

Appendix 2 - draft IRP - Town/Parish Council

Model Informal Resolution Protocol (IRP) for Town and Parish Councils in Herefordshire

Herefordshire Council wishes local councils to use this IRP as a first step in trying to resolve any disputes or disagreements between Members which may amount to a breach of the Code of Conduct.

Herefordshire Council has determined that any complaint by member against a Member of a local council under the Code of Conduct shall not be accepted by the Herefordshire Council until the terms of this IRP has been complied with (or a locally adopted protocol that substantially includes all the elements of this model protocol). The Audit & Governance Committee of the Council has delegated authority to determine and vary the model IRP. The Monitoring Officer (MO) is delegated by Audit & Governance Committee with all decision making as required by the operation of the IRP.

This model protocol is meant as a starting point for Town and Parish councils. Individual councils may wish to add or amend this model to suit their particular needs. Councils wishing to use this process should first be clear about its purpose and intention, formally adopt it in its current or in a revised form and ensure that all Councillors are provided with a copy.

It will be important for Councils to document what will happen if there is a lack of cooperation shown by the Member concerned or a breakdown occurring during the operation of the process. Complaints under the Code of Conduct will only be accepted by Herefordshire Council where (i) the accused member has not engaged with the protocol, (ii) the protocol has concluded without an agreement or (iii) any agreed outcome has not been performed by member who is subject to the complaint ('the accused member').

The Scope of the IRP

Issues which should be considered under this process

Low level minor complaints about Members, including:

- Minor complaints from Members about Members (the accused Member);
- Minor complaints from the public about accused Members where Herefordshire Council or the council has received from the public and such member of the public has agreed to use this protocol; and
- Minor complaints from council Officers about accused Members (where the Officer has agreed to use this IRP).

Minor complaints are not prescriptive but includes where accused Members are alleged to have not shown respect and consideration for others – either verbally or in writing – or where the outcome or sanction would be as described in the paragraph '*Possible results of the process*'.

Issues which should not be considered under this process

Complaints which must be directed to the MO, including:

- Complaints of a *significant nature* (not a minor complaint) instigated by a member of the public
- Serious complaints/breaches of the Code of Conduct/failure to disclose interests at meetings/bullying/abuse of position or trust/repeated breaches of the Code of Conduct).
- Complaints made by the Clerk/Proper Officer
- Vexatious, malicious or frivolous complaints (such will also be rejected by the MO)
- Members' complaints about officers which should be dealt with using the Council's internal complaints process
- Repetitive low-level complaints

Any matter referred to the MO which is considered to be a minor complaint will be referred to the Clerk/Proper Officer.

The Process

The complaint

The complaint would need to be sent to the Clerk/Proper Officer of the Town or Parish Council to undertake a first sift to ensure that the complaint is a minor complaint and should not be dealt with by way of a complaint to the MO. If the complaint is raised by the Clerk/Proper Officer then it should be directed to the Chair or Vice Chair).

If appropriate, therefore, the Clerk/Proper Officer (or Chair/Vice Chair) should firstly seek an early resolution of any such dispute by liaising informally with the individuals concerned. It is vitally important that the accused Member is given full details of the complaint against them so that in the interests of natural justice they are in a position to prepare their response to the accusation.

Resolution Process

The involvement of the Clerk/Proper Officer (or Chair/Vice Chair) of the Council in the following process is not to adjudicate on the complaint, but to attempt to get the members/officers/member of the public involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis. The outcome of any resolution is therefore by agreement.

The Clerk/Proper Officer (or Chair/Vice Chair) will act as a facilitator for the resolution process below.

If the complaint is between Members other than the Chair of the Council, the Clerk/Proper Officer and the Chair will meet individually with the complainant and accused Member to seek an agreed resolution.

If the complaint is between Members, one of whom is the Chair of Council, but not the Vice Chair, the Clerk/Proper Officer and the Vice Chair will meet with the complainant and accused Member to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against a Member other than the Chair of Council, the Clerk/Proper Officer and the Chair of Council will meet with the officer and the accused Member to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against the Chair of Council, the Clerk/Proper Officer and the Vice Chair of Council will meet with the officer and the Chair to seek an agreed resolution.

In respect to the resolution process, 'meet' shall be as determined appropriate by the Clerk/Proper Officer and could include a meeting in person, by phone, electronic meeting or exchange of correspondence.

If the complaint has been made by the Clerk/Proper Officer, then it is likely to be best practice that this complaint is forwarded by way of a complaint to the MO.

Possible results of the process

If an agreement is reached by Members and/or officers, then no further action is required.

If agreement cannot be reached or the agreed outcome not performed, the aggrieved Member/officer would always have the opportunity of referring the matter to the MO.

Examples of agreements might include:

- issue of a letter of apology,
- a written undertaking or commitment not to breach the Code of Conduct in the future,
- a commitment to undertake training or
- an agreement that on the basis of the evidence that no further action should be taken and the matter be closed.

Time for the process

It is the intention that all of the processes can be completed as quickly as possible to resolve the issue. However exact timing will depend on the availability of individuals to attend the meetings.

Important Points to Note in preparing a process for use by the Town or Parish Council

The Clerk/Proper officer, Chair and Vice Chairs of Councils should consider receiving appropriate training in facilitation and mediation to be in a position to maximise the benefit of this process.

Councils wishing to pursue this route should contact [Herefordshire Association of Local Councils](#) for guidance.

Councils might want to include some guidance where complaints, which are most appropriately dealt with under this process, are referred back to the Council by the MO.

It is suggested that any meetings held with a view to discussing the issues of complaints and/or resolving matters are at the very least minuted, if not recorded. This is to ensure that agreements are captured. This will also be useful in the event that matters break down or escalate and need to be referred to the MO. It may also be useful as evidence in the event of further similar breaches of the conduct and future conduct.

Town/Parish Councils need to be clear on their powers in respect of code of conduct matters.

It would not be appropriate for Town or Parish Councils to formally investigate a code of conduct complaint, decide that there has been a breach or to consider the issue of sanction/censure.

Formal investigations of possible breaches of the Code of conduct, findings of a breach of the Code of Conduct and imposing of sanctions/censure as a result of breaches of the code of conduct are decisions that should only be reached by a MO and/or Standards Panel.

Herefordshire's Code of Conduct arrangements

No complaint under Herefordshire Council's Code of Conduct arrangements will be accepted from a complainant about an accused Member unless this IRP for the accused Member has been followed (or a locally adopted protocol that substantially includes all the elements of this model protocol).

Where this IRP has been unsuccessful (in the no agreement between the complainant and accused member has been reached), the Clerk/Proper officer (or Chair) should direct the complainant to Herefordshire Council. No referral shall be made or accepted by Herefordshire Council if the complainant has refused to engage with the IRP.