



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

22ND OCTOBER 2018

**COMPLAINT BY A MEMBER UNDER THE COUNCIL'S LOCAL PROTOCOL -
STANDARDS OF CONDUCT EXPECTED BY MEMBERS**

REPORT OF THE MONITORING OFFICER

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Deputy Monitoring Officer

1. PURPOSE OF THE REPORT

To enable the Committee to consider a complaint made by a Member that another Member has failed to comply with the Council's Local Protocol – Standards of Conduct Expected by Members.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 Members adopt the procedure outlined in paragraph 4.12 of this report as to the conduct of the meeting; and
- 2.2 Consider whether or not the Member who is the subject of the complaint has failed to comply with the Council's Local Protocol – Standards of Conduct expected by Members and, if there is basis to the complaint, whether that Member should be censured or that no further action is required.

3. BACKGROUND

- 3.1 On 12th January 2011 Council approved the Local Protocol – Standards of Conduct Expected by Members (the 'Protocol'), a copy of which is appended at Appendix 1 to this report. The Protocol was revised in July 2013.
- 3.2 A complaint has been made under the Protocol by County Borough Councillor P. Jarman against County Borough Councillor R. Yeo.

- 3.3 The basis of Councillor Jarman's complaint relates to remarks alleged to have been made by Councillor Yeo at a meeting of the Overview and Scrutiny Committee held on Monday 30th April 2018. The background to the complaint is as follows.
- 3.4 On the 16th April 2018, the Council's Health and Well-being Scrutiny Committee, for which Councillor Yeo is the Chair, received a report in respect of the 'Development of Community Hubs in Rhondda Cynon Taf'. In relation to this item the Committee resolved the following:
- *To acknowledge the contents of the report;*
 - *To request that Cabinet at its meeting on 19th April 2018 defer consideration of the consultation responses and other recommendations in respect of the report relating to the proposed Community Hub in Mountain Ash in view of the concerns raised by the Health & Wellbeing Scrutiny Committee; and*
 - *That the Health & Wellbeing Scrutiny Committee undertakes further scrutiny of the proposed Mountain Ash Community Hub model to ensure it reflects the needs of the community and report its findings back to Cabinet.*

The minutes of this meeting are attached at Appendix 2 to this report.

- 3.5 At the Cabinet meeting on the 19th April 2018 consideration was given to the report titled 'Developing Community Hubs in RCT'. At that meeting Cabinet took the decision to proceed with developing two Community Hubs in the Ferndale and Mountain Ash areas of the County Borough.
- 3.6 The majority of decisions made by Cabinet, once taken, cannot be implemented for a stated period of time in order to afford non-executive members an opportunity to 'call-in' the decision. If a call-in request is made in accordance with the relevant procedures a meeting of the Overview & Scrutiny Committee is then convened to consider the call-in request and reasons for call-in and the Committee must determine whether or not to refer the relevant Cabinet decision back to Cabinet for reconsideration.
- 3.7 The Cabinet decision referred to in paragraph 3.5 above was 'called-in' in accordance with the relevant procedures. A meeting of the Overview and Scrutiny Committee was held on Monday 30th April 2018 to deal with the call-in request (the 'Call-In Meeting'). Councillor Jarman was in attendance as a member of the Overview & Scrutiny Committee and as one of the signatory's to the call-in itself. Councillor Yeo was in attendance as a non-committee Member. The minutes of the Call-In Meeting are attached at Appendix 3 to this report. Following consideration the Committee resolved that the decision not be referred back to the Cabinet for reconsideration and that the decision taken on the 19th April 2018 take effect as from the close of that meeting.

4. COMPLAINT

4.1 Councillor Jarman alleges that at the Call-In Meeting Councillor Yeo made remarks about the conduct of the three Plaid Cymru Members who were present at the Health and Wellbeing Scrutiny Committee meeting on the 16th April 2018. Councillor Jarman considers the remarks were made for no reason other than to bring those Councillors' reputations into disrepute. Councillor Jarman further considers that Councillor Yeo's alleged threat that they will not get away with a decision like that in the future was said for no reason or purpose other than to threaten or bully them as Members of the Health and Well-being Scrutiny Committee and that he may not have liked the decision of that Committee on the 16th April 2018 but it does not entitle him to disrespect their judgement.

4.2 As Committee Members will be aware the Protocol is formulated as a two stage procedure. Stage 1 is an informal resolution process. In this particular case and as part of the Stage 1 procedures Councillor Jarman indicated she would accept the following:

"I would expect Councillor Yeo to send his apologies to the three Members of the Plaid Cymru Group who serve on the Health and Wellbeing Committee for publicly bringing their reputations into disrepute by his remarks at the Overview and Scrutiny call in meeting. I understand that another Member may also be entitled to an apology but he is not a Member of the Plaid Cymru Group."

4.3 Following correspondence with the Council's Monitoring Officer, Councillor Yeo agreed to send a letter to the Plaid Cymru Members Councillor Jarman referred to above. A copy of the letter sent by Councillor Yeo is attached at Appendix 4 to this report.

4.4 Following receipt of that letter Councillor Jarman confirmed to the Monitoring Officer that the Paid Cymru Members to whom it was addressed were not satisfied Councillor Yeo's letter constituted an apology. Councillor Jarman stated:

"Unless he can sincerely apologise for the comments he made instead of saying that he apologises if they misinterpreted what he said, then he leaves me with no alternative but to proceed to Standards."

4.5 Councillor Jarman's above comments were communicated to Councillor Yeo who confirmed he did not have anything further to add to his original letter. This therefore concluded Stage 1 of the Protocol process and no informal resolution was reached.

4.6 Having been made aware of Councillor Yeo's position Councillor Jarman subsequently submitted a complaint under Stage 2 of the Protocol process.

4.7 In her complaint Councillor Jarman has specified which parts of the Protocol she alleges Councillor Yeo has breached namely:

“2. The standards of conduct

Members shall: -

2.1 Public Behaviour

- (a) Show respect to each other
- (b) Not make personal abusive comments about each other
- (d) Not make malicious allegations against each other
- (e) Not publish or spread any false information about each other

2.2 Behaviour in Meetings

- (a) Behave with dignity
- (c) Not use indecent language nor make racial remarks or remarks which prejudice or may be deemed to be offensive to any section of society”.

- 4.8 Both Councillor Jarman and Councillor Yeo confirmed they did not wish to submit any additional written representations as part of the Stage 2 Protocol process beyond what has been set out above.
- 4.9 As requested by Councillor Jarman her complaint now comes before this Committee for consideration and determination. Both Councillors have been invited to attend the Committee hearing.
- 4.10 Councillor Jarman has confirmed she will be calling the following witnesses, namely County Borough Councillors L. Walker (Signatory to the call-in and present at the Call-In Meeting), J. Williams (Signatory to the call-in, present at the Call-In Meeting and member of the Health & Well-being Scrutiny Committee), E. Stephens (Member of the Overview & Scrutiny Committee present at the Call-In Meeting), D. Grehan (Non-committee Member in attendance at the Call-In Meeting), L. Jones (Member of the Health & Well-being Scrutiny Committee), and J. Davies (Member of the Health & Well-being Scrutiny Committee).
- 4.11 Councillor Yeo has confirmed he will be calling the following witnesses, namely County Borough Councillors G. Thomas (who at the relevant time was Vice-Chair of the Overview & Scrutiny Committee and Chair of the Call-In Meeting; M. Webber (Cabinet Member/Deputy Leader in attendance at the Call-In Meeting) and S. Bradwick (Non-committee Member in attendance at the Call-In Meeting).
- 4.12 As it is not a formal hearing under the procedures adopted in respect of an alleged breach of the Members Code of Conduct, it is suggested that the following simplified procedure be adopted for hearing this complaint in accordance with the Protocol Procedures:
 - i) Opening address by the Chair;
 - ii) Councillor Jarman be invited to address the Committee;
 - iii) Questions by Committee Members;
 - iv) Councillor Yeo be invited to address the Committee;
 - v) Questions by Committee Members;

- vi) Witnesses for Councillor Jarman;
- vii) Questions by Committee Members;
- viii) Witnesses for Councillor Yeo;
- ix) Questions by Committee Members;
- x) Councillor Jarman be invited to address the Committee with any closing remarks;
- xi) Councillor Yeo be invited to address the Committee with any closing remarks;
- xii) Committee to retire to deliberate in private on the representations and decide whether or not Councillor Yeo has failed to comply with the Protocol and what sanction, if any, to impose; and
- xiii) Committee to reconvene in public for the Chair to announce the Committee's finding.

N.B. Each of the parties will address the Committee individually and there will be no cross examination of the parties save for questions asked by Committee Members.

4.13 The Committee can come to any of the following decisions:

- 1. That there is no basis to the complaint.
- 2. That there is a basis to the complaint but that no further action is required.
- 3. That there is a basis to the complaint and that the Member should be censured.

4.14 In accordance with the Protocol the decision made by the Committee will be minuted.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

22nd OCTOBER 2018

REPORT OF THE MONITORING OFFICER

Background Papers: Report to Council, Local Protocol - 12th January 2011

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

**LOCAL PROTOCOL – STANDARDS OF CONDUCT TO BE FOLLOWED
BY MEMBERS**

1. Introduction

This protocol sets out the standards of conduct to be followed by Members of Rhondda Cynon Taf CBC in dealing with each other. It should be read in conjunction with the Members' Code of Conduct and the Member-Officer protocol. It adds to these documents and does not detract from them.

2. The standards of conduct

Members shall: -

2.1 Public Behaviour

- (a) Show respect to each other
- (b) Not make personal abusive comments about each other
- (c) Not publish anything insulting about each other
- (d) Not make malicious allegations against each other
- (e) Not publish or spread any false information about each other
- (f) Show respect to diversity and equality
- (g) Use social media responsibly and in accordance with the Members' Code of Conduct and this protocol

2.2 Behaviour in Meetings

- (a) Behave with dignity
- (b) Show respect to the Chair and obey his/her decisions and conversely Members can expect the Chair to show mutual respect to Members
- (c) Not use indecent language nor make racial remarks or remarks which prejudice or may be deemed to be offensive to any section of society

2.3 Confidentiality

- (a) Keep the confidentiality of exempt papers and any other documents which are not public
- (b) Not release confidential information to the press or the public
- (c) Not use confidential information for purposes other than intended

2.4 Local Members

- (a) Work with Members of adjoining wards for the benefit of the locality
- (b) If dealing with any matter relating to another ward:
Explain to anyone seeking assistance that he/she is not the local Member and inform the local Member, unless it would lead to a breach of confidentiality

3. Rules of procedure

Rules of Procedure for dealing with complaints under the Local Protocol

- 3.1** Legislation sets out a statutory regime whereby complaints for breaches of the Members' Code of Conduct are referred to the Public Services Ombudsman for Wales (the Ombudsman).
- 3.2** The Ombudsman has the discretion to decide whether allegations of breaches of the Members' Code of Conduct will be investigated. This protocol is designed to deal effectively with those complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.
- 3.3** Allegations by a Member(s) of a breach of one (or more) of the standards of conduct set out in paragraph 2 of the protocol by another Member(s) will be dealt with in accordance with the procedures set out below.
- 3.4** It is important that any allegations made under the protocol are dealt with quickly and effectively with the co-operation of all parties involved. Each party must make themselves available to attend a hearing held thereunder as a matter of priority and within the timescales set out in this protocol.
- 3.5** Should, following commencement of the protocol process, any Member elect at anytime to refer the matter to the Ombudsman for investigation the protocol process will be discontinued and cannot subsequently be resumed.

3.6

Stage One – Making the Complaint and informal resolution

- (i) Any Member who wishes to submit an allegation under the protocol should send the complaint to the Monitoring Officer. The complaint must be submitted to the Monitoring Officer within one month of the event that has given rise to the complaint occurring or; within one month of the substance of the complaint coming to the attention of the Member submitting the allegation.
- (ii) Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within the protocol or whether the complainant(s) should consider referral to the Ombudsman as an allegation of breach of the Members' Code of Conduct.

- (iii) If there is a formal referral to the Ombudsman then legislation and regulations set out how the Ombudsman may investigate that matter and if appropriate refer the result of any investigation to the Standards Committee so that the Committee may determine that complaint.
- (iv) If the Monitoring Officer determines that the allegation falls within the protocol he/she will seek to try and resolve the matter informally.
- (v) If following Stage One the Monitoring Officer cannot resolve the matter informally between the parties and the Member(s) wishes to proceed with the allegation under the protocol the matter will be referred to a hearing before the Standards Committee under Stage Two.

N.B. The Monitoring Officer may choose not to deal with the allegation at this stage in order to be able to advise the Committee later in the process, in which case the Deputy Monitoring Officer or a Legal Officer will advise the Member complainant(s).

3.7

Stage Two – Standards Committee hearing

- (i) Stage Two is a hearing before the Standards Committee.
- (ii) The Member(s) making the complaint will be asked to re-confirm the substance of the complaint in writing to the Monitoring Officer (including identifying which standard(s) of conduct set out in paragraph 2 above is/are alleged to have been breached) together with all the written evidence they wish to submit for consideration at the hearing within two weeks of notifying the Monitoring Officer they wish the complaint to be dealt with by way of hearing before the Standards Committee.
- (iii) The Member(s) who is the subject of that complaint must provide a written response to that complaint within one month of receipt of notification of it together with all written evidence they wish to submit for consideration at the hearing.
- (iv) The Monitoring Officer if he/she participated in Stage One will notify the deputy monitoring officer or a legal officer of receipt of the complaint who shall thereafter have conduct of the matter (the 'Investigating Officer').
- (v) If the Monitoring Officer chose not to deal with the allegation at Stage One he/she shall be the Investigating Officer.
- (vi) Both the Member(s) making the complaint and the Member(s) against whom the allegation(s) has been made must respond promptly to all correspondence relating to the matter including requests to confirm availability in respect of scheduling the hearing itself. Member(s) will be

given dates within a two month window in which they must confirm a date they are available to attend the hearing.

- (vii) The papers referred to in paragraph 3.7(ii) and 3.7(iii) will be distributed to the Members of the Committee in accordance with the Council's Access to Information Rules.
- (viii) No additional evidence may be produced without the prior consent of the Chair of the Committee.
- (ix) Each Member must give notification in writing to the Investigating Officer of any witnesses they intend to call to give evidence at the hearing. It is the responsibility of the Member calling the witness to ensure that witness is available to attend on the agreed date.
- (x) If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
- (xi) Should they deem it appropriate the Standards Committee may invite Council officers to attend the hearing to answer any questions they may have any relevant to the matter before it.
- (xii) The proceedings at the Standards Committee hearing itself shall be conducted as follows: -
 - a) Opening address by the Chair;
 - b) Member(s) who submitted the complaint be invited to address the Committee;
 - c) Questions by Committee Members;
 - d) Member(s) who the allegations have been made against be invited to address the Committee;
 - e) Questions by Committee Members;
 - f) Witnesses for Member(s) who submitted the complaint address the Committee
 - g) Questions by Committee Members;
 - h) Witnesses for Member(s) who the allegations have been made against be invited to address the Committee;
 - i) Questions by Committee Members;
 - j) The Member(s) who has made the complaint be invited to address the Committee with any closing remarks;
 - k) The Member(s) who is/are the subject of the complaint be invited to address the Committee with any closing remarks
 - l) Questions by Committee Members (if any) to Council Officers who have been invited to attend by the Committee
 - m) Committee to retire to deliberate in private on the representations and decide whether or not the Member(s) who the allegations have been made against has failed to comply with the protocol and what sanction, if any, to impose;
 - n) Committee to reconvene in public for the Chair to announce the Committee's finding.

N.B. There will be no cross examination of any of the parties save for questions asked by Committee members.

- (xiii) The Investigating Officer will be available to advise the Committee.
- (xiv) The Committee can come to one of three conclusions, namely:-
 - (a) That there is no basis to the complaint.
 - (b) That there is a basis to the complaint but that no further action is required.
 - (c) That there is a basis to the complaint and that the Member should be censured.
- (xv) The conclusion reached by the Committee will be minuted. In addition, the Committee can make recommendations to Council regarding changes to the protocol or taking any further action.

3.8 N.B. The time-limits and deadlines set out in these procedures are subject to there being flexibility in exceptional circumstances as determined by the Chair.

4. Other matters

4.1 The protocol is not designed for use by members of the Public. If there is a complaint by a member of the public against officer conduct or Member conduct, then that should follow normal processes, either through a complaint to the Chief Executive or relevant Chief Officer in respect of an officer or to the Monitoring Officer and/or the Ombudsman in respect of a Member.