



AGENDA ITEM: 15

NORTH WALES FIRE AND RESCUE AUTHORITY EXECUTIVE PANEL

3 February 2014

LOCAL RESOLUTION PROCEDURE

Report by Colin Everett, Clerk to the Authority

Purpose of the Report

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

Background

- 2 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."

Information

- 3 Some councils in Wales have already adopted a Local Resolution Procedure and it is anticipated that all councils will adopt the procedure in the near future.
- 4 In adopting a local resolution process 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, 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.
- 5 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.
- 6 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.
- 7 It should be noted that WG are considering removing the obligation on members to report suspected breaches of the code in order to facilitate the operation of local resolution procedures.

Recommendation

- 8 That Members recommend the draft procedure to the Authority for approval.

North Wales Fire and Rescue Authority Standards

This document explains the standard of conduct expected from Members and co-opted members of North Wales Fire and Rescue Authority (NWFRA) in dealing with each other and with officers. It should be read in conjunction with the Members Code of Conduct and the Protocol on Member-Officer Relations. It adds to those documents and does not detract from them.

In each case behaviour under the NWFRA Standards will be judged objectively. That is to say, it will be judged based on what a reasonable person knowing all the facts would conclude from observing the behaviour.

NWFRA members are expected to:-

Public behaviour:

- Show respect to each other and officers
- Not to make personal abusive comments about each other or officers
- Not to publish anything insulting about each other or officers
- Not to make malicious allegations against each other or officers
- Not to publish or spread any false information about each other or officers
- Show respect to diversity and equality.

Behaviour in committees:

- Behave with dignity in meetings
- Show respect to and obey decisions of the Chair
- Not to use indecent language nor make racial remarks or remarks which prejudice any section of society.

Confidentiality:

- Keep the confidentiality of exempt papers and any other documents which are not public
- Not to release confidential information to the press or the public
- Return or securely destroy confidential papers
- Not to use confidential information for purposes other than intended.

LOCAL RESOLUTION PROCEDURE FOR COMPLAINTS ABOUT BEHAVIOUR

INTRODUCTION

1. The NWFRA Standard and the Protocol for Member-Officer Relations are important in promoting good co-operation between members and between members and officers, thereby allowing the Authority to fulfil its duties effectively and professionally. It is therefore important that any allegations against a member that they have breached the standard and/or protocol can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy way to understand the method of dealing with such allegations.
2. It is important that poor behaviour is quickly addressed and matters are handled whilst recollections are fresh. This procedure will therefore only apply to incidents or behaviour occurring in the 12 months prior to a complaint being made in writing to the Monitoring Officer.

STAGE 1 OF THE PROCEDURE

3. Any member or officer who wishes to submit an allegation under this procedure should send the complaint to the Clerk/Monitoring Officer. Officers wishing to make a complaint should first consult with their Line Manager. Following receipt of the complaint the Monitoring Officer will act as follows:-
 4. The Clerk/Monitoring Officer will not deal with the allegation at this stage in order to preserve their ability to advise the Standards Committee later in the process. In the first place the allegation will be referred either to the Deputy Clerk/Monitoring Officer (or another officer nominated by the Monitoring Officer) who will advise whether the allegation falls within this procedure or whether it should be referred to the Ombudsman as an allegation of breach of the Members Code of Conduct.
- N.B. The complainant has the statutory right to complain to the Public Service Ombudsman for Wales ("PSOW"). Should the complainant exercise that right then this procedure will not be used, and any efforts to resolve a complaint using this procedure will be stopped. The process will only resume if the matter is referred back for local resolution.
5. This procedure is only suitable for allegations made by officers or members of NWFRA that a member has breached the NWFRA Standard or the Protocol on Member/Officer relations. It is not suitable for complaints:
 - made by members of the public;
 - which in the opinion of the Clerk/Monitoring Officer allege a serious breach of the code of conduct; or
 - alleging repeated breaches of the code of conduct, or breaches where are similar to complaints that have been handled at Stage 3 of this procedure.

- 6 If the complaint is suitable for this procedure then the Deputy Clerk/Monitoring Officer will give advice about how to possibly resolve the complaint. If the complaint is not suitable for this procedure then the Deputy Clerk/Monitoring Officer will give advice about what (if anything) can be done.
- 7 If following the first stage the complainant wishes to proceed with the allegation under this procedure the matter may be referred either to a conciliation meeting under Stage 2 or to a hearing by the Standards Committee under Stage 3.

STAGE 2 OF THE PROCEDURE

8. At Stage 2 a meeting will be held between:
 - the complainant
 - the member against whom the complaint is made
 - the Chief Fire Officer
 - the Deputy Clerk/Monitoring Officer

It is also possible for the matter to be dealt with in the complainant's absence in exceptional cases.

9. The purpose of this meeting will be to try and resolve the matter by conciliation.

STAGE 3 OF THE PROCEDURE

10. The third Stage is a hearing before the Standards Committee. The complainant will be asked to submit the substance of the complaint in writing and the member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee.
11. Both the complainant and the member have the right to appear before the Standards Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Authority will not meet the costs of representation.
12. If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
13. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Standards Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.

14. 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.

In addition the Committee can make recommendations to the Authority regarding changing any procedures or taking any further action.

SUPPLEMENTARY MATTERS

15. The papers for the hearing will be exempt and it will be recommended that the hearing will take place with the press and public excluded. Publicity will not be given to the names of either the member or the complainant unless it is decided TO UPHOLD the complaint and that the member should be censured.
16. Stages 2 and 3 do not have to be following sequentially. Although it is possible for a complainant who remains dissatisfied after the conciliation meeting to ask for the matter to be referred to a hearing before the Standards Committee, it is also possible for a matter to proceed directly to the Standards Committee without going first to a conciliation meeting.
17. The aim of this procedure is to try and resolve complaints regarding members quickly and effectively. Nothing in this procedure prevents a complainant from submitting a complaint to the Public Services Ombudsman for Wales that a member has breached the Members Code of Conduct.