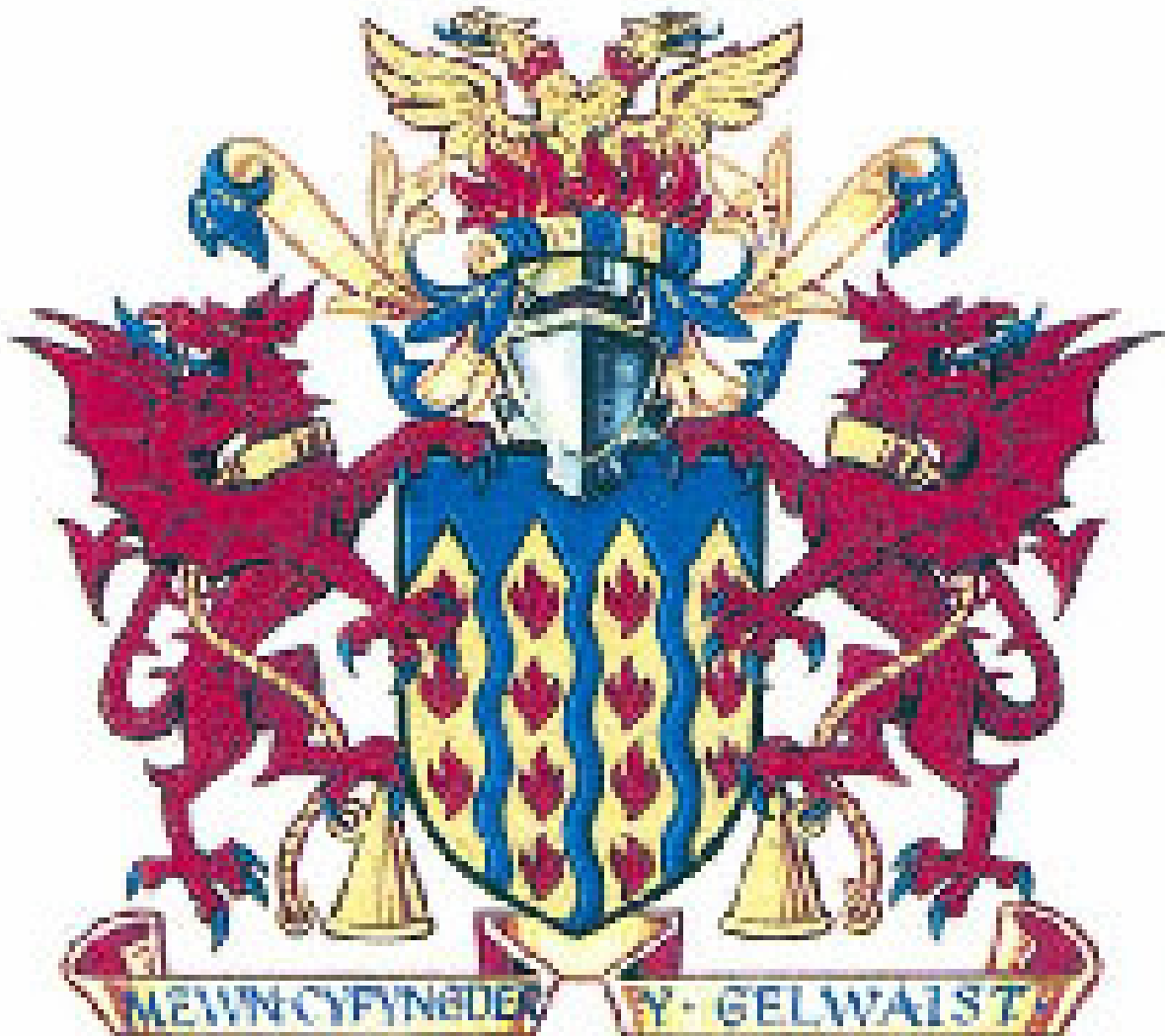


# **NORTH WALES FIRE AND RESCUE AUTHORITY**

## **STANDARDS COMMITTEE**



### **PROCEDURE FOR THE CONSIDERATION & INVESTIGATION OF COMPLAINTS MADE IN RESPECT OF ANY MEMBER OF NORTH WALES FIRE AND RESCUE AUTHORITY**



## **SECTION 1 - BACKGROUND TO THESE PROCEDURES**

1.1 These procedures are intended to assist the Standards Committee in dealing efficiently, fairly and effectively with complaints received in respect of any member of North Wales Fire and Rescue Authority. It is hoped that these procedures will assist the Standards Committee in ensuring that it employs a consistent and fair process when considering and investigating all complaints. These procedures also ensure that there is a clear process in place which ensures that Complainants and Councillors alike are kept fully informed of how the whole process will be approached by the Standards Committee.

1.2 The basic procedure in dealing with complaints is outlined in the various sections of this document. It is envisaged however that these basic principles will be developed over time and will be adapted by the Standards Committee as considered appropriate in order to improve their effectiveness. Such adaptations must naturally give due consideration to the Committee's terms of reference and the extent of its role and duties.

## **SECTION 2 - ORIGIN OF THE COMPLAINT**

2.1 The Standards Committee can consider complaints only if they have been referred to it by the Ombudsman.

2.2 All complaints alleging misconduct on the part of a Councillor should be made initially in writing to the Ombudsman at The Commission for Local Administration in Wales, 1 Ffordd yr Hen Gae, Pencoed, Bridgend, CF35 5LJ. While Complaints may also be submitted to the Clerk and Monitoring Officer at North Wales Fire and Rescue Authority, County Hall, Mold, Flintshire, CH7 6NB, he will refer them to the Ombudsman.

2.3 The complaint must fully identify the Councillor(s) involved and give as much detail as possible as regards alleged failures to adhere to the Members' code of conduct (the current model code of conduct is in the Conduct of Members (Model Code of Conduct)(Wales) Order 2001 No.2289 as amended). The Clerk and Monitoring Officer may assist the Complainant in this respect, if assistance is requested by the Complainant.

## **SECTION 3 - THE INVESTIGATION**

3.1 In cases where the Ombudsman has not already conducted a full investigation, the Clerk and Monitoring Officer will send a copy of the complaint along with any accompanying documents in support lodged by the Complainant, and ask the Councillor to submit a written response to the Clerk and Monitoring Officer within 14 working days. The Councillor should be informed that a copy of his/her response to the complaint along with any enclosures will be sent to the Complainant.

3.2 The Councillor should be informed that they will be required to attend a full hearing of the matter before the Standards Committee and that he/she will be required to attend. It should be pointed out that the hearing may be heard in the Councillor's absence should he/she fail to attend. The Councillor(s) will also be informed of the names of those on the Standards Committee who will hear the matter, and instructed that the matter should not in any circumstances be discussed with those persons prior to the hearing. Where any objection is made by the Councillor to a member of the Standards Committee which will hear the complaint, he/she must submit the reasons for that objection in writing to the Clerk and Monitoring Officer when returning the response to the complaint. The objection

will be referred to the Chair of the Standards Committee who will decide whether or not to uphold the objection. The Councillor must be advised in writing accordingly.

3.3 Both parties should be notified of the hearing date, time and venue as soon as possible, or at least informed that the matter must be dispensed with within 6 months.

3.4 If at any time, prior to the actual hearing, the Complainant wishes to retract the complaint, he/she may do so in writing to the Clerk and Monitoring Officer, who in turn will inform the Councillor affected along with Standards Committee members as soon as possible.

3.5 The Clerk and Monitoring Officer will, as soon as practicable following receipt of the response to the complaint, convene a meeting of the Standards Committee members in order to consider the complaint. The Complainant and the Councillor will be informed of the date and time of the hearing, and will be invited to attend. They will also be invited to bring a companion with them but informed that the Committee will not allow any accompanying legal representative to make any representations or submissions.

#### **SECTION 4 - ORDER OF PROCEEDINGS AT A HEARING**

4.1 Prior to the hearing of the complaint taking place, the following matters must be addressed. All parties to the hearing must receive, at least 5 working days in advance of the hearing, a copy of the Order of Proceedings and all relevant documentation so that they have sufficient time to prepare.

4.2 Neither the Complainant nor the Councillor involved may canvass, directly or indirectly, any member of the Standards Committee during the course of the investigation and preparation of the hearing.

4.3 If a complaint is made against a member of the Standards Committee, that member will not be involved in any aspect of the investigation, hearing and subsequent decision.

4.4 If a Councillor fails to attend a hearing or refuses to attend, the Standards Committee is entitled to proceed in his/her absence should they so decide.

4.5 At the hearing, the following procedure will be adopted, unless there is a justifiable reason not to do so. Only the Standards Committee, Clerk and Monitoring Officer, Complainant, the Councillor(s) who is/are the subject of the complaint and friend will be entitled to be present at the hearing. The Clerk and Monitoring Officer will make a detailed note of all the evidence heard:-

4.5.1 The Chair will introduce all persons present and outline the Order of Hearing. He will then invite the Complainant to address the Standards Committee.

4.5.2 The Complainant will open his/her case and address the Standards Committee on all aspects that he/she wishes to raise. He/she may refer to any of the evidence that has been distributed to all parties prior to the hearing.

4.5.3 The Councillor will then be given an opportunity to ask questions of the Complainant via the Chair of the Standards Committee.

- 4.5.4 Members of the Committee will be given an opportunity to ask questions of the Complainant.
  - 4.5.5 The Councillor will then be given the opportunity to put forward his/her case and address the Standards Committee on aspects that he/she wishes to raise. He/she may refer to any of the evidence distributed to all parties before the hearing.
  - 4.5.6 The Complainant may then ask questions of the Councillor, via the Chair.
  - 4.5.7 Members of the Committee may then ask questions of the Councillor.
  - 4.5.8 The Complainant sums up his/her case
  - 4.5.9 The Councillor sums up his/her case
  - 4.5.10 The Chair will ask the Complainant, the Councillor and friend to leave. The Committee will then retire in private, along with the Clerk and Monitoring Officer, in order to assess the evidence heard and to make its decision. The reasons for reaching a decision should be carefully recorded.
- 4.6 The Clerk and Monitoring Officer will inform the Councillor and Complainant in writing of the Standards Committee's decision as soon as possible. The letter will note that there is no appeal to the Standards Committee's decision.

**PROCEDURE WHERE AN INVESTIGATION HAS ALREADY BEEN CONDUCTED BY THE OMBUDSMAN**

- 5.1 Where the Ombudsman's investigation has already identified the facts of the case, including a breach of the code of conduct, the procedure in Section 4 will be followed subject to the following amendments:
- 5.1.1 The complainant's case will be taken to have been proven to the extent that it has been accepted by the Ombudsman. Accordingly it may not be necessary for the complainant to present evidence of a breach, or to present evidence at all.
  - 5.1.2 Likewise, the councillor who is the subject of the complaint will not be given the opportunity to present evidence about whether or not a breach of the code had occurred if the Ombudsman's investigation has already reached a conclusion on that matter. The councillor's evidence would instead focus on what action (if any) should be taken by the Committee in light of the breach and any statement of mitigation that the councillor wishes to make.