

MEETING	COUNCIL
DATE	7 MARCH 2024
TITLE OF REPORT	Amending the Constitution Internal Resolution Procedure
PURPOSE	To recommend amendments to the Internal Resolution Procedure and report on delegated amendments to the Constitution
CABINET MEMBER	Cllr Menna Trenholme
AUTHOR	Iwan Evans – Monitoring Officer

Background

1. The Gwynedd Standard was adopted by the Full Council on 21 October 2010 following the recommendation of the Standards Committee. Its purpose was to establish an acceptable standard of conduct between members and assist the Council to resolve minor complaints of misconduct, namely those complaints that were not serious enough to be referred to the Ombudsman as matters in breach of the Code of Conduct.
2. Alongside the Gwynedd Standard, a Local Resolution Procedure was adopted (see attached as Appendix 1). This managed any allegations that a member had breached the Member/Officer Protocol, and it was amended so that it was relevant to complaints made under the Gwynedd Standard also.
3. This procedure is used for dealing with low level complaints between Council members. With the advent of the new statutory duties for group leaders it was appropriate to review the arrangements in order to amplify the role of group leaders. The new duty places responsibility on group leaders in relation to the maintenance and promotion of standards of conduct with their group members.

<https://democracy.gwynedd.llyw.cymru/documents/s39379/Item%205%20-%20Local%20Resolution%20Procedure%20and%20Appendix%201.pdf>

4. At its meeting on the 6th of December the Standards Committee resolved to recommend that the Full Council that the arrangements be amended in order to facilitate this. The recommended amendments are shown underlined in Appendix 1.

Other modifications to the constitution

5. Arising from the Council's decision on the Scrutiny regime the changes in Appendix 2 are recommended.
6. As a result of a decision to re-structure and transfer the functions of Gwynedd Consultancy to the Department of Highways, Engineering and Consultancy together

with the Department of Environment and others the consequential amendments of the Constitution were delegated to the Monitoring Officer by the Cabinet.

7. There is also an amendment in the delegation scheme to meet the requirements of the Environmental Protection (Single Use Plastic Products) (Wales) Act 2023.
8. The amendments to the Delegation Scheme reflecting these matters together with the updating of the legislation to be found in Appendix 3 with the powers transferred from the other departments. Any modifications to the Constitution are required to be reported to the Council for information.

Recommendation

That the Council ,

- **adopts the amendments to the Internal Resolution Procedure Appendix 1**
- **adopts the amendment to Section 7 - Scrutiny Appendix 2**
- **accepts the report on the delegated amendments Appendix 3.**

Statutory Officers

Chief Finance Officer

No comments from the perspective of financial propriety."

Monitoring Officer

Report Author

APPENDIX 1

GWYNEDD COUNCIL LOCAL RESOLUTION PROCEDURE A PROCEDURE FOR DEALING WITH ALLEGATIONS THAT A MEMBER HAS BREACHED THE MEMBER-OFFICER RELATIONS PROTOCOL OR THE GWYNEDD STANDARD

INTRODUCTION

1. The Protocol for Member-Officer Relations is an important tool to promote good co-operation between members and officers within the Council and thereby allow the council to fulfil its duties effectively and professionally. In the same vein the Council has adopted the Gwynedd Standard in order to promote and maintain high standards of conduct amongst members. It is therefore important that any allegations against a member that he/she has breached the protocol or the Standard can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy to understand method of dealing with such allegations.

STAGE 1 OF THE PROCEDURE

2. Anyone who wishes to submit an allegation under this procedure should send the complaint (in the case of an officer following consultation with the Head of Department) to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer will act as follows:-
3. In the first place a brief preliminary investigation will be held to establish the facts (where possible) and the areas of dispute. **A copy of the complaint will be sent to the member within 7 working days of receipt of the full complaint. In the case of a complaint by members against members the Monitoring Officer will send a copy of the complaint to the Group Leader of the member complained about.. Possible resolution will be explored with the complainant and the member about whom the complaint is made to establish whether the complaint can be resolved quickly. With the agreement of the complaining member and the member complained against the relevant Group Leaders may be brought into the process at this point to support the process.** At this stage the complainant will also be advised whether another course of action (e.g. referral to the Ombudsman) is more appropriate. This stage may be undertaken by the Monitoring Officer personally or by another officer appointed by him.
4. 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.

5. At Stage 2 a meeting will be held between the person making the complaint, the member against whom the complaint is made, the Monitoring Officer and (if deemed appropriate) other persons invited by the Monitoring Officer. Such persons could include, but are not limited to, the Chief Executive and the Group Leader of the relevant political group(s). It is possible for an officer to have a colleague or senior officer from the department with him/her. It is also possible for the matter to be dealt with in the officer's absence in exceptional cases. The purpose of this meeting will be to try and resolve the matter without it going further.

STAGE 3 OF THE PROCEDURE.

6. The third Stage is a hearing before the Standard Committee. The person making the complaint 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.
7. Both the person making the complaint and the member who is the subject of the complaint have the right to appear before the Standards Committee and to submit evidence from witnesses. Written witness evidence alone will not be accepted without the consent of the other side. Both sides will have the right to representation or to have a colleague present. The Council will not meet the costs of representations.
8. If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
9. 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 or his representative will be available to advise the Committee.
10. The Committee can come to one of three conclusions, namely :-

- a) That there is 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 Council regarding changing any procedures or taking any further action.

SUPPLEMENTARY MATTERS

11. Publicity will not be given to the names of the parties unless it is decided to uphold the complaint. The hearing before the Standards Committee will be exempt.
12. 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. The member may offer an apology at any time up to the hearing but if a hearing has been arranged and the complainant decides that he/she does not wish to proceed with the complaint the consent of the Chair of the Standards Committee is required to cancel the hearing.
13. The aim of this procedure is to try and resolve complaints regarding members quickly and effectively. Nothing in this procedure prevents anyone from submitting a complaint to the public services ombudsman for Wales that a member has breached the members code of conduct. The ombudsman could, if he is of the opinion that there is a case to answer, refer the matter to the standards committee or the adjudication panel for Wales which has the power to disqualify members for up to 5 years.

APPENDIX 2

Communities Scrutiny Committee 18 members	To scrutinise matters relating to the functions of the: Environment Department <u>Highways Engineering and Consultancy Department</u> Local Development Plan Crime and Disorder Public Services Board <u>Climate and Nature Emergency Plan</u>
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APPENDIX 3

1. Chief Executive

Functions delegated by the Cabinet

- 1.3 Exercising the Council's powers under the Civil Contingencies Act 2004 and general rights to act in a civil emergency.
- 1.4 Supporting the Cabinet.
- 1.5 Supporting People Programme

2. Head of Education Department

3.2 Functions Delegated by Cabinet

- Early Years Services
- Youth Services

1 Head of Highways Engineering and Consultancy

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Functions Delegated by Cabinet

- 10.1 To act on a day to day basis and within the scheme in the following areas:-
- ~~Waste Collection~~
 - ~~Waste Recycling / Disposal~~

- Public conveniences
 - Highway maintenance
 - Council's fleet
 - Street cleaning
 - Crematorium/burial service
 - Playing fields
 - Land Maintenance
 - Closed circuit television
 - Environmental assessments
 - Drafting, management and supervision of road works contracts
 - Building Control
 - Traffic Assessments
 - Technical surveys, inspections and tests
 - Coastal defence
 - Building design and maintenance
- 10.2 The power to issue notices of temporary road closures under the Highways Act 1980
- 10.3 The power to deal with any obstruction on a highway, including the issuing of notices
- 10.4 The power to do anything that may be necessary in the management of the Council's fleet.
- ~~10.5 Power to apply for operator's licence in relation to council waste functions~~
- 10.6 The power to exercise enforcement powers in relation to environmental offences arising under any one of the Acts listed below (including steps which may be deemed necessary to prevent offences, educate and issue Fixed Penalty Notices)
- Dogs (Fouling of Land) Act 1996
 - Environmental Protection Act 1990
 - Removal and Disposal of Vehicles Regulations 1986
 - Refuse Disposal (Amenity) Act 1978
 - Clean Neighbourhoods and Environment Act 2005
 - Anti-social Behaviour Act 2003
 - The Control of Pollution (Amendment) Act 1989
- 10.7 To be the Authorising Officer for the purposes of the Regulation of Investigatory Powers Act 2000 and may authorise other officers within their service similarly to be an Authorised Officer.
- 10.8 Power to issue closure community protection notices under Part 4 of the Anti-social Behaviour Crime and Policing Act 2014.
- 10.9 To exercise all the Council's functions in relation to building control under the Building Act 1984 or otherwise.
- 10.10 To exercise all the Council's functions in relation to Floods and Water Act 2010.
- 10.11 Prepare designs and plans which deal with surface water including the right to relax or deviate from the National Resources Wales standards.

11.

- **Head of Environment Department**

- **Functions Delegated by Cabinet**

- Waste Collection
- 2. Waste Recycling / Disposal

Power to apply for operator's licence in relation to Council waste functions

Add the Environmental Protection (Single Use Plastic Products) (Wales) Act 2023 to the list of Acts referred to in 11.3.2:

~~13- Head of Gwynedd Consultancy Department-~~

- ~~*In the "Scheme of Delegation to Committees" in Appendix 1 to Section 13 of the Constitution, it is noted where functions that are not the responsibility of the Executive have been delegated to Chief Officers. Where no chief officer has been named in that document, the power has not been delegated rather it has been reserved by the committee.*~~
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~~Functions Delegated by Council~~

~~None~~

~~Functions Delegated by Cabinet~~

- 13.1 ~~To act on a day to day basis and within the scheme in the following areas:—~~
 - ~~• Environmental assessments—~~
 - ~~• Drafting, management and supervision of road works contracts—~~
 - ~~• Building control—~~
 - ~~• Traffic assessments—~~
 - ~~• Technical surveys, inspections and tests—~~
 - ~~• Coastal defence—~~
 - ~~Building design and maintenance~~
- 13.2 ~~To exercise all the Council's functions in relation to building control under the Building Act 1984 or otherwise.—~~
- 13.3 ~~To exercise all the Council's functions in relation to Floods and Water Act 2010.—~~
- 13.4 ~~Prepare designs and plans which deal with surface water including the right to relax or deviate from the National Resources Wales standards.—~~