

PROCEDURE FOR THE CONSIDERATION AND 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 Members 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 be consistent with 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 the following complaints against members:
1. A complaint arising under Stage 3 of the Local Resolution Procedure (LRP)
 2. A referral from the Public Services Ombudsman for Wales ("the Ombudsman")
- 2.2 Complaints alleging misconduct on the part of a Member may 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. Complaints may also be submitted to the Clerk and Monitoring Officer at North Wales Fire and Rescue Authority, County Hall, Mold, Flintshire, CH7 6NB, who will advise the complainant on whether to refer the complaint to the Ombudsman or whether the complaint might be suitable for resolution under the LRP.
- 2.3 The complaint must fully identify the Member(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 Councillors (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.

- 2.4 The Ombudsman may decide to:
- a) reject the complaint;
 - b) refer the matter back to the Authority for it to handle under its LRP;
 - c) investigate the complaint and refer the matter to the Standards Committee for a hearing.

SECTION 3 – LOCAL RESOLUTION PROCEDURE

- 3.1 The Authority has adopted a separate local resolution procedure. As described above a complainant may opt to use the LRP from the outset or the matter may be referred back to the Authority by the Ombudsman. As set out in the LRP the first two stages of the procedure are handled by officers. Only if the first two stages fail to resolve a complaint will it be referred to the Standards Committee.
- 3.2 Where a complaint is referred to the Committee under Stage 3 the process as set out in the LRP will be followed.

SECTION 4 - PROCEDURE WHERE AN INVESTIGATION HAS BEEN CONDUCTED BY THE OMBUDSMAN

- 4.1 Where the Ombudsman has investigated and referred the matter to the Authority for hearing, the procedure below will be followed:
- 4.2 The Ombudsman will refer a report containing the findings of the investigation to the Authority. At least 5 working days in advance of the hearing, all parties to the hearing will be given a copy of the Order of Proceedings and the Ombudsman's report so that they have sufficient time to prepare.
- 4.3 Neither the Complainant nor the Member involved may canvass, directly or indirectly, any member of the Standards Committee during the period of preparation for the hearing.
- 4.4 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 or subsequent decision.
- 4.5 If a Member fails to attend a hearing or refuses to attend, the Standards Committee is entitled to proceed in his/her absence, should they so decide.

4.6 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, Ombudsman (or his nominated representative), the Member(s) who is/are the subject of the complaint and friend will be entitled to be present at the hearing. Simultaneous translation will be made available for the purpose of any person involved who requests to give evidence in Welsh. The Clerk and Monitoring Officer will make a detailed note of all the evidence heard:-

4.6.1 The Chair will introduce all persons present and outline the Order of Hearing; the Complainant will then be invited to address the Standards Committee.

4.6.2 The Ombudsman will open the case and address the Standards Committee on all aspects that are to be raised. The Ombudsman may refer to any of the evidence that has been distributed to all parties prior to the hearing and may call witnesses if necessary.

4.6.3 The Member will then be given an opportunity to ask questions of the Ombudsman and/or witness(es) via the Chair of the Standards Committee.

4.6.4 Members of the Committee will be given an opportunity to ask questions of the Ombudsman and/or witness(es).

4.6.5 The Member 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 and may call witnesses if necessary.

4.6.6 The Ombudsman may then ask questions of the Member, via the Chair.

4.6.7 Members of the Committee may then ask questions of the Member.

4.6.8 The Ombudsman will sum up the case.

4.6.9 The Member will sum up his/her case.

4.6.10 The Chair will ask the parties to leave the room. 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. The Committee may make its decision in stages as set out below. If it does so it will seek representations from the Ombudsman and Member at each stage:

4.6.10.1 determine the disputed facts, and which facts are proven;

4.6.10.2 determine whether the proven facts reveal a breach of the code;

4.6.10.3 determine what penalty, if any, should be imposed on the member in respect of any breaches of the code that have been proven. This will be determined having regard to the guidance on potential sanctions from the Adjudication Panel for Wales, previous decisions of the Authority's own Standards Committee plus the published decisions of other Standards Committees and Case Tribunals.

4.7 Within seven days, the Committee will write to the Member to set out the decision (a copy will also be sent to the Ombudsman). The letter will include detail of the member's right to appeal the Standards Committee's decision.

SECTION 5: APPEAL PROCESS

5.1 Anyone wishing to appeal the decision of the panel will need to seek permission from the President to the Adjudication Panel for Wales whose contact details are noted below:

Government Buildings
Spa Road East
Llandrindod Wells
Powys
LD1 5HA
Phone - 03000 259805
E-mail - Adjudication.Panel@Gov.Wales
Fax - 03000 259801