunction with the Monitoring Officer/Deputy Monitoring Officer

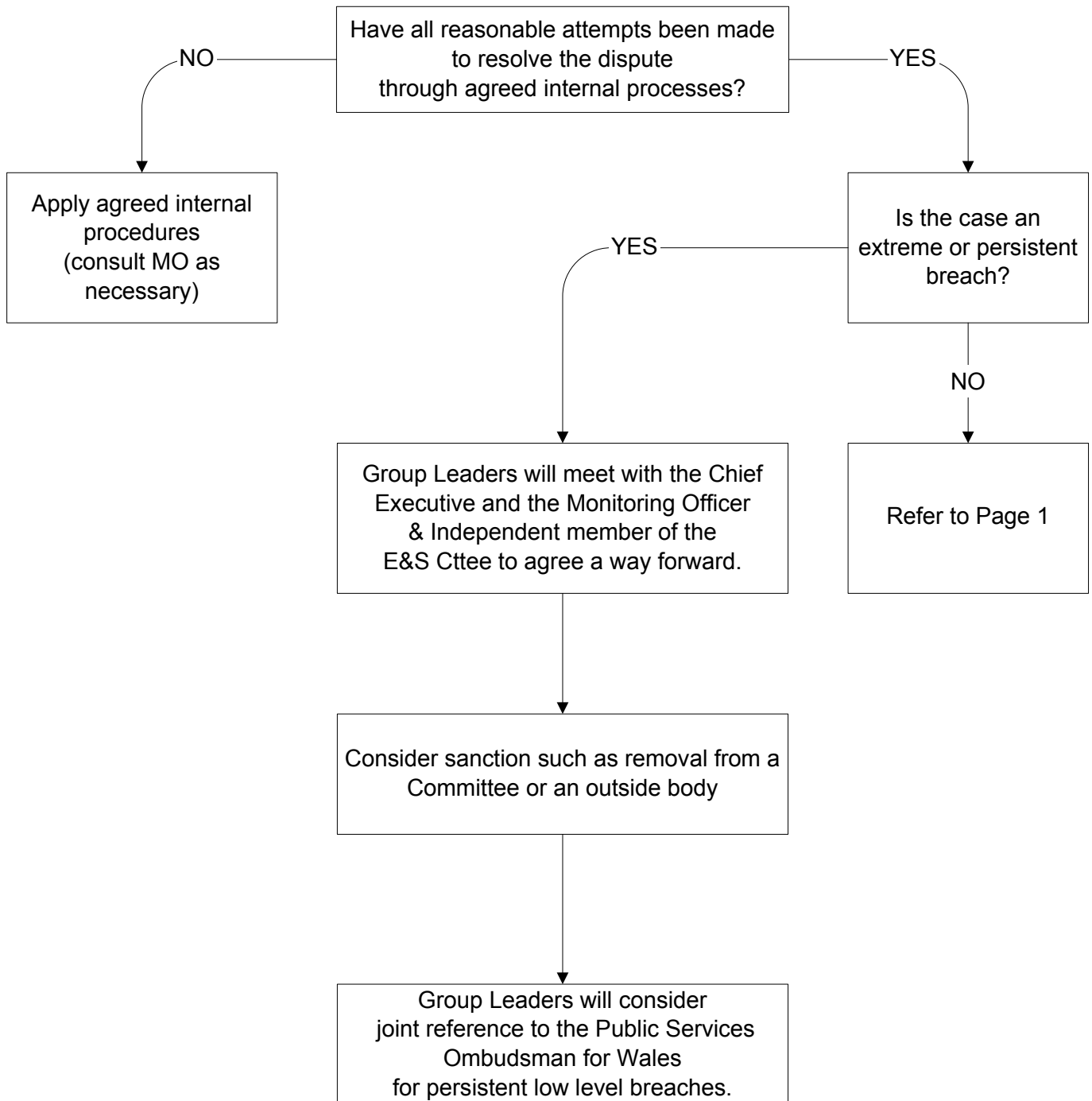
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Ceredigion County Council MEMBERS' LOCAL RESOLUTION PROCEDURE

Where the complaint
DOES NOT CONCERN
an extreme or persistent breach



Ceredigion County Council MEMBERS' LOCAL RESOLUTION PROCEDURE



NB: Group Leader/Chairman of the Council may consult with an Independent member of the E&S Cttee in conjunction with the Monitoring Officer/Deputy Monitoring Officer



Un Llais Cymru



One Voice Wales

**Model Local Resolution Protocol
for Community and Town Councils**



ONE VOICE WALES

Model Local Resolution Protocol for Community and Town Councils

Background

The Public Service Ombudsman has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution. However to date there has not been a common process for Community and Town Councils to follow in dealing with such matters. To assist the sector, One Voice Wales has drawn up the following as a model protocol which any Community and Town Council can use in dealing with such complaints.

This model protocol is meant as a starting point for Community and Town councils. Individual councils may wish to add or amend this model to suit their particular needs. Councils wishing to use this process should first of all be clear about its purpose and intention, formally adopt it in its current or in a revised form and ensure that all Councillors are provided with a copy for their attention. The Council should then determine the framework through which it is operated which may require the establishment of a Committee or Panel or an extension of the terms of reference of an existing Panel or Committee such as a Complaints Panel or Committee. In the case of establishment of a new Panel it is important that terms of reference are prepared and approved by the Council. In either case it will be important for Councils to document in the terms of reference as to what will happen if there is a lack of co-operation shown by the member concerned or a breakdown occurring during the operation of the process. For example, in such cases the default position might be that the matter is referred to the Public Ombudsman for Wales.

The Local Resolution Process

Issues which should be considered under this process

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

Issues which should not be considered under this process

Complaints which must be directed to the Public Services Ombudsman for Wales, including:

- 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

The Process

The complaint

The complaint would need to be sent to the Clerk/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 of the Council 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 Chair of the Council, the Clerk/Proper Officer and the Chair 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 of Council, 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 of Council, the Clerk/Proper Officer and the Chair of Council 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 of Council, the Clerk/Proper Officer and the Vice Chair of Council 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.

Important Points to Note in preparing a process for use by the Council

The Clerk/Proper officer, Chair and Vice Chairs of Councils should consider receiving appropriate training in facilitation and mediation to be in a position to maximise the benefit of this process. Councils wishing to pursue this route should contact One Voice Wales for guidance.

Councils might want to include some guidance where complaints which are most appropriately dealt with under this process are referred back to the Council by PSOW. The PSOW could actively do this if the Council has an approved process.

It is suggested that any meetings held with a view to discussing the issues of complaints and/or resolving matters are at the very least minuted, if not 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 PSOW. It may also be useful as evidence in the event of further similar breaches of the conduct and future conduct.

Councils need to be clear on their powers in respect of code of conduct matters. The Ombudsman has seen examples of councils who have deemed it appropriate to fully investigate a code complaint, decide that there has been a breach and some have even thought it appropriate to consider the issue of a sanction. 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.



ABOUT ONE VOICE WALES

One Voice Wales is the national representative organisation for Community and Town Councils throughout Wales. The vision subscribed to by One Voice Wales is:

“Working with local councils in Wales to shape places communities want to live in”

One Voice Wales aims to support Community and Town Councils in achieving this vision and has adopted the following Mission Statement to guide its work:

“To represent the interests of Community and Town Councils; raise awareness and understanding of this primary tier of government; and work collaboratively with our partners to ensure the sector contributes fully to the goal of developing dynamic and sustainable communities in Wales.”

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