

**STANDARDS COMMITTEE**

Minutes of a meeting of the Standards Committee held in Conference Room 2, County Hall, Ruthin on Friday, 6<sup>th</sup> May, 2011 at 10.00 a.m.

**PRESENT**

Mr C.B. Halliday (Chair), Councillors G.A. Green, D.E. Jones and H.LI. Jones, Mr G.F. Roberts, Ms M.E. Medley and Mrs P. White.

**ALSO PRESENT**

Monitoring Officer (JK), Deputy Monitoring Officer and Solicitor: Corporate Governance (LJ) and Administrative Officer (C.I. Williams).

The Chair and Members of the Committee extended a welcome to Councillor D.E. Jones the new Town and Community Council representative member on the Standards Committee. In response to a request from Mr G.F. Roberts, it was agreed that Councillor D.E. Jones telephone number and address details be circulated to Members of the Standards Committee for information purposes.

**1. APOLOGIES**

**2. DECLARATIONS OF INTEREST**

***RESOLVED** – that no Members declared any personal or prejudicial interests in any business identified to be considered at this meeting.*

**3. URGENT MATTERS**

In accordance with the requirements of Section 100B(4) of the Local Government Act 1972, the Chair declared that he intended to include for discussion the following matter requiring urgent attention under Part I:-

**Declaration of interests**

**4. MINUTES**

The Minutes of the Standards Committee held on Friday, 11<sup>th</sup> March, 2011 were submitted.

Matters arising:-

5. Attendance at Meetings – The Deputy Monitoring Officer informed the Committee that details in respect of the provision of training for Chairs and Vice Chairs of Town and Community Councils would be available at the next meeting of the Standards Committee.

5. Attendance at Meetings – In reply to a question from Councillor G.A. Green, Deputy Monitoring Officer confirmed that a review of complaints had been agreed by the Committee and work was currently being undertaken to produce an internal protocol to advise the Standards Committee, at the initial development, of complaints lodged with the Ombudsman. Members of the Committee agreed with a suggestion by Councillor Green that a copy of the draft Protocol be circulated to Members of the Standards Committee for consideration, prior to being presented to the Chief Executives Team and Group Leaders.

In response to a question from Councillor D.E. Jones, the Chair provided an outlined the procedure and protocol for the attendance at Town and Community Council meetings of Standards Committee Members. He explained that Members could inform the Clerk of the respective Council of their intention to attend a meeting, attend unannounced or as a member of the public. Members agreed with a request from Ms M.E. Medley that details of dates be sought, and circulated to Members of the Standards Committee, for future meetings of all Town and Community Councils in Denbighshire.

In reply comments from Councillor H.LI. Jones in respect of the importance of the timing of the provision of training for the Chairs and Vice Chairs of Town and Community Councils, the Chair confirmed that it had been agreed, and procedures introduced, that training be provided for the Chairs and Vice Chairs of Town and Community Councils.

6. Adjudication Panel for Wales Annual Report – In response to a question from the Chair, the Deputy Monitoring Officer explained that only an eighth of the Appeals arising from decisions made by Standards Committees across Wales had been overturned.

**RESOLVED** – *that, subject to the above, the Minutes be received and approved as a correct record.*

## **5. ATTENDANCE AT MEETINGS**

The Deputy Monitoring Officer informed the Committee that there were no written reports relating to the attendance by Members of the Standards Committee at County, Town or Community Council meetings.

**RESOLVED** – *that the report be received and the position noted.*

## **6. OVERVIEW OF COMPLAINTS TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES**

A copy of a report by the Monitoring Officer, which provided Members with an overview of complaints lodged with the Public Services Ombudsman for Wales over the first quarter of 2011, and to introduce the concept of a 'Self Regulatory Protocol' currently under development, had been circulated with the papers for the meeting.

The Deputy Monitoring Officer provided a summary of the report and provided the Standards Committee with an overview of complaints against County, Town and Community Councillors and informed the Committee of the proposed development of a 'Self Regulatory Protocol' regarding complaints. She explained that the role of the Standards Committee was to promote and maintain high standards of conduct amongst Members and to assist them to keep to the Code of Conduct. The Standards Committee had previously raised some concern over the number of complaints made between Members, which may relate to minor complaints and themselves not sufficiently have been serious enough to be referred to the Ombudsman as breaches of the Code of Conduct.

It was explained that Paragraph 6(1) of the Members' Code of Conduct stated that Members must not make vexatious, malicious or frivolous complaints against other Members, this itself would be a breach of the Code. The Committee had previously expressed concern that the Code may have, on occasions, been used as a political tool and that this was not its' purpose. The Committee also requested to be informed regularly with information on the level and nature of Member-Member complaints.

A Self Regulatory Protocol was currently being developed and when finalised a report enclosing the Protocol would be presented to the Standards Committee for consideration. The purpose of the Protocol being to establish a procedure for those complaints which may not reach the threshold to become a breach, to be dealt with under a local procedure; and that which justified a formal complaint to be referred to the Ombudsman. If adopted, it was intended that the Protocol would sit alongside the Code of Conduct and not replace it. The detail in the Code was still under development and the current proposal would involve a commitment from Group Leaders and one Member, in rotation, from the Standards Committee. The extension of such a Protocol to all Town and Community Councils would also need to be considered at a future meeting of the Standards Committee.

An overview of complaints submitted since the 1<sup>st</sup> January, 2011 had been included in the report for information purposes. In response to questions from Councillor G.A. Green a summary of the complaints, and an outline of their nature, was provided by the Deputy Monitoring Officer.

During the ensuing discussion it was agreed that Members of the Standards Committee be informed at the initial stage, for information purposes and devoid of any details, of any future complaints lodged.

**RESOLVED** –that:-

- (a) the Standards Committee receives and notes the contents of the report.
- (b) the Self Regulatory Protocol be reported to the next meeting of the Standards Committee, and

*(c) Members of the Standards Committee be informed at the initial stage of any future complaints lodged.*

## **7. NORTH WALES STANDARDS COMMITTEE MEETING**

The Deputy Monitoring Officer referred to the North Wales Standards Committee meeting, held on the 15<sup>th</sup> April 2011, which had been attended by the Vice Chair of the Standards Committee, the Monitoring Officer and Deputy Monitoring Officer. Members were informed that the next North Wales Standards Committee meeting of Standards Committee Chairs, Vice Chairs and Monitoring Officers would be held on the 10<sup>th</sup> June, 2011 at 10.00 a.m. at Conwy Business Centre, Llandudno Junction to further scope out a North Wales specific event.

The Monitoring Officer explained that the North Wales Standards Committee had been well attended by representatives from all the North Wales Authorities. It had been an extremely productive meeting with various Authorities providing details pertaining to the operation of their respective Standards Committees. Each of the Authorities had expressed their support for the concept of developing a North Wales meeting, which would consist of workshops and joint training to assist in achieving a consistency of approach amongst all the North Wales Authorities, the introduction of best practise and the promotion of the role of Standards Committees. The opportunity would also be provided for a North Wales Group to make representations to the Ombudsman, and possibly for the Ombudsman to attend a future meeting of the Group, and for the examination of protocols such as the Self Regulation Protocol.

The Vice Chair informed Members of the practice adopted by Conwy County Borough Council Standards Committee, where informal meetings had been held at the initial stage of a complaint in an attempt to address or overcome a problem, Councillor G.A. Green questioned whether this particular practice could prejudice the attendance of a Standards Committee Member at any subsequent Hearing.

In reply to a request from the Vice Chair, it was agreed that the possibility of circulating copies of the County Council Minute Book to Members of the Standards Committee be examined. The Committee also agreed that a Future Work Programme be developed for the Standards Committee and included on future agendas for meetings of the Committee.

Members were informed of the date of the Standards Conference Wales 2011 to be hosted by Powys County Council on the 5<sup>th</sup> October, 2011. It was explained that an invitation to attend had been extended to all Members of the Standards Committee.

### ***RESOLVED – that:-***

- (a) the Standards Committee receives the report.*
- (b) the possibility of circulating copies of the County Council Minute Book to Members of the Standards Committee be examined, and*
- (c) a Future Work Programme be developed for the Standards Committee and this item be included on future agendas for the meeting.*

## 8. PRESENTATION ON THE ROLE OF THE STANDARDS COMMITTEE AND THE MEMBER'S CODE OF CONDUCT

A copy of the presentation to be received by Members of the Committee was circulated at the meeting.

The Deputy Monitoring Officer referred to the appointment of the new Town and Community Council Member, Councillor D.E. Jones, and with the aid of a PowerPoint presentation provided Members of the Committee with an overview of the role of the Standards Committee which highlighted and detailed the following areas:-

- Introduction to the Standards Committee.
- Members of the Committee.
- Meetings.
- Role of the Standards Committee.
- Policing the Standards Regime.
- The Role of the Public Services Ombudsman for Wales.
- Public Services Ombudsman for Wales – Options Available.
- Referral by the Public Services Ombudsman for Wales to Monitoring officers.
- Duties of the Standards Committee (Allegation of Breach of Code).
- Duties of the Standards Committee (Dispensations).
- Grounds of Dispensation.
- Role of the Monitoring Officer.

In reply to a question from Councillor G.A. Green, the Monitoring Officer confirmed that she and the Deputy Monitoring Officer were available to provide information and guidance to Members in respect of the Code of Conduct, particular reference being made in respect of issues pertaining to prejudicial Interests. The Deputy Monitoring Officer referred to the Flow Chart which had been circulated to Members of the Committee for information purposes.

Members thanked the Deputy Monitoring Officer for the presentation on the Role of the Standards Committee, and agreed that a presentation in respect of the Members' Code of Conduct be provided at the next meeting of the Standards Committee.

**RESOLVED** – *that:-*

- (a) the presentation be received, and*
- (b) a presentation in respect of the Members' Code of Conduct be provided at the next meeting of the Standards Committee.*

## 9. DECLARATION OF INTERESTS

A Member of the Standards Committee informed the meeting of a situation which had arisen in respect of their personal circumstances and their role as a County

Councillor. Details pertaining to the situation were outlined by the Member for information purposes.

The Chair and Members of the Committee noted the comments made, and having considered the views expressed by the Monitoring Officer and the Deputy Monitoring Officer, the Committee agreed that the respective Member of the Standards Committee had adhered to, and complied with, the requirements of the Code of Conduct, in respect of Prejudicial and Personal Interests.

***RESOLVED*** – *that the position be noted.*

Meeting ended at 11.35 a.m.

**REPORT TO: Standards Committee**

**REPORT BY: Monitoring Officer**

**DATE: 15<sup>th</sup> July 2011**

**SUBJECT: CODE OF CONDUCT COMPLAINTS**

**1. PURPOSE OF REPORT**

To provide Members with a copy of the correspondence received from Standards Committee of Powys County Council directed to the Chair of Denbighshire County Council Standards Committee.

**2. BACKGROUND**

Members will observe from the correspondence attached at Appendix 1 that the Standards Committee at Powys County Council have communicated their concerns to their local Assembly Member regarding the non-referral by the Public Services Ombudsman for Wales to the Powys County Council Standards Committee in respect of certain matters which have been found to have been a breach of the Code.

The mechanisms prescribed by the Local Government Act 2000 and National Assembly for Wales Regulations made thereunder provide the formal route for dealing with allegations of breaches of the Member's Code of Conduct. In the first instance there must be a referral to the Public Services Ombudsman who will consider whether or not there appears to be a breach of the Code of Conduct. The powers of the Ombudsman are clear in that it is his decision to make a referral to the respective Standards Committee to issue the sanction or not. The Chair of Powys County Council however is seeking views on whether the Committee itself should be the decision maker in respect of the appropriate sanction, on a localized level.

**3 RECOMMENDATION**

Members views are sought on this issue in order to formulate a response.

Appendix 1 (Agenda item no 5)

To Welsh Standards Committee Chairs	<p style="text-align: right;"><b>Middle Aston Pentre Montgomery Powys SY15 6TA</b></p> <p>E-mail <a href="mailto:pandn@middleton.com">pandn@middleton.com</a> Phone/fax 01588 638246</p>
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04 July 2011

*Dear Chair*

### **Code of Conduct Complaints**

Please find enclosed a copy of a letter sent to the Assembly Members for Powys and the List Members for Mid and West Wales. The Powys Standards Committee feel strongly that there is an ongoing problem with the Ombudsman declining to refer matters to the Standards Committee when he has found a breach has occurred, on the grounds that the Standards Committee would not impose a sanction. The Standards Committee would wish to have an opportunity to consider cases where a breach has been found. It may be the case that the decision is to censure the Member. The Standards Committee consider censure is a sanction whereas the Ombudsman appears not to consider it as a sanction.

The Standards Committee would welcome your views on the matters raised in the letter.

Yours faithfully

*Peter Swanson*

Chairman – Powys County Council Standards Committee



To Assembly Members: R George Mrs K Williams Ms R Evans S Thomas Ms J Watson W Powell	<b>Middle Aston Pentre Montgomery Powys SY15 6TA</b>  E-mail <a href="mailto:pandn@middleton.com">pandn@middleton.com</a> Phone/fax 01588 638246
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04 July 2011

Dear Assembly Member

### **Code of Conduct Complaints**

The Powys Standards Committee and Community Sub-Committee have over a period of time expressed their concern over decisions of the Ombudsman not to refer complaints to the Standards Committee or Sub-Committee, notwithstanding that the Ombudsman has concluded that a breach of the Members' Code of Conduct has occurred.

The Ombudsman claims that should such matters be referred to the County Council Standards Committee/Sub-Committee it would be unlikely a sanction would be imposed. He claims this is based on experience over a number of years.

The experience of the County Council is limited to one referral to it when its Standards Committee imposed a sanction suspending the County Councillor from meetings of the Planning Committee for a period of four months. Therefore, the Standards Committee/Sub-Committee believes that it is better placed to make judgements about whether a sanction might be applied or not and would welcome the opportunity to determine such issues locally.

In addition the Standards Committee/Sub-Committee are of the belief that general standards of conduct would improve based on a variety of sanctions which the Committee has at its disposal rather than the current position where an identified potential breach does not attract any sanction and can lead the individual Councillor to believe that they have been cleared of any breach.

Despite several attempts by the Standards Committee/Sub-Committee and myself as Chair to promote this view with the Ombudsman we have not been successful and therefore we are seeking your assistance in persuading the Ombudsman to change his stance and allow local Standards Committees to be more effective.

Yours sincerely

*Peter Swanson*

Chairman – Powys County Council Standards Committee

**REPORT TO: Standards Committee**  
**REPORT BY: Monitoring Officer**  
**DATE: 15<sup>th</sup> July 2011**  
**SUBJECT: SELF REGULATORY PROTOCOL**

## **1. PURPOSE OF REPORT**

To provide Members with the draft 'Self Regulatory Protocol' currently under development.

## **2 BACKGROUND**

- 2.1 The role of the Standards Committee is to promote and maintain high standards of conduct amongst Members and to assist them to keep to the Code of Conduct. The Standards Committee has previously raised some concern over the number of complaints made between Members which may relate to minor complaints and themselves not sufficiently serious enough to be referred to the Ombudsman as breaches of the Code of Conduct.
- 2.2 Paragraph 6(1) of the Members' Code of Conduct states that Members must not make vexatious, malicious or frivolous complaints against other Members, this itself is a breach of the Code. The Committee has previously expressed concern that the Code may on occasion be used as a political tool, and that this was not its' purpose. The Committee also requested to be informed regularly with information on the level and nature of member-member complaints.
- 2.3 A Self Regulatory Protocol is currently being developed and the current draft is attached at Appendix 1. The purpose of the Protocol is to establish a procedure for those complaints which may not reach the threshold to become a breach, to be dealt with under a local procedure; and that which justifies a formal complaint to be referred to the Ombudsman. If adopted, the Protocol is intended to sit alongside the Code of Conduct, it would not, and could not replace the statutory Code. The detail in the Protocol is still under development, but the current proposal will involve a commitment from Group Leaders and one member (in rotation) from the Standards Committee. The extension of such a Protocol to all Town and Community Councils will also need to be considered by the Standards Committee at a future meeting of this Committee.
- 2.4 The following action plan sets out the consultation process prior to adoption. A copy of the draft Protocol will also be provided to the

Public Services Ombudsman for Wales early in the process, probably following feedback from Group Leaders, with any response reported to this Committee at it's September meeting.

<b>ACTION REQUIRED</b>	<b>BY WHOM</b>	<b>DATE</b>
<b>Consideration of protocol and its procedures and feedback to MO</b>	<b>CET</b>	<b>By 1st July 2011</b>
<b>Report to Group Leaders</b>	<b>Monitoring Officer</b>	<b>1<sup>st</sup> July 2011</b>
<b>Report to Standards Committee on first draft</b>	<b>Monitoring Officer</b>	<b>15<sup>th</sup> July 2011</b>
<b>Further report to Standards Committee with final draft</b>	<b>Monitoring Officer</b>	<b>23<sup>rd</sup> September 2011</b>
<b>Consideration by Informal Council if required, then full Council</b>	<b>Leader/Monitoring Officer</b>	<b>18<sup>th</sup> October 2011 then 15<sup>th</sup> November 2011</b>

### **3 RECOMMENDATION**

That Members are requested to consider this early draft of the Self Regulatory Protocol. Any observations will be fed back to Group Leaders.

## MEMBER'S SELF REGULATORY PROTOCOL

### General Principles

- To promote high standards of conduct and behaviour as a means of strengthening respect and trust among members. It is NOT intended to replace the Code of Conduct, rather it is intended to sit alongside the Code, enabling behaviour which may not reach the threshold to become a breach to be dealt with; and that which justifies a formal complaint to the Ombudsman.
- The protocol does not replace the Member-Officer Relations Protocol set out in the Council's Constitution.
- Members will make all reasonable attempts to resolve disputes through agreed internal processes subject to their obligations under the Members' Code of Conduct.
- Referral to external regulators will become a last resort subject to Members' obligations under the Code of Conduct.
- Members will avoid personal confrontation in any public forum, especially full Council and through the media
- These commitments will not stifle legitimate political debate or scrutiny
- Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for their own members
- Group Leaders individually and collectively will work to ensure compliance with this protocol
- Members will commit to training and development in support of this protocol

### Working to avoid problems

To minimise the number of instances of alleged breaches all Group Leaders have committed to :-

- **A Member Learning and Development Strategy** – to which they will seek to secure the commitment of their group members. All reasonable endeavours will be made to

ensure that the Learning and Development Strategy identifies and responds to the needs of members.

- **Attending relevant Member training events** - in particular those relating to the Code of Conduct or probity courses within the scope of their role.
- **WLGA Charter** – The Council has been awarded the WLGA's Charter for Member Support and Development and supports its objectives. Group Leaders will seek to secure individual member commitment to training and keep this under review.

### **Role of Group Leaders**

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.

Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal, resolved through face to face meetings. Group Leaders will need to retain some records but the process will not be "document heavy". The emphasis should be on training, education, mediation and conciliation.

When appropriate, a sanction such as removal from a committee or an outside body, may be used in extreme cases or after persistent breaches and the matter will be referred to the Public Services Ombudsman for Wales.

Prior to considering any sanction, or training, the relevant Group Leader may consult with a member of the Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.

At the next available Group Leaders' meeting any issue of discipline which has been referred to a Group Leader will be discussed with the Group and with the objective of seeking to ensure that fair and consistent sanctions are applied.

### **Unaffiliated Members**

As far as unaffiliated members are concerned, the Chair of the Council will fulfil the role of Group Leader. Concerns regarding the conduct of an unaffiliated member should be referred to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation. In the case of persistent breaches the matter shall be referred to the Ombudsman by the Monitoring Officer or in his/her absence the Deputy Monitoring Officer.

## **Persistent Breaches**

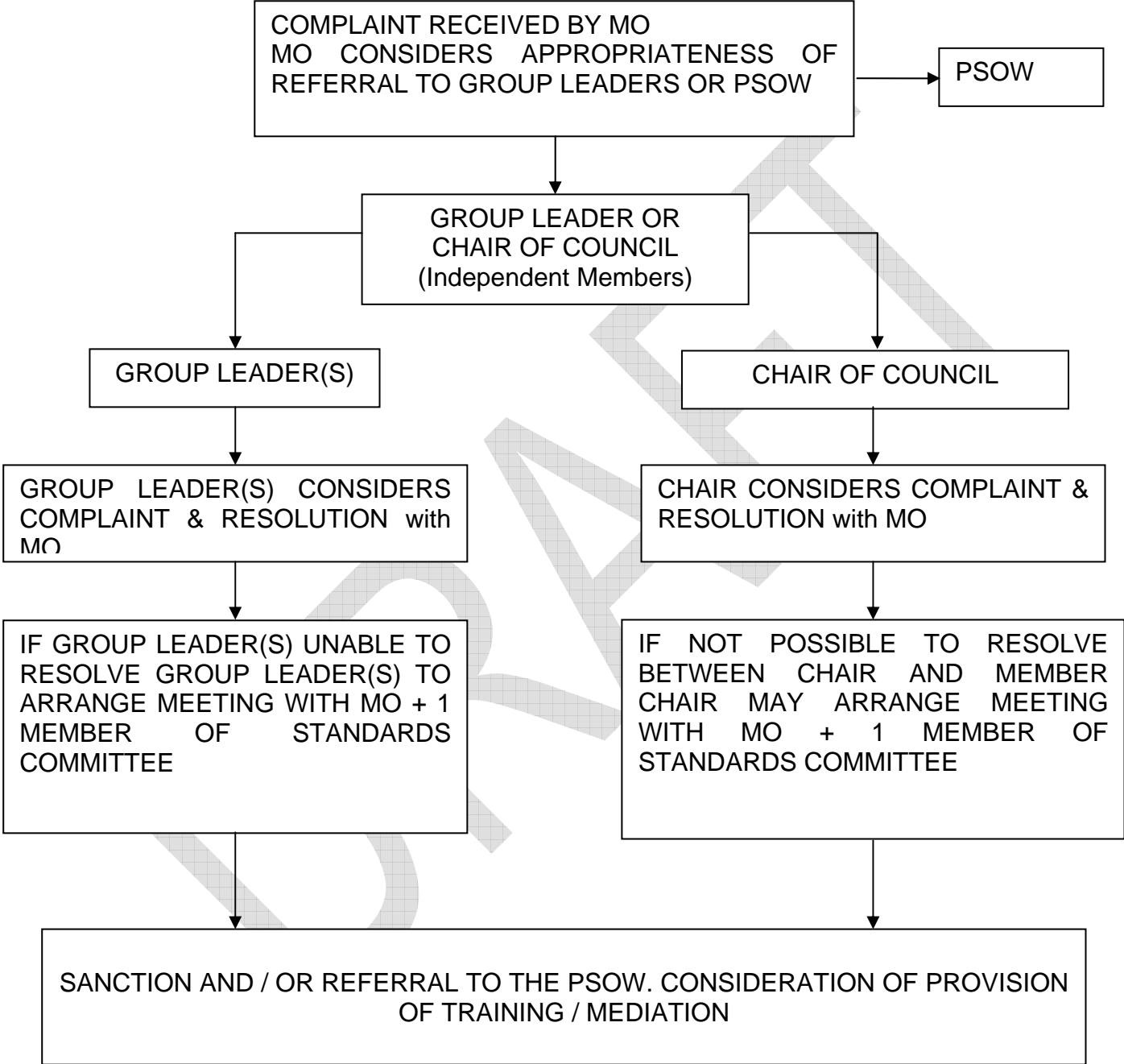
In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Chief Executive Officer and the Monitoring Officer to agree a way forward. Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches.

## **Standards Committee**

- Owing to any potential issues of conflict, any involvement will include no more than one member of the Standards Committee. This will be subject to a rotational basis and in accordance with availability.
- The Standards Committee Members will play a supporting/advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader, in a particular case.
- Such meetings will be private and informal.
- Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the members of the Standards Committee shall remain private and confidential.

This protocol will be reviewed by May 2013.

**MEMBER / MEMBER COMPLAINTS FLOWCHART**



PERSISTENT BREACHES, GROUP LEADERS WILL MEET WITH CHIEF EXECUTIVE AND MONITORING OFFICER TO AGREE WAY FORWARD. CONSIDERATION WILL BE GIVEN TO JOINT REFERENCES TO THE OMBUDSMAN BY GROUP LEADERS FOR PERSISTENT, LOW LEVEL BREACHES.