**CEIRIOG UCHAF COMMUNITY COUNCIL.**

**CONDUCT PROCEDURE.**

**Policy and purpose**

The **Ceiriog Uchaf Community Council** is committed to treating all **Councillors and staff** fairly and equitably to enable all to perform effectively. However, there will be occasions when it may be necessary to invoke a **resolution procedure** in relation to Councillors or any employee.

This r**esolution procedure** distinguishes between **Councillors and staff**. Ceiriog Uchaf Community Council will adopt the **One Voice Wales – Model Local Resolution Protocol**.

**Councillors:**

*Investigations of possible breaches of the Code are matters for the Public Ombudsman for Wales. The Local Government Act 2000 gives them the authority to carry out such investigations. The Council has no legal authority to undertake such investigations or to make findings of a breach of the Code of Conduct, which are decisions that can only be reached by a Standards Committee or the Adjudication Panel for Wales.* ***The One Voice Wales Resolution Protocol*** *does encourage informal mediation before any referral to the Ombudsman.*

**Employees of the Council**

The Council retains the right to apply the Ceiriog Uchaf Community Council resolution procedure to those ‘employed’ under contract to the Council.

**This resolution procedure should be read in conjunction with the Ceiriog Uchaf Community Council Code of Conduct.** The Code applies in the following circumstances:

 • Whenever you act in your official capacity, including whenever you are conducting the business of your Council or acting, claiming to act, or give the impression you are acting, in your official capacity as a Member or as a representative of your Council

• At any time, if you conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute,

* If you use or attempt to use your position improperly to gain an advantage or avoid a disadvantage for yourself or any other person,
* Where you act as a representative of your Council on another relevant authority, or any other body, you must, when acting for that other authority, comply with its code of conduct

When work or behaviour falls below an acceptable standard, assistance will be given to improve. If standards of work or behaviour continue to fall and there is a necessity for action, it will begin with an **informal discussion**.

If formal resolution action should become necessary, each case will be treated consistently and fairly, and the resolution procedure will be observed at all steps. All will be given the opportunity to provide their version of events and any extenuating circumstances will be considered. Rights will be upheld at all times, and Councillors and staff will have the right to:

• know the case against him/her;

• reply;

• due consideration of their case;

• be accompanied;

• appeal;

**Summary of Process**

1. Any complaint about a Councillor will be subject to the **One Voice Wales – Model Local Resolution Protocol** and mediated by the Chair and the Clerk together

2. If the complaint is about the Chair, the Vice Chair and the Clerk will seek to mediate and it will be subject to the **One Voice Wales – Model Local Resolution Protocol**

3. If the complaint is about the Clerk, the Chair and the Vice Chair will investigate/manage/mediate and it will be subject to the **Ceiriog Uchaf Community Council Resolution Procedure**.

4. If the matter relates to a Councillor and cannot be informally resolved it can be referred to the Ombudsman / Monitoring Officer by either party.

5 If the matter relates to an Employee and can not be informally resolved it can be made subject to the **Ceiriog Uchaf Community Council Resolution Procedure**.

**Investigation.**

Prior to taking the decision to invoke the disciplinary procedure, the Community Council will ensure that a thorough investigation is carried out. This is a fact-finding process and may necessitate the gathering of detailed information as well as the carrying out of interviews, taking of written statements, etc. A proper investigation is an integral part of the process and, where an allegation of gross misconduct is involved, the staff member may be suspended (on contractual pay where this is appropriate) whilst this is carried out. Suspension is not considered to be a sanction taken under the resolution procedure. It is there to ensure that issues are dealt with in a fair and reasonable manner, and adequate protection is given to all. Suspension will not normally last for more than 10 days and a letter explaining the suspension arrangement, including the requirement to be available for meetings eg investigatory meetings.

**Informal discussion.**

Where appropriate, prior to using the formal aspects of the Community Council’s resolution procedure, **a discussion** will be held with the staff member. Minor misconduct, poor performance or minor breaches of rules will normally result in an informal warning being given by the designated Chair or Vice Chair. This will not be recorded in writing. If that approach is not successful, the matter is likely to escalate to the formal disciplinary procedure.

**The Resolution Procedure for EMPLOYEES– In Detail**

This procedure will be used in cases of a breach of the Ceiriog Uchaf Community Council Code of Conduct or poor performance that have not been remedied by an informal discussion. Normally, the procedure will follow the steps listed below, although it is acceptable to move directly to steps two, three or four if a case is sufficiently serious.

From the first formal step of the disciplinary procedure there will be the presence of a designated Investigator in conjunction with a member of the Council. Those being investigated have the option to have a representative present.

**The steps in the resolution procedure are as follows**:

**Verbal written warning (Step One)**

A verbal warning will be applied where the matters of concern are substantiated. A record of the verbal warning will be provided and a copy will be confidentially retained for **six months** unless there is repetition of misconduct within this period. The person will be informed of their right of appeal, the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to **step two**. This can happen before the end of the verbal warning period.

**First written warning (Step Two)**

A first written warning will be applied where the matters of concern are substantiated. A record of the first written warning will be provided and a copy will be confidentially retained file for up to **12 months** unless there is repetition of misconduct within this period. The person will be informed of their right of appeal, the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to **step three**. This can happen before the end of the first written warning period.

**Final written warning (Step Three)**

A final written warning will be applied where the matters of concern are substantiated. A record of the final written warning will be provided and a copy will be confidentially retained for up to **12 months** unless there is repetition of misconduct within this period. The person will be informed of the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to **step four**. This can happen before the end of the final written warning period. The person will be informed of their right of appeal and that further misconduct within the specified period may result in their disqualification or dismissal from role.

**Dismissal or action short of Dismissal (Step four)**

A person will normally be dismissed if they have failed to improve to the required standard via the previous steps. In the event of a gross misconduct allegation, the Community Council may enter the process at **step four** and dismissal for a first matter may occur. The person will be issued with a letter setting out the reasons for dismissal nd other arrangements including in relation to any remuneration and their right to appeal.

**Gross misconduct**

The following behaviours will be viewed by the Council as gross misconduct:

• unauthorised use of the Council’s assets and equipment

• insubordination e.g. refusal to carry out duties or obey reasonable instructions, except where person’s safety may reasonably be in jeopardy

• intentional sexual harassment, harassment, bullying or violent, dangerous or intimidatory conduct

• serious breach of rules, policies or procedures, especially those designed to ensure safe operation

• divulging or misusing confidential information

• theft or fraud

• possession or consumption of alcohol or drugs, or intoxication by reason of alcohol or drugs, which could affect behaviours in any way or have an impact on other persons or the functioning or the good order of the Community Council

• unauthorised or inappropriate use of e-mail, Internet and/or computer systems in an official role

• falsification of any Council records including reports, accounts, expenses claims or self-certification forms

• bringing unauthorised person(s) onto Council premises.

**Disqualification of Councillors under Law**

* Failure to attend for six months without a reason approved by the Council;
* Holding a paid office in the control of the Council leads to disqualification.
* A criminal conviction where a sentence of 3 months or more imprisonment was imposed (whether or not suspended).
* Registration under the Sexual Offences Act 2003
* Declared bankruptcy.

This list of examples is not exhaustive or exclusive, and behaviours of a similar nature will be dealt with under this procedure.

**Disqualification of Councillors under Law, will be referred to the Public Ombudsman for Wales and the local Monitoring Officer prior to action being taken.**

**Appeals**

At every step, the person has the right to appeal in writing. If there is a wish to appeal they should do so in writing within 5 working days of the decision setting out their reasons for appeal. They will be invited to attend an appeal hearing at which they have the right to be accompanied by a representative or supporter. The hearing will be heard by up to 3 designated members of the Ceiriog Community Council who have not previously been involved in any investigation. If it is not possible to provide a designated members from the Ceiriog Uchaf Community Council then the Clerk will request a designated member from a neighbouring Community Council. The person will be given the opportunity to provide the reasons they believe the sanction should be overturned which could include that it was too severe, inappropriate or because new information has come to light. A decision will be made on whether the sanction is to be upheld or overturned and delivered to the person normally within 5 days of the hearing. In exceptional circumstances, the sanction may also be increased. **The decision of the appeal panel will be final.**

**Third parties**

The Council reserves the right to engage an independent third party to assist at any stage of the resolution procedure.

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