

STANDARDS & ETHICS COMMITTEE

25 OCTOBER 2022

Present: Independent Members: Jason Bartlett (Chair),
Arthur Hallett, David Mills, Chrissie Nicholls

Councillor Jayne Cowan

Community Councillor Julia Charles

13 : COMMITTEE MEMBERSHIP

The Chair welcomed Julia Charles, the new Community Council Committee Member, to the Committee.

14 : APOLOGIES FOR ABSENCE

Apologies were received from Rashpal Singh and Councillor Cunnah.

15 : DECLARATIONS OF INTEREST

Davina Fiore, Director of Governance and Legal Services and Monitoring Officer, declared a personal interest in Item 7, Observations of Meetings and a prejudicial interest in Item 15 Senior Officers' Personal Interests Declarations.

16 : MINUTES

The minutes of the meeting on the 22 June 2022 were approved subject to an amendment being made, namely to record the presence of the Independent Members Jason Bartlett, Chrissie Nichols, Arthur Hallett and David Mills at the meeting.

17 : GROUP LEADERS NEW DUTIES IN RELATION TO STANDARDS OF CONDUCT

Group Leaders; Councillors Huw Thomas, Adrian Robson and Rhys Taylor and Whips; Councillors Helen Gunter and Dan Naughton were present for discussion of this item.

The Chair invited Davina Fiore, Director of Governance and Legal Services and Monitoring Officer, to introduce the item, which was to allow the Committee to consider arrangements to be put in place in order to comply with the new duties of political group leaders in relation to standards of conduct and corresponding new duties placed on standards committees (introduced by Part 4 of the Local Government and Elections (Wales) Act 2021, 'the 2021 Act').

Members were advised that there was a new statutory duty on Group Leaders to promote and maintain high standards of conduct and on the Committee to monitor Group Leaders' compliance, and that a pro-forma Group Leaders' Report would be made available to Group Leaders, if approved, for completion and return, which provides an audit trail for the Committee to monitor that Group Leaders are meeting their duties and that the Committee is in turn meeting its duties.

Members were advised that 94% of Elected Members have attended Code of Conduct training, and that a further follow-up session would be run.

Clarification was sought on whether the proforma would be required to be completed before each meeting of the Committee or only when there was a complaint; and on whether it was expected that Group Leaders attend the Committee on an ongoing basis. Officers advised that it was intended that the proforma be completed on occasions when the Group Leaders attended Committee meetings. The frequency of this was to be determined by discussion. It had been suggested that it might be appropriate to increase the frequency from annual to 6-monthly. Committee was advised that Group Leaders were happy to work with the revised proforma and the suggested frequency. Members were reminded that the proforma might be a particular burden to the leaders of large groups, particularly when such leaders were also Leaders of the Council. Officers advised that assistance would be given to Group Leaders in completing reports.

Members noted that it was useful to demonstrate how the Committee was acting on the findings of the Users Survey and Exit Survey.

The Committee RESOLVED to:

- 1) Approve the revised proforma Group Leaders Report (Appendix B) subject to any agreed amendments;
- 2) Authorise the Monitoring Officer, in consultation with the Chair, to make any agreed amendments to the proforma Group Leaders' Report, and send it to the Group Leaders for completion and return prior to the Committee meeting scheduled to be held in May 2023;
- 3) Agree to consider the Group Leaders' Reports at the May 2023 Committee meeting;
- 4) Agree that group leaders be asked to report to the Committee thereafter every 6 months; and
- 5) Agree that training should be provided to assist group leaders to comply with their new duties.

18 : ELECTED MEMBER EXIT SURVEY COMPARISON 2017 & 2022

Members were provided with a summary of the comparative analysis of information gathered from the 2017 and 2022 Members Exit Surveys, requested by the Committee at its previous meeting.

The Committee was advised that Officers had spent time going through the Social Media Code with Elected Members during Code of Conduct training, and that few complaints had been received since the Local Government Elections.

Concern was expressed at the high number of Elected Members indicating in the Survey that they had experienced or witnessed unacceptable behaviour. Officers confirmed that Elected Members who gave such indication had been asked whether they had reported the incident and to whom. A significant number had not reported incidents; those who had were satisfied with the outcome. It was suggested that Group Leaders should be asked to remind Elected Members of the opportunity and process for raising concerns.

Members sought clarification on how the level of unacceptable behaviour indicated in the Survey results compared to the number of complaints that had been resolved informally, and whether information on informally resolved complaints could be shared. Officers

confirmed that the Survey indicated more incidents taking place than the number put into formal complaint procedures. Elected Members sometimes make Officers aware of incidents but request that the matter not be raised with the alleged perpetrator.

Members sought clarification on whether advice was given to Elected Members prior to the Survey on what sort of behaviours constituted bullying. Officers advised that there was no definition of bullying communicated to Elected Members at the time of the Survey. There was discussion as to whether definitions of bullying and unacceptable behaviour should be included in future Surveys. Members were advised that the Code of Conduct places a high threshold on the definition of bullying within the context of Council meetings, and that it might be unhelpful to create a perception that all behaviour found unacceptable by an individual would necessarily amount to bullying under the Code.

Clarification was sought on how multiple reports of witnessing the same incident were collated in the Survey. Officers advised that respondents were asked separately whether they had experienced or witnessed unacceptable behaviour, although it was not possible to determine whether witness reports related to the same incident. The importance of defining what constituted bullying and unacceptable behaviour was discussed. Individuals' perceptions of the same event may differ. It was agreed that Officers should examine how the wording of relevant questions could be improved.

The importance of not deterring Elected Members from reporting unacceptable behaviour was discussed. The view was expressed that care needs to be taken, when writing definitions of unacceptable behaviour, that the threshold is not set as high as in the Code of Conduct in case incidents of unacceptable behaviour are missed. Concern was raised that limiting reporting to incidents that meet the Code of Conduct threshold might encourage a culture in which behaviour which did not meet that threshold was considered acceptable.

Members sought information on the content of Code of Conduct training in relation to unacceptable behaviour. Officers advised that the training encompassed potential breaches of the code. Code of Conduct training during induction is necessarily brief as there is a large amount of simultaneous training that Elected Members are required to complete.

Members sought clarification on the lack of breakdown data on certain protected characteristics such as ethnicity and religion. Officers advised that the data was limited due to Elected Members failing to respond to questions on protected characteristics. There was a difficulty in comparing with the 2017 survey results due to differences in the information sought. The view was expressed that the options available for recording ethnicity did not always fit in with how people identified themselves. Officers advised that the options available were based on the Corporate Standards and that it might be possible to adapt them after discussion with HR.

Members discussed the possibility of an annual survey and whether Elected Members could be asked if they had reported incidents and their reasons for not doing so. It was suggested this could lead to further research into underreporting of incidents. Officers advised that questions could be brought to a future meeting for approval, and the timing of the next survey, which would probably be at the end of the 2023-2024 session, discussed.

The Committee RESOLVED to note the content of the report.

19 : OBSERVATION OF MEETINGS

The Committee was provided with observation feedback in respect of the Council meeting held on 29 September 2022.

Davina Fiore, Director of Governance and Legal Services and Monitoring Officer, declared an interest as an Officer involved in a matter arising from the meeting.

The Committee RESOLVED to:

- (1) Note the meeting observation feedback received, as set out in Appendix A to the report; and
- (2) Continue to observe meetings of the Council, Committees and Community Councils and provide feedback to the Committee.

20 : MEMBERS' CODE OF CONDUCT COMPLAINTS UPDATE, QUARTERS 1 & 2 2022-23

The Committee was provided with an update on complaints made against Members of Cardiff Council or any of Cardiff's Community Councils alleging a breach of the Members' Code of Conduct, in particular, complaints received during Quarters 1 and 2 of 2022/23 (the period running from 1st April 2022 to 30th September 2022).

Members were advised that the level of complaints was relatively low, and that some had been resolved informally. The Committee was advised that one of the complaints referred to in the report had been withdrawn.

Members sought clarification on the number of complaints received in Quarter 2, July-September 2022. Officers confirmed that the correct number was 2.

Members enquired as to whether complaints were being dealt with in a timely manner and what if anything was impeding their resolution. Officers advised that the initial steps towards resolution are taken swiftly after a complaint is received. There are sometimes delays in receiving responses to complaints or gathering information from witnesses. Other delays may be caused by the pressure of other work, particularly around elections and induction training of new Councillors. Staff resource is limited; however, most complaints are resolved fairly quickly or passed on to Standards Committee. The public mourning period for the Queen also had an impact on the work programme. Members were advised that a delayed resolution can sometimes be helpful when positions have become entrenched.

Members noted that a decision was still awaited from the Ombudsman on a complaint relating to Quarter 3 of 2021/22 and asked if this was normal. Officers advised that the Ombudsman has a heavy workload and that the number of complaints referred to them has increased significantly. Delays in decisions are sometimes caused by issues with the complainant or respondent, such as illness. Officers would not be privy to the reason for delayed decisions in particular cases.

Members sought clarification on how complaints pass from informal to formal resolution. Officers advised that it was often down to the attitude of the parties involved, who might or might not be willing to make a swift and informal resolution. Most Elected Members, on

hearing of a complaint against them, prefer to make a swift resolution; in a minority of cases, however, positions become entrenched and an early resolution becomes difficult.

The Committee RESOLVED to note the contents of the report.

21 : ANNUAL REPORT 2021-22

The Chair invited Davina Fiore, Director of Governance and Legal Services and Monitoring Officer, to introduce the item, which was to consider the content of its Annual Report 2021/22 and approve arrangements for the report to be finalised and presented to full Council. The Committee was advised that production of an annual report, which had been carried out in previous years, had now become a statutory requirement; something that this committee has already been doing.

Members expressed their satisfaction with the contents of the draft report.

The Committee RESOLVED to:

- 1) Agree the proposed contents and structure of the Committee's Annual Report 2021/22;
- 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;
- 3) Ask the Chair to present the Committee's Annual Report 2021/22 to the next suitable meeting of full Council; and
- 4) Instruct the Monitoring Officer to send the Committee's Annual Report 2021/22 to each of the Community Councils in Cardiff, and a copy to the Public Services Ombudsman for Wales.

22 : MEMBERS' USE OF COUNCIL IT FOR POLITICAL GROUP MEETINGS

The Chair invited Davina Fiore, Director of Governance and Legal Services and Monitoring Officer, to introduce the item, which was to consider the Council's policy in relation to Members' use of Council resources, specifically, in response to a request from party group whips to permit Members to use Council IT equipment for remote / hybrid political group meetings.

The Committee was advised that under the Code of Conduct Councillors were not permitted to use Council resources for political purposes unless agreed by the Council; and this was reiterated in guidance from the Ombudsman, with the proviso that the Council may authorise Councillors to use its resources and facilities for political purposes in connection with the Authority's business, such as meetings of political groups.

Members were advised that Councillors from various political groups have requested that they should be able to use the Council's hybrid meeting equipment for the holding of political group meetings. Officers advised that the Council's IT department had been consulted and were content with the proposal, while stating that they would not be able to provide additional IT support for meetings or purchase any additional equipment. It was recommended that a protocol or code of practice be developed for the use of Council equipment in these circumstances.

Members sought clarification on whether a breach of the proposed code of practice would constitute a breach of the Code of Conduct and be dealt with in the same way, or whether a separate process would be required. Officers advised that it would be considered as a breach of the Code of Conduct and would be treated as such.

Members sought confirmation that there would be no additional cost to the Council. Officers confirmed this was the case.

Members requested to know whether the use of equipment in this way would impinge on other Council services. Officers recommended that the code of practice include a provision that Council meetings and business would have priority.

The Committee RESOLVED to:

- 1) Recommend to Council: (a) that authorisation be given to allow Members to use Council IT equipment to hold and or join political group meetings held remotely (fully or partly), in accordance with an agreed code of practice; and (b) the Members' Code of Conduct be amended as set out in paragraph 15 of the report;
- 2) Agree its comments be addressed in the code of practice to be put in place in relation to the use of Council resources for political group meetings;
- 3) Delegate authority to the Monitoring Officer, in consultation with the Chair, the Head of Democratic Services, the IT Services Manager and party group whips, to develop and agree a code of practice on the use of Council resources for political group meetings, for approval by Council; and
- 5) Receive an information report back on this matter in due course.

23 : MEMBER BRIEFING

The Chair invited Davina Fiore, Director of Governance and Legal Services and Monitoring Officer, to introduce the item, which was to consider the content of its next Member Briefing and approve arrangements for the Briefing to be finalised and issued.

The Committee RESOLVED to:

- 1) Agree the suggested contents and timing 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.

24 : NATIONAL STANDARDS COMMITTEE FORUM

The Chair invited Davina Fiore, Director of Governance and Legal Services and Monitoring Officer, to introduce the item, which was to consider proposals in relation to the establishment of a National Standards Committee Forum and its terms of reference.

Members were advised that the WLGA has offered to facilitate regular meetings between Standards Committee chairs and terms of reference have been suggested. The intention is that chairs or vice-chairs would attend a meeting to discuss and agree the terms of reference.

Members sought clarification on whether meetings of the Forum would be in addition to the annual conferences of members of Standards Committees. Officers confirmed that the Forum was not intended to replace the conferences.

The Committee RESOLVED to note the information set out in the report.

25 : PUBLIC SERVICES OMBUDSMAN FOR WALES - CONSULTATION ON DRAFT STRATEGIC PLAN 2023-26

The Committee was invited to provide comments in response to the public consultation on the Ombudsman's draft Strategic Plan 2023-26.

Members agreed on a deadline for the sending of comments to the Monitoring Officer.

The Committee RESOLVED to:

- 1) Consider the consultation on the Ombudsman's Strategic Plan 2023-26 (Appendix A), and provide any comments in relation to matters within the remit of the Committee by Wednesday 2 November 2022;
- 2) Delegate authority to the Monitoring Officer, in consultation with the Chair, to submit a response to the Ombudsman's consultation, on behalf of the Committee, reflecting the views expressed; and
- 3) Ask the Monitoring Officer to circulate a copy of the consultation response submitted to all Members of the Committee for information.

26 : WORK PROGRAMME 2022-23

Members discussed the Committee's Work Programme and agreed the items for consideration by the Standards and Ethics Committee in 2022/23.

The Committee RESOLVED to note and agree the draft Work Programme 2022/23.

27 : SENIOR OFFICERS' PERSONAL INTERESTS DECLARATIONS

The Director of Governance and Legal Services and Monitoring Officer left the meeting during discussion of this item as a result of her declared prejudicial interest.

Kumi Ariyadasa, Governance Solicitor was invited to introduce the item, which was to review the personal interests declarations made by Senior Officers of the Council, in line with the requirements of the Council's Policy on Officers' Personal Interests and Secondary Employment.

The Committee RESOLVED to note the information contained within the Senior Officers' Personal Interests Declarations.

28 : URGENT ITEMS (IF ANY)

None were received.

29 : DATE OF NEXT MEETING.

The next meeting will be held on 14th February 2023.

The meeting terminated at 6.30 pm