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## AGENDA

Pwyllgor	PWYLLGOR SAFONAU A MOESEG
Dyddiad ac amser y cyfarfod	DYDD MERCHER, 3 MAWRTH 2021, 5.00 PM
Lleoliad	YSTAFELL BWYLLGOR 4 - NEUADD Y SIR
Aelodaeth	Aelodau Annibynnol: Yr Athrol James Downe (Cadeirydd), Jason Bartlett, Hollie Edwards-Davies, Arthur Hallett a/ac Chrissie Nicholls  Y Cyngorwyr Cunnha, Sandrey a/ac Williams  Cyngorydd Cymuned Stuart Thomas

### 1 Ymddiheuriadau am Absenoldeb

Derbyn ymddiheuriadau am absenoldeb.

### 2 Datgan Buddiannau

I'w gwneud ar ddechrau'r eitem agenda dan sylw, yn unol â Chod Ymddygiad yr Aelodau.

### 3 Cofnodion *(Tudalennau 3 - 12)*

Cymeradwyo cofnodion y cyfarfod blaenorol ar 9 Rhagfyr 2020 fel rhai cywir a'r Panel Gwrandawriad ar 13 Ionawr 2021.

### 4 Fframwaith Moesegol Statudol - Deddfwriaeth Newydd *(Tudalennau 13 - 16)*

### 5 Canllaw newydd drafft yr Ombwdsmon ar y Cod Ymddygiad - Ymgynghoriad *(Tudalennau 17 - 18)*

### 6 Penodiad Aelod Annibynnol *(Tudalennau 19 - 26)*

### 7 Y Diweddaraf ar Gwynion *(Tudalennau 27 - 30)*

### 8 Blaengynllun *(Tudalennau 31 - 34)*

### 9 Eitemau Brys (os oes rhai)

**10 Dyddiad y cyfarfod nesaf**

Dyddiad cyfarfod nesaf y Pwyllgor Moeseg a Safonau fydd dydd  
Mercher 7 Gorffennaf 2021 am 5.00pm. Mae'r lleoliad i'w gadarnhau.

**Davina Fiore**  
**Director, Governance and Legal Services**

Dyddiad: Dydd Iau, 25 Chwefror 2021  
Cyswllt: Mandy Farnham,  
02920 872618, Mandy.Farnham@caerdydd.gov.uk

***This document is available in English / Mae'r ddogfen hon ar gael yn Saesneg***

STANDARDS & ETHICS COMMITTEE

9 DECEMBER 2020

Present: Councillor James Downe(Chairperson)  
Councillors Bartlett, Nicholls, Hallett, Cunnah, Sandrey, Williams  
and Thomas

74 : APOLOGIES FOR ABSENCE

Apologies had been received from Hollie Edwards-Davies.

Councillor Joel Williams advised that he would be late joining the meeting.

75 : DECLARATIONS OF INTEREST

None received.

76 : MINUTES

The minutes of the meeting held on 30 September 2020 were agreed as a correct record.

77 : MEMBERS' GIFTS AND HOSPITALITY REGISTER

Members were provided with an overview of the report. This was a regular report to Committee that detailed any hospitality claims over £25 that had been recorded. This report was different in that, as requested previously by Committee, the Civic hospitality had been separated out.

It was considered by Committee Members that the splitting out of Civic Hospitality was useful and they thanked Officers for this change.

Members discussed the £25 threshold and whether this had been reviewed in line with inflation. Officers explained it was a National limit, however Cardiff Council could change this if they wished to; the threshold has not changed in recent years as it had been considered a fair amount.

RESOLVED: to note the information supplied at **Appendix A** and **Appendix B** to the report, on the registration of hospitality, gifts and other benefits received by Members during the period from 1<sup>st</sup> November 2019 to 31<sup>st</sup> October 2020.

78 : OFFICERS' GIFTS AND HOSPITALITY GUIDANCE

Committee Members were advised that this Guidance had been revised following an Internal Audit Review, to include gifts and hospitality offered by Officers as well as received. Officers advised that this does not happen often, threshold would be £25 per person or £500 per event. It was noted that the Director or Assistant Director would have the authority to sign these off. The Director may also give general authority to specific Officers for £750 per event, with a limit of £1500 per quarter. All receipts would be kept for audit and registers would be published and available for

public inspection. It had also been suggested to include where Officers refuse gifts and hospitality over £25.

Committee Members discussed the requirement for Officers to register offers of gifts and hospitality and the refusal of gifts and hospitality and considered that this would be a higher level of standard than MP's and AM's have. Officers explained that the current code of conduct at Cardiff Council also has higher standards than MP's/AM's. Officer also noted that it doesn't happen very often, occasionally care workers may be left bequests in wills etc. it was just suggested to protect Officers and enable the Council to identify any possible patterns. A Committee Member considered it was an unwieldy process for something that happens so infrequently. Officers accepted that view and explained that if Committee decided to agree the guidance then officers would take that decision to Audit, although Audit were keen for the process to be in place.

Members noted that Senior Officers potentially have access to more gift and hospitality than Members so the policy should at least be the same as members. Members added that during Covid lots of decisions were taken by Officers; they welcomed the scrutiny and noted that other Local Authorities had this process in place.

It was generally considered that the added transparency and integrity would show people that decisions are made in the right way.

RESOLVED To:

1. Consider and approve the revised draft Officers' Guidance on Hospitality, Gifts and Other Benefits attached as **Appendix A**, and the accompanying registration forms, **Appendices B and C**,
2. Authorise the Monitoring Officer, in consultation with the Chair, to finalise and issue the revised Guidance and registration forms (**Appendices A, B and C**).

79 : ANNUAL REPORT 2019/20

Officers advised Committee Members that this was a short report with Topic Headings that would be covered in the Annual Report. The report would be agreed with the Chair and reported to Council where all Members would have an opportunity to ask questions.

It was considered important to include thanks to Richard Tebboth and Hugh Thomas as outgoing Committee Chair and Member.

Members asked why the report was being produced so late after the end of the financial year and Officers advised that it was usually produced earlier, but had been delayed due to the pandemic and Committee had not met for a while with their meetings being rescheduled. Another reason was time at Council meetings as Annual reports generally take quite a bit of time at the Council meeting. Officers also noted there had been a delay producing last year's report but this was due to vacancies on the Committee.

Members asked what time period the report covered and officers advised that it was usually April – March but occasionally refers to the Municipal Year.

RESOLVED To:

- 1) Provide comments on the contents of the Committee's Annual Report 2019/20;
- 2) Delegate authority to the Monitoring Officer, in consultation with the Chair, to draft and finalise the Annual Report, having regard to comments provided by Members of the Committee; and
- 3) Ask the Chair to present the Annual Report to full Council in January 2021.

80 : MEMBER BRIEFING

Officers advised Committee Members that this briefing was a less formal, less detailed version of the Annual Report, which goes to all Members. The recommended headlines were outline to Committee Members and they were asked for any comments, changes or additions, before the report is finalised with the Chair and sent to all Members and Community Councils.

Members considered that females Members experiencing inappropriate behaviour should form part of the Conduct Complaints. The Chair agreed and said this should be put in the Newsletter, emphasising it is not acceptable.

Members referred to the Cardiff Undertaking and wondered whether this could be included in the briefing for Members who hadn't signed it. Officers advised that in practice all Members do sign it, the Director of Governance and Legal Services ensures this is done and attends the Code of Conduct training and follows up.

Members discussed the timing of the briefing/newsletter being sent at the same time as the Annual Report. It was agreed that it was ok for this year but that it should be phased going forward.

The Chair wanted to include a reminder that if Members put in a complaint they must be prepared to attend a hearing.

RESOLVED To:

- 1) Provide comments on the contents of the Member Briefing, as set out in the report;
- 2) Delegate authority to the Monitoring Officer, in consultation with the Chair, to finalise the Briefing, having regard to comments provided by Members of the Committee; and
- 3) Instruct the Monitoring Officer to issue the finalised Member Briefing to all Members of Cardiff Council and Cardiff's six Community Councils.

## 81 : CODE OF CONDUCT COMPLAINTS UPDATE - QUARTER 2 OF 2020/21

Committee Members were advised that there had been no complaints during quarter 2, which was during the pandemic. Comments had also been received around better behaviour at remote meetings.

Members considered this was good news but it was important not to be complacent; Full Council in October 2020 had been fractious and it can sometimes be difficult to have heated debates and then turn off the laptop and no opportunity to discuss with colleagues as would happen at face to face meetings. Members also considered that things may be happening but are not being reported.

Officers stressed that the importance of reporting and that it doesn't have to have happen immediately after the event.

RESOLVED: to note the contents of the report.

## 82 : FORWARD WORK PLAN 2020/21

The Forward Work Plan 2020/21 was outline by Officers, noting the local elections and that work had already started on new Member Induction by Democratic Services.

RESOLVED: To agree the work programme.

## 83 : OBSERVATIONS OF MEETINGS

The Chair thanked Arthur Hallett for attending and observing two meetings. Officers stressed it was helpful to have observations and comments from Independent Members, such as comments on Full Council and feedback with regards to IT and publication of agenda and minutes at Radyr and Morganstown Community Council, which had been shared with the Clerk. Both meetings had been well behaved meetings with no issues for Standards and Ethics Committee.

It was noted that for Community Councils, Agendas and minutes must be published. It was agreed that, as a matter of best practice, draft minutes should be published as soon as possible after the meeting and set to approved when approved at the following meeting. Also, that any reports relating to business items to be discussed at the meeting should be published, in the interests of transparency and public engagement.

The Committee agreed to make these recommendations to the Community Council for its consideration. It was also agreed that the Monitoring Officer would be asked to raise the general issue of publishing meeting documents with Clerks at the next quarterly meeting to make the same recommendation to other Community Councils.

Committee Members discussed the fact that attendance and observations at meeting were currently ad hoc as all was going well; any issues that Officers were made aware of they would inform Committee Members. Officers asked Committee Members if they would prefer a more structured approach and this was welcomed in

the form of a Rota or Table to share out between them. It was considered that Community Councils, Full Council, Cabinet and Planning would be useful meetings to observe.

RESOLVED To:

- (1) Note the meeting observation feedback received, as set out in **Appendix A** to the report;
- (2) Recommend that Community Councils should consider publishing draft minutes and reports relating to business items on their website, if possible, as a matter of good practice, to facilitate transparency and public engagement; and
- (3) Continue to observe appropriate meetings of the Council, Committees and Community Councils and provide feedback to the Committee; with a schedule of meetings to be drawn up and circulated to Committee Members.

84 : URGENT ITEMS (IF ANY)

None received.

85 : DATE OF NEXT MEETING.

3 March 2021.

The meeting terminated at 6.00 pm

Mae'r dudalen hon yn wag yn fwriadol



## STANDARD AND ETHICS SUB COMMITTEE - HEARING PANEL

13 JANUARY 2021

Present: Independent Members: James Downe (Chair), Hollie Edwards-Davies and Jason Bartlett

Officers: James Williams, Deputy Monitoring Officer, Legal Advisor to the Panel and Kumi Ariyadasa, Clerk

Councillor Michael Michael (Complainant)  
Councillor Neil McEvoy (Respondent)

### 4 : APOLOGIES FOR ABSENCE

There were no apologies for absence.

### 5 : DECLARATIONS OF INTEREST

There were no declarations of interest.

### 6 : HEARING UNDER THE LOCAL RESOLUTION PROTOCOL

The Deputy Monitoring Officer presented his report to the Panel.

The Panel met in private (pursuant to paragraph 18C of Schedule 12A to the Local Government Act 1972) to consider the preliminary matters set out in Recommendation (2) of the report.

#### RESOLVED:

(i) Late evidence – Having regard to paragraph 9 of the Hearings Procedure, the Panel agreed to allow the late evidence submitted by both Councillors, on the basis that the Panel was satisfied that it was relevant to the matters before the Panel and would not prejudice either party, as both Councillors had had the opportunity to consider and provide representations on it.

(ii) Witnesses - To call the Council's Head of Planning to provide any advice or clarification required by the Panel in relation to relevant planning issues.

The hearing was scheduled to commence at 9.45 am. However, Cllr McEvoy informed officers that he was having connection problems. The Panel agreed to postpone the hearing until 10.30am to allow Cllr McEvoy time to resolve his technical issues.

The hearing was reconvened at 10.30am, with all parties in attendance.

The Chairperson welcomed all parties and introduced everyone. He explained that the hearing would be conducted in accordance with the Committee's approved Hearings Procedure, a copy of which was included in the papers for the hearing, and checked that all parties understood the procedure to be followed.

He explained that the hearing was being video recorded in order to allow a record of the proceedings to be made accessible to the public via the Council's website.

The Legal Advisor to the Panel confirmed that third parties' personal information had been redacted from the hearing papers. The parties were reminded that third parties' personal information should not be disclosed during the hearing, because this was exempt information under Schedule 12A of the Local Government Act 1972 and any such information would need to be redacted from the recording of the hearing before it was made accessible to the public.

The Chair explained the preliminary matters which the Panel had considered prior to the start of the hearing and announced the Panel's determinations on those matters (Resolutions set out above).

The Chair outlined the order to be followed at the hearing, in accordance with the Hearings Procedure.

The Complainant, Cllr Michael, was invited to give his evidence first, followed by his witnesses, Cllr Thorne and Cllr Goodway. Then the Respondent, Cllr McEvoy, gave his evidence. The Panel was given the opportunity to ask questions of each Councillor and the witnesses. Then the Panel called the Council's Head of Planning and the planning lawyer to provide professional advice in relation to the planning issues raised in the complaints, and to respond to the Panel's questions. The Complainant was given the opportunity to sum up his complaint, and then the Respondent was given the opportunity to sum up his response.

The Chair explained that the Panel would retire to deliberate and would announce its decision later that afternoon. Cllr McEvoy asked to be notified of the Panel's decision by telephone; and Cllr Michael confirmed that he was also content to be notified by telephone.

At 13.15, the hearing was adjourned for lunch.

At 14.00 the Panel resumed in private with its Legal Advisor to deliberate over its decisions.

#### RESOLVED:

In relation to each of the complaints made against Cllr McEvoy, the Panel found as follows:

- 1) Complaint One – There was no evidence of a breach of the Members' Code of Conduct.
- 2) Complaint Two – The Panel unanimously upheld this complaint and found Cllr McEvoy had breached paragraph 6.1(a) of the Members' Code of Conduct.
- 3) Complaint Three – The Panel found no evidence of a breach of the Members' Code of Conduct.
- 4) Complaint Four – The Panel found no evidence of a breach of the Members' Code of Conduct.
- 5) Sanction - In respect of its finding of a breach in relation to Complaint Two, the Panel concluded by unanimous decision that Cllr McEvoy should be given a private

written warning to refrain from making public allegations against individuals, without evidence to substantiate those accusations or independent determination of misconduct or crime.

The meeting terminated at 3.30 pm

Mae'r dudalen hon yn wag yn fwriadol

**CARDIFF COUNCIL  
CYNGOR CAERDYDD****STANDARDS AND ETHICS COMMITTEE:****3<sup>rd</sup> MARCH 2021****REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL  
SERVICES AND MONITORING OFFICER**

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**STATUTORY ETHICAL FRAMEWORK – NEW LEGISLATION**

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**Reason for this Report**

1. To inform the Committee of changes to the statutory ethical framework, which are being introduced by Part 4 of the Local Government and Elections (Wales) Act 2021 and seek agreement of the actions to be taken in response.

**Background**

2. The Local Government Act 2000, Part III (and regulations made thereunder) sets an ethical framework for the conduct of local government members. Key components of the ethical framework include the statutory Members' Code of Conduct, which sets out the duties imposed on all elected and co-opted Members; and the statutory provisions relating to Standards Committees, established to promote and maintain high standards of conduct by the members and co-opted members of the authority.

**Issues**

3. The Local Government and Elections (Wales) Act 2021 ('the Act'), which received Royal Assent on 20th January 2021, provides for the establishment of a new and reformed legislative framework for local government elections, democracy, performance and governance. Within Part 4 of the Act, changes are made to the statutory ethical framework set under Part III of the Local Government Act 2000. These new legislative provisions are not yet in force, but are to be brought into effect on specified dates by commencement orders, which will be issued by the Welsh Government. The Welsh Government are reviewing the ethical framework and the model Code of Conduct in the light of the Act.

4. In relation to the current changes to the ethical framework, the new legislation will:
- (i) Require leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups, and to co-operate with standards committees (due to take effect from May 2022);
  - (ii) Require standards committees to produce annual reports on the exercise of their functions (due to take effect after, and in relation to, the financial year 2022/23); and
  - (iii) Consolidate provision about investigations by the Public Services Ombudsman for Wales into the conduct of members of local government.
5. The Explanatory Memorandum accompanying the Local Government and Elections (Wales) Bill during its passage through the legislative process explains the purpose and intended effect of the new legislation relating to political group leaders and standards committees as follows:

*3.125 Engendering a culture within a principal council which embraces high standards of conduct requires both local leadership and all members to accept responsibility for their actions both individually and collectively.*

*3.126 The White Paper 'Reforming Local Government: Power to Local People' stated that councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, if a more diverse range of people to be encouraged to seek elected office in local government. The White Paper noted that standards of behaviour were key to this and expressed concern that an overly 'macho' culture in some authorities might be acting as a deterrent to women, in particular, standing for office.*

*3.127 To complement the existing statutory ethical framework, the White Paper proposed that those in positions of leadership and influence within a principal council should have responsibility in respect of the promotion of diversity and to combat bullying and harassment amongst elected members and council staff.*

*3.128 The Bill provides that leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of their group. In doing so, a group leader must co-operate with the council's standards committee in the exercise of its functions to promote and maintain high standards of conduct. In turn, a standards committee has new functions under the Bill to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties.*

*3.129 Local standards committees play an important role in supporting members, individually and collectively, to develop and maintain a culture which embraces high standards of conduct. It is important that standards committees review their work periodically and report significant matters they have dealt with and any emerging trends to their council. Standards committees will be required after the end of each financial year to make an annual report to the authority describing how the*

*committee's functions have been discharged during the financial year and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations made by the standards committee within 3 months of receipt.*

6. As Members know, the Committee has established arrangements for meeting annually with group leaders to discuss Member conduct issues. Nevertheless, the Committee may welcome this ratification of their respective roles in this regard.
7. In order to reinforce the new duties in relation to group leaders (once they are in force), it is proposed to amend the Standards and Ethics Committee's terms of reference by adding the following point: '(k) to monitor compliance by political group leaders with their duties in relation to Member conduct (under section 52A(1) of the Local Government Act 2000), and to advise, train or arrange training for political group leaders in relation to those duties.' Any amendment to the Committee's terms of reference requires the approval of full Council.
8. The Welsh Local Government Association has confirmed that they are working on a generic role description for Group Leaders, given their new responsibilities, which will be circulated to Heads of Democratic Services and Monitoring Officers.
9. Any further action to be taken by the Committee in relation to the new legislative provisions concerning group leaders will be kept under review and considered under the Committee's Forward Work Plan.
10. Members will know that the Committee has well established arrangements for presenting its annual report to full Council, a practice which was initiated over fifteen years ago. Nevertheless, it is proposed that the Committee should take the opportunity to review the structure, contents and timescale of its next annual report, having regard to the new legislative provisions. Under the new legislation, the Committee's annual report must be made 'as soon as reasonably practicable after the end of each financial year... in respect of that year.' This represents a change to the practice in Cardiff, which up to now has been to report on municipal years (running from the Annual Council meeting in May). The requirements of the new legislation are not scheduled to take effect until the 2022/23 financial year, but will be included in the Committee's report on its next annual report, provisionally scheduled for Autumn 2021, subject to the Committee's approval under its Forward Plan.
11. With regard to investigations by the Ombudsman, the Act consolidates provisions relating to practical matters such as conflicts of interest, powers to obtain and disclose information and protection from defamation proceedings. No substantive change is being made to the current law.

### **Legal Implications**

12. Relevant legal provisions are set out in the body of the report.

## **Financial Implications**

13. There are no direct financial implications arising from this report. Any costs of providing training and advice for political group leaders are to be met from the allocated budget.

## **RECOMMENDATION**

The Committee is recommended to:

- (1) note the information set out in the report; and
- (2) recommend to Council that the Committee's terms of reference be amended as set out in paragraph 7, once the new legislation is brought into force

**Davina Fiore**

**Director of Governance and Legal Services and Monitoring Officer**

24<sup>th</sup> February 2021



**CARDIFF COUNCIL  
CYNGOR CAERDYDD****STANDARDS AND ETHICS COMMITTEE:****3<sup>rd</sup> MARCH 2021****REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL  
SERVICES AND MONITORING OFFICER**

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**NEW DRAFT OMBUDSMAN'S GUIDANCE ON THE CODE OF  
CONDUCT - CONSULTATION**

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**Reason for this Report**

1. To inform the Committee of a consultation on new draft guidance on the Members' Code of Conduct, issued by the Public Services Ombudsman for Wales and invite any comments to be provided in response.

**Background**

2. Under section 68 of the Local Government Act 2000, the Public Services Ombudsman for Wales ('the Ombudsman') may issue guidance to relevant authorities on matters relating to the conduct of their members and co-opted members. Under this statutory power, the Ombudsman has issued two separate sets of guidance on the Members' Code of Conduct – one for Members of Principal Councils and another for Members of Town and Community Councils, intended to help Members to understand their obligations under the Code. The Ombudsman's guidance was last updated in 2016.

**Issues**

3. The Ombudsman has issued a consultation on revised draft guidance for: (i) Members of Principal Councils and (ii) Members of Town and Community Councils: [Consultation – New draft Guidance on the Code of Conduct for members of County and Community/Town Councils \(ombudsmanwales\)](#) – both attached as **Appendix A**. The deadline for consultation responses in respect of both sets of guidance is 21st March 2021.

4. The revised draft guidance outlines Members' duties under the Code and explains the test applied by the Ombudsman when deciding whether to investigate an alleged breach of the Code. It also includes examples drawn from cases considered by the Ombudsman, local standards committees and the Adjudication Panel for Wales and reflects on issues of concern and recent trends.
5. The separate guidance for Members of Town and Community Councils is tailored to the different nature of the role that community councillors undertake in their communities.
6. The Committee is invited to consider the two separate sets of revised draft guidance on the Members' Code of Conduct issued by the Ombudsman and provide any comments to be given in response to the consultation.

### **Legal Implications**

7. Relevant legal provisions are set out in the body of the report.

### **Financial Implications**

8. There are no direct financial implications arising from this report.

## **RECOMMENDATION**

The Committee is recommended to consider the Ombudsman's revised draft guidance on the Members' Code of Conduct for (i) Members of Principal Councils; and (ii) Members of Town and Community Councils (both attached as **Appendix A**), to provide any comments in response to the consultation and to request the Monitoring Officer to respond to the consultation on behalf of the Committee.

**Davina Fiore**

**Director of Governance and Legal Services and Monitoring Officer**

24<sup>th</sup> February 2021

### **Appendices**

Appendix A      Public Services Ombudsman for Wales - Consultation – New draft Guidance on the Code of Conduct for members of County and Community/Town Councils: [Consultation – New draft Guidance on the Code of Conduct for members of County and Community/Town Councils \(ombudsman.wales\)](https://www.ombudsman.wales/consultation-new-draft-guidance-on-the-code-of-conduct-for-members-of-county-and-community-town-councils)



**STANDARDS & ETHICS COMMITTEE:**

**3<sup>rd</sup> MARCH 2021**

**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER**

**INDEPENDENT MEMBER APPOINTMENTS**

**Reason for this Report**

1. To note the two Independent Member vacancies which are due to arise, and agree arrangements for a public appointment process to fill the vacancies.

**Background**

2. The Constitution provides that the Standards & Ethics Committee shall have five independent members, three county councillors and one community councillor – Constitution Article 9.2(a).
3. The terms of office of Committee members has been reviewed and it is noted that two independent member vacancies are due to arise shortly.

**Issues**

4. The terms of office of the five independent members on the Committee are as follows:

Professor James Downe (Chair)	Second term of office ends on 01/11/2021
Hollie Edwards-Davies (Vice-Chair)	Second term of office ends on 21/06/2022
Jason Bartlett	First term of office ends on 28/11/2023
Arthur Hallet	
Chrissie Nicholls	

5. Members will note that the second term of office of the Chair, Professor James Downe, is due to expire on 1<sup>st</sup> November 2021. As this is his second term of office, no further reappointment is possible under the Regulations (the Standards Committees (Wales) Regulations 2001, as amended).

6. Similarly, the second term of office of the Vice-Chair, Hollie Edwards-Davies, is due to expire on 21<sup>st</sup> June 2022 and no further reappointment is possible.
7. As the Constitution requires the Standards and Ethics Committee to have five Independent Members, the Council needs to make two new appointments to fill the vacancies arising in November 2021 and June 2022.
8. Members may wish to note that the terms of office of the elected Members on the Committee, including the Community Council representative, continue until the next ordinary local government elections, scheduled for May 2022.
9. The appointment of members of the Standards and Ethics Committee is governed by the Standards Committees (Wales) Regulations 2001 (as amended) ("the Regulations") and the Council's Constitution.
10. The Regulations require a public appointment process to be followed for an Independent Member vacancy, specifically, the Council must:
  - a) advertise the vacancies in at least 2 newspapers circulating in its area, and may additionally advertise the vacancies in its own newspaper;
  - b) set selection criteria and publish those criteria in the advertisement of the vacancies;
  - c) establish an Appointments Panel, comprised of up to five panel members, and including one lay panel member (the lay panel member must be a person who is not, and has not been, a member, co-opted member or officer of a county or community council; and is not the spouse or civil partner of a member or officer of a county or community council) and one Cardiff community councillor; and
  - d) arrange for the Appointments Panel to assess all applications against the published criteria and make recommendations on the appointments to Council for approval.
11. The Regulations provide that an Independent Member's term of office must be set at between four and six years. It is recommended that an appointment be made for 4 years. A second term of 4 years may then be served.

#### Public Advertisement

12. A draft advertisement for the vacancies and person specification, based on the documentation used previously (for the recruitment of Independent Members in 2019) are attached as **Appendices A and B** respectively. Members are invited to provide any comments on these documents.
13. The Monitoring Officer will make arrangements for the vacancies to be advertised in accordance with the Regulations. Previous vacancies have been advertised in the Western Mail and South Wales Echo, as well as on the Council's Website and publicised via social media links, shared with Elected Members, Community Council Clerks, the WLGA and partner networks including the Third Sector Council and minority and disability groups to encourage applications from a diverse range of candidates.

### Appointments Panel

14. The Committee is required to set up an Appointments Panel comprised of one lay panel member and one Cardiff community councillor; and may appoint up to three additional Panel members. An odd number of members is usually advisable to facilitate a majority decision.
15. Members may wish to note that for the appointments process carried out in 2019, the Appointments Panel was comprised of three members: one lay member, one Community Councillor and one Independent member. The recommendation is that the Panel should again comprise of three members, as previously.
16. The lay person position on the 2019 Appointments Panel was filled by Kate Thomas, CVO and JP. Previously, a lay member of the Education Appeals Panel has undertaken this role.

### Timescale

17. It is suggested that the public advertisements should be placed in mid-June 2021, before the summer break, so that shortlisting can be carried out in early September and interviews held in late September / early October, with the aim of recommending suitable appointees to full Council for approval in October 2021.

### Chair

18. Members may also wish to note that the Committee will need to elect a new Chair to take up the position after the expiry of the current Chair's term of office on 1<sup>st</sup> November 2021.

### **Legal Implications**

19. The legal implications are contained within the body of the report.

### **Financial Implications**

20. There are no financial considerations beyond the cost of the recruitment advert, which will be met from within the Directorate budget.

## **RECOMMENDATIONS**

The Committee is recommended to:

1. Provide any comments on the draft Independent Member Vacancy advertisement (**Appendix A**), person specification (**Appendix B**) and the proposed arrangements for the appointments process;
2. Agree the establishment of an Appointments Panel comprised of three members, as set out in paragraphs 14 to 16 of the report, with delegated authority to shortlist and interview candidates and make recommendations on appointment;
3. Authorise the Monitoring Officer, in consultation with the Chair, to make all necessary administrative arrangements for the public appointments process, including advertisement of the vacancies and convening of the Appointments Panel; and
4. Note that the recommendations of the Appointments Panel on the appointment of the two independent members to the Committee will be submitted to full Council for approval.

**Davina Fiore**

**Director of Governance and Legal Services and Monitoring Officer**

11<sup>th</sup> February 2021

### Appendices

Appendix A	Independent Member Vacancy - Advertisement
Appendix B	Independent Member Person Specification

### **Background papers**

Council report, 'Standards and Ethics Committee – Independent Member Appointments, November 2019

## **CARDIFF COUNCIL VACANCY FOR INDEPENDENT MEMBERS OF THE STANDARDS & ETHICS COMMITTEE**

Cardiff Council is seeking to appoint new Independent Members to its Standards & Ethics Committee.

If you value local democracy, have a commitment to public service and have the capacity to be independent, objective and strong-minded, then you may be the right person for this role.

The Standards & Ethics Committee performs an important role in promoting and maintaining high standards of conduct of elected members of Cardiff Council and the six Community Councils within its area. The Committee is comprised of five Independent members, one community councillor and three county councillors. We will shortly have two Independent Member vacancies due to members coming to the end of their term. Appointments are made for a term of between 4 to 6 years, and may be extended for a further 4-year term.

For this role, you will need to:

- Have a general interest in ethical issues
- Be of good character
- Demonstrate a commitment to the Seven Principles of Public Life (the Nolan principles; selflessness; integrity; objectivity; accountability; openness; honesty; leadership)
- Have an understanding of governance in a corporate body
- Have the capacity to be independent, objective and strong minded
- Have no business connection with the Council
- Be able to analyse evidence, issues and problems
- Be able to communicate and contribute effectively in a committee environment
- Be politically independent
- Be able to commit on average 2 to 3 hours each month (which includes evening meetings) to the work of the Committee

The Committee usually meets on a quarterly basis and Independent members are asked to attend other Council and Committee meetings to observe proceedings and familiarise themselves with the work of the Council. Appropriate training will be provided for members to develop the necessary understanding and skills to effectively discharge their role. An allowance of £198 per day / £99 for half a day is paid, and expenses may be claimed for care, travel and subsistence.

For an informal discussion about the role, please contact: Davina Fiore, Director of Legal and Governance and Monitoring Officer on [Davina.Fiore@Cardiff.gov.uk](mailto:Davina.Fiore@Cardiff.gov.uk)

If you believe you meet the above requirements and are interested in this role, please use the following link (*full link when available to be inserted*) for an application pack or email [democraticservices@cardiff.gov.uk](mailto:democraticservices@cardiff.gov.uk)

Members of ethnic minority communities and disabled people are currently under-represented on the Committee, so applications from members of these groups are particularly welcome, although all applications will be considered on merit.

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## Person Specification

**Designation of Post: Independent Member of Standards & Ethics Committee**

**THE PERSON APPOINTED MUST FULFIL THE FOLLOWING REQUIREMENTS:**

	<i><b>Essential</b></i>	<i><b>Desirable</b></i>
<b>Knowledge and Experience</b>	<p>Experience or understanding of governance in a corporate body. (i.e. the principles and rules under which organisations are run)</p>	<p>Understanding of how local government functions and the principles of public accountability</p> <p>Understanding of relevant legislation (or ability to learn)</p> <p>A record of achievement in the public, commercial, voluntary or academic sectors</p>
<b>Skills and Abilities</b>	<p>Able to analyse issues and problems, weigh evidence and put forward persuasive arguments to support your view</p> <p>Able to contribute effectively in a committee environment, and work constructively with others to achieve consensus</p> <p>Able to communicate effectively</p> <p>Capacity to be independent, objective and strong minded</p> <p>Able to commit an average of 2 to 3 hours each month (including evening meetings) to the work of the Committee</p>	<p>Basic IT skills, to participate in meetings which may be conducted remotely via video conference facilities</p>
<b>Personal Attributes</b>	<p>Of good character and showing integrity</p>	<p>Respected for a contribution made to community life</p>

	<b><i>Essential</i></b>	<b><i>Desirable</i></b>
<b>Personal Attributes</b> (contd)	<p>Value local democracy</p> <p>A commitment to public service</p> <p>A general interest in ethical issues</p> <p>A commitment to the Seven Principles of Public Life (the Nolan Principles: selflessness; integrity; objectivity; accountability; openness; honesty; leadership)</p> <p>Personal and political sensitivity</p> <p>Must <u>not</u> have any business or other interests (including membership or affiliation of any political or other organisation) which would cause real or perceived conflict with the independence and impartiality of the role</p> <p>Must <u>not</u> be:</p> <ul style="list-style-type: none"> <li>• a current councillor or officer (or the spouse or partner of a councillor or officer) of Cardiff Council or any other local authority, National Park authority, fire authority, or community council;</li> <li>• a former councillor or officer of Cardiff Council; or</li> <li>• a former councillor or officer of any other local authority, National Park authority, fire authority, or community council, <i>unless</i> you ceased to hold that position more than 12 months ago</li> </ul> <p>A commitment to the Council's Equal Opportunities Policy and an awareness of, and sensitivity to, the diversity of modern society</p>	
<b>Other</b>		A resident and local government elector in Cardiff

**STANDARDS AND ETHICS  
COMMITTEE****3<sup>rd</sup> MARCH 2021**

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**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL  
SERVICES & MONITORING OFFICER**

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**MEMBERS' CODE OF CONDUCT COMPLAINTS – QUARTER 3 OF  
2020/21****Reason for Report**

1. To provide the Committee with an update on complaints made during Quarter 3 of 2020/21 (the period running from 1<sup>st</sup> October 2020 to 31<sup>st</sup> December 2020) against Members of Cardiff Council or any of Cardiff's Community Councils, alleging a breach of the Members' Code of Conduct.

**Background**

2. The Committee receives quarterly reports from the Monitoring Officer on complaints, made against Members of Cardiff Council and Community Councils within its area, alleging a breach of the Members' Code of Conduct. (There are six Community Councils in Cardiff: Lisvane; Old St. Mellons; Pentyrch; Radyr and Morganstown; St. Fagans; and Tongwynlais.) These reports provide information to assist the Committee to discharge its functions, in particular:
  - i. To monitor and scrutinise the ethical standards of the Authority, its Members, employees and any associated providers of the Authority's services, and to report to the Council on any matters of concern;
  - ii. To advise the Council on the effective implementation of the Code including such matters as the training of Members and employees on the Code's application; and
  - iii. To undertake those functions in relation to community councils situated in the area of the Council and members of those community councils which are required by law',

(paragraphs (a), (c) and (g) respectively, of the Committee's terms of reference).

3. The Committee considers the number of complaints made and any themes or patterns emerging, but does not consider the specific details of each individual case, unless the complaint is formally referred to the Committee for a decision.
4. Complaints received during Quarter 2 of 2020/21 were reported to the Committee meeting on 9<sup>th</sup> December 2020.

## Issues

5. During Quarter 3 of 2020/21, covering the period running from 1<sup>st</sup> October 2020 to 31<sup>st</sup> December 2020, a total of nine complaints alleging a breach of the Members' Code of Conduct were reported to the Monitoring Officer. However, eight out of the nine complaints all concerned one Member's activities in relation to one particular incident.
6. The table below shows the figure for this period alongside comparative figures for the previous four quarters.

	Q3 Oct, Nov, Dec 2019	Q4 Jan, Feb, Mar 2020	Q1 Apr, May, Jun 2020	Q2 Jul, Aug, Sept 2020	Q3 Oct, Nov, Dec 2020
Member on Member	0	0	1	0	<b>0</b>
Public on Member	1	1	1	0	<b>9</b>
Officer on Member	0	0	0	0	<b>0</b>
Community Councillors	0	0	0	0	<b>0</b>
<b>Total</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>9</b>

7. The eight complaints made about one individual Member were made by members of the public alleging the Member had wrongly participated in a planning committee decision whilst having a personal prejudicial interest in the matter arising from involvement with a campaign group. The Ombudsman considered all eight complaints and found there was insufficient evidence that the Member had a prejudicial personal interest; that the alleged involvement with the campaign group may suggest a predisposition (which was permissible by law), but did not indicate a predetermination (closed mind) on the decision. The Ombudsman decided not to investigate any of these complaints, because there was

insufficient evidence of a breach of the Code and the public interest test was not met.

8. The other complaint made during Quarter 3 was submitted by a member of the public, who alleged that a Member had improperly used their position as Councillor to bully and harass him. The Ombudsman found there was insufficient evidence of a breach of the Code and decided not to investigate the complaint.

### **Legal Implications**

9. There are no legal implications arising from the recommendations of this report.

### **Financial Implications**

10. There are no direct financial implications arising from this report.

### **Recommendation**

The Committee is recommended to note the contents of the report.

**Davina Fiore**

**Director of Governance and Legal Services, and Monitoring Officer**

11<sup>th</sup> February 2021

### Background papers

Standards and Ethics Committee report 'Member Code of Conduct Complaints, Quarter 2 of 2020/21, December 2020

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**REPORT OF THE DIRECTOR OF GOVERNANCE & LEGAL SERVICES  
AND MONITORING OFFICER**

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**WORK PROGRAMME 2020 - 2021****Reason for this Report**

1. To consider the Committee's Work Plan and agree the items for consideration by the Standards and Ethics Committee in 2020/21.

**Background**

2. The Standards and Ethics Committee's Terms of Reference set out the remit of the Committee to monitor, review and advise on matters relating to the Ethical code; Members Code of Conduct; matters of governance and probity; and compliance of Members in completing the essential Code of Conduct session.
3. To enable the Committee to fulfil its role an annual work plan is developed to reflect the Council's Annual Governance Statement; give consideration to standard monitoring reports; and any issues arising from the Committee's work in promoting high standards of conduct and managing complaints. The views of this Committee assist in the development of an ongoing work plan.

**Issues**

4. Attached as **Appendix A** is the Work Plan for 2020/21 (March) which reflects ongoing priorities and standard reports and the frequency of reporting. The Committee is invited to review the plan taking into account available resources, and add or remove items and agree the frequency of reporting.

**Legal Implications**

5. There are no direct legal implications arising from the content of this report. However, the Committee is reminded of its statutory role contained in the extract from the Local Government Act 2000 set out below which should be considered alongside its terms of reference when setting the Forward Plan:

## 54 Functions of standards committees

- (1) *The general functions of a standards committee of a relevant authority are--*
- (a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and*
  - (b) assisting members and co-opted members of the authority to observe the authority's code of conduct.*
- (2) *Without prejudice to its general functions, a standards committee of a relevant authority has the following specific functions—*
- (a) advising the authority on the adoption or revision of a code of conduct,*
  - (b) monitoring the operation of the authority's code of conduct, and*
  - (c) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct.*

6. The Committee has the same statutory functions in relation to Community Councils and Community Councillors as it has in relation to the County Council and County Councillors (pursuant to section 56(1) of the Local Government Act 2000).

## Financial Implications

7. There are no direct financial implications arising from this report.

## RECOMMENDATION

The Committee is recommended to consider the Work Plan as set out in Appendix A, and, taking into account its terms of reference and available resources, to agree with the Director of Governance and Legal Services and Monitoring Officer any amendments and how it wishes to progress the various items or topics contained therein.

**Davina Fiore**

**Director of Governance and Legal Services and Monitoring Officer**

**25 February 2021**

### Appendix

Appendix A                      Work Plan March 2021

Background Papers

Standards & Ethics Committee Work Plan December 2020



**STANDARDS AND ETHICS COMMITTEE – WORK PLAN – 2020/2021 (March 2021)**

**APPENDIX A**

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TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	STATUS	REPORT TO COMMITTEE
(1) Gifts and Hospitality <i>Frequency of reporting – annual</i>	To monitor and review the acceptance of gifts and hospitality by Members.	Monitoring Officer	Medium	Scheduled	December 2021
(2) Code of Conduct Complaints <i>Frequency of reporting – quarterly</i>	To receive information on complaints made against Members of the Council alleging breaches of the Code of Conduct.	Monitoring Officer	Medium	Ongoing	ON AGENDA
(3) Member Briefings	To publish Member Briefings on the work of the Committee and member conduct issues	Chair / Monitoring Officer	Medium	Scheduled	Early 2022
(4) Training	To consider refresher training on the Members' Code of Conduct	Monitoring Officer	High	Ongoing	As necessary
(5) Feedback from Observation of Council & Committee meetings	Independent Members to attend Council, Committee and Community Council meetings to become more acquainted with the work of the Councils; and report feedback for consideration by the Committee	Independent Members of the Committee	Medium	Ongoing	As received
(6) Whistleblowing Policy	To monitor and review the operation of the Council's whistleblowing arrangements; and consider any ethical issues arising.	Monitoring Officer	Medium	Scheduled	Summer/Autumn 2021

<b>TOPIC</b>	<b>OBJECTIVE/OUTCOME</b>	<b>WHO IS RESPONSIBLE?</b>	<b>PRIORITY</b>	<b>STATUS</b>	<b>REPORT TO COMMITTEE</b>
(7) Officers Personal Interests	To receive a report on Senior Officers Personal Interests Declarations (annually)	Monitoring Officer / HR	Medium	Scheduled	July 2021
(8) Annual Meeting with Group Leaders and Whips	To facilitate ongoing engagement with representatives from all political groups.	Elected Members	Medium	Scheduled	September 2022
(9) Annual Report 2020/21	Prepare Annual Report 2020/21	Committee Chair/ Monitoring Officer	Medium	Scheduled	Autumn 2021