

STANDARDS & ETHICS COMMITTEE

7 NOVEMBER 2023

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

Councillors Brown Reckless and Latif

Community Councillor Julia Charles

Officers, Debbie Marles, Independent Monitoring Officer and
Kumi Ariyadasa, Solicitor, Governance and Legal Services

15 : APOLOGIES FOR ABSENCE

Apologies were received from Rashpal Singh, Independent Member, and Councillor Cunnah. Councillor Gibson, Group Leader, Plaid Cymru, Green Party, Common Ground also sent apologies.

16 : DECLARATIONS OF INTEREST

No declarations of interest were received.

17 : MINUTES

The minutes of the meeting held on 25 July 2023 were approved as a correct record and signed by the Chairperson

18 : COMMITTEE MEMBERSHIP

The Committee noted that Council on 26 October 2023 re-appointed Chrissie Nicholls, Jason Bartlett and Arthur Hallett as Independent Members of the Committee for a term of a further consecutive four-year term, expiring in each case, on 28 November 2027.

19 : WELCOME TO THE NEW INTERIM MONITORING OFFICER

The Chair welcomed the new Interim Monitoring Officer, Debbie Marles, the appointment being approved by Council on 26 October 2023.

20 : GROUP LEADER'S REPORTS TO STANDARDS & ETHICS COMMITTEE

The Chair welcomed the Group Leaders; Councillors Huw Thomas, Rodney Berman and John Lancaster to the meeting.

Members and those present at the meeting were reminded that some of the appendices to the report were confidential as they contained exempt information. It was noted that should there need to be discussion on those appendices agreement would be sought to move into closed session.

The Chair invited Debbie Marles, Interim Monitoring Officer (IMO), to introduce the item, which was to allow the Committee to receive and consider the reports from political group leaders on the discharge of their statutory duties relating to standards of conduct of members of their groups (introduced under Part 4 of the Local Government and Elections (Wales) Act 2021).

Members were advised that this was a relatively new statutory duty (as of 5 May 2022) on Group Leaders to promote and maintain high standards of conduct and on the Committee to monitor Group Leaders' compliance and also to advise and train the political group leaders in that regard.

Members noted that the Group Leaders' Proformas/Reports, completed by the leaders of each of the four political groups represented on the Council, were appended as Appendices A1- A4 (including mandatory training attendance figures for each group, with individual group members' training records attached on an Exempt basis), for the Committee's consideration. Group leaders and whips had also been invited to attend the Committee meeting to discuss their reports with the Committee.

It was reported that a considerable amount of work had been undertaken in discharging the duty imposed on the political group leaders, with mandatory training in the main having been completed across the majority of members with the assurance offered that arrangements were in hand to address the gaps.

Members were advised that in complying with the new statutory duties, political group leaders and standards committees must have regard to any guidance issued by the Welsh Ministers. The finalised statutory guidance had been issued within Part 2 of the Statutory and Non-Statutory Guidance on Democracy within Principal Councils ('also referred to as the Democracy Handbook'):

A discussion took place in which the Political Group Leaders commented that the report covered the detail of the new legislation well by way of an introduction. It was understood that the new statutory duties sought to draw out higher standards of behaviour and values which were in the main part being achieved across the Chamber and this was reflected in the number of complaints and investigations. It was felt that Members treated each other with respect and courtesy which in the main was reflected in the political arena.

Members asked whether it was a statutory duty and legal obligation to complete the proforma. The IMO responded that, within the statutory and non-statutory guidance issued, a series of areas had been set out which had been identified by the Welsh Government as areas which Standards & Ethics Committees and also Political Group Leaders should have regard to when exercising their duties under the 2021 Act. The proforma had been drafted in line with that guidance. This was a practice that had been adopted across Wales as a means by which the Standards & Ethics Committee could assess compliance with the Group Leaders' duty. It was a statutory duty for the Standards Committee to assess that conduct and to then report back on this in its Annual Report. So the proforma was intended to assist group leaders and also the Standards and Ethics Committee in discharging their duties.

In response to further questions, the IMO clarified that part of the guidance was statutory and part of it was non-statutory, but the elements under consideration here were statutory, so there was a duty to 'have regard to the guidance'. There were various means by which Group Leaders could demonstrate compliance with their new duties. The proforma was an

administrative means of compiling the data the committee had deemed appropriate. The committee had endorsed the proforma and the Political Group Leaders had embraced it and completed it. This was also in line with approaches that have been adopted elsewhere and a means by which the data could be shared. However, completion of the proforma was not an explicit statutory obligation. One member expressed the concern that the statutory guidance was, perhaps inadvertently, imposing additional obligations which negatively impacted on opposition groups' ability to form an opposition. Two Group Leaders confirmed they were content to continue completing the proforma if it assisted the Committee to discharge its functions.

A discussion took place around information contained in the proforma which listed open standards actions against councillors, which Group Leaders may not be aware of due to confidentiality of the Ombudsman's complaints process and asked if that information was in the public domain. Members were advised that the particular section was shaded grey and was not in the public domain. The IMO offered to revisit the form and cross check to see what information had historically been put in the public domain and consider any necessary amendments to the proforma.

Members were advised that within the finalised guidance there had been clarification that the political group leaders should meet with the Standards Committee at the beginning of every municipal year and that 12 months appeared to be the norm across Wales. Members suggested the frequency of meetings in Cardiff Council should be every 12 months, unless there was a need to meet earlier by exception.

In relation to the duty of the Standards & Ethics Committee to provide training on Group Leaders' duties, it was noted that the previous Director of Governance and Legal Services and Monitoring Officer, had included training about this within the Code of Conduct training offered to all Members following the local government elections. However, since then the finalised WG guidance had been produced and the Interim Monitoring Officer agreed to share the key points of the guidance with Political Group Leaders and asked them to advise her if they required any further guidance or training.

Members were informed that the All Wales Monitoring Officer group was carrying out work in relation to the criteria or threshold by which assessment was made by the Standards and Ethics Committee and the Interim Monitoring Officer would feedback the outcomes in due course.

The Committee RESOLVED to:

- 1) Note the Group Leaders Reports on the discharge of their new statutory duties in relation to standards of conduct (Appendices A1-A4);
- 2) Delegate authority to the Interim MO to review the proforma, having regard to comments made, and make any necessary minor amendments; and
- 3) Agree to receive a further report from Group Leaders in around June 2024 and thereafter every twelve months.

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 notified to the Monitoring Officer during Quarter 2 of 2023/24 (the period running from 1 July 2023 to 30 September 2023) and The Public Services Ombudsman for Wales ('PSOW') Annual Letter 2022/23 for Cardiff Council and Quarterly Newsletter, to allow the Committee to consider its contents in relation to Code of Conduct complaints.

Members were advised that during Quarter 2 of 2023/24, a total of 6 complaints alleging a breach of the Members' Code of Conduct were notified to the Monitoring Officer by the Ombudsman, 5 of which were not progressed.

Members asked questions and sought clarification on the following:

- A Member asked if on receipt of the data the Interim Monitoring Officer advised the Political Group Leaders. Since being in post the Interim Monitoring Officer had not received any feedback from the Ombudsman or any further complaints but with regards practice operated previously, she would feed that information back to the Committee.
- If the Political Group Leaders were advised of a complaint in their group, were they encouraged to update their group members. The Interim Monitoring Officer explained that at the point the Ombudsman determined that a complaint would not be investigated, that information may be shared with the Group Leader to help to inform understanding of what matters would be below the threshold for triggering an investigation. However, whilst the complaint is still under investigation the matter is confidential.
- A Member sought clarification, in a case where there was an allegation against a councillor and the Monitoring Officer or Ombudsman determined it was not being taken forwards, whether the nature of the allegation entered the public domain. It was clarified that the information may be shared with the political group leaders, but it would not be shared more widely.
- Members were advised in relation to the Ombudsman Annual Letter, that there had been a correction by the Ombudsman which was appended to the report – an updated Appendix E, which clarified that in all 11 cases considered during the year, the Ombudsman's decision was not to investigate in each case.

The Committee RESOLVED to note the contents of the report and Appendices A and B

22 : ANNUAL REPORT 2022/23

The Chair invited Debbie Marles, IMO, to introduce the item, which was to consider the content of its Annual Report 2022/23 and approve arrangements for the report to be finalised and presented to full Council.

Members noted that in order to maintain the profile of the Standards & Ethics Committee and awareness of the importance of high standards of Member conduct, the Committee had a long-established practice of presenting an annual report to full Council on the work it

had undertaken during the municipal year and it was something that had now become a statutory requirement

The various headings of the Annual Report were highlighted to Members and also that part of the report would require an assessment from the Committee with regards Political Group Leaders' compliance with their new statutory duty.

Members were directed to Paragraphs 10 and onwards of the report which set out the structure for the annual report and suggestions for the different categories and areas to be covered. Members were asked for comments on the headings and the Interim Monitoring Officer requested delegated authority in consultation with the Chair to draft and finalise the report to take to full Council in November 2023.

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 2022/23
- 2) Delegate authority to the Interim 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 2022/23 to the next suitable meeting of full Council; and
- 4) Ask the Monitoring Officer to send the Committee's Annual Report 2022/23 to each of the Community Councils in Cardiff, and a copy to the Public Services Ombudsman for Wales.

23 : OBSERVATION OF MEETINGS

Members discussed the feedback provided by a Committee member following observation of a meeting of St Fagans Community Council and were pleased to note the feedback in relation to standards of conduct was positive.

Members asked for the distribution of a list of forthcoming meetings which would allow for visits to be coordinated between Members; and Officers advised that this would be facilitated.

The Committee RESOLVED:

- 1) To note the meeting observation feedback received, as set out in Appendix A
- 2) To continue to observe meetings of the Council, Committees and Community Councils and provide feedback to the Committee.

24 : SOUTH EAST WALES CORPORATE JOINT COMMITTEE - STANDARDS SUB-COMMITTEE UPDATE

The Chair invited Debbie Marles, Interim Monitoring Officer, to introduce the item which provided Members with an update on the arrangements being made for Cardiff's Standards and Ethics Committee to be utilised as the Standards Sub-Committee for the South East Wales Corporate Joint Committee on an initial basis, until such time as the Corporate Joint Committee (CJC) was fully operational and ready to establish its own Standards Sub-Committee.

Members were advised that the proposal for Cardiff's Standards and Ethics Committee to be appointed as the Standards Sub-Committee for the SEWCJC, on a temporary initial basis, had now been formally approved by the CJC (CJC resolution dated 31st July 2023) and Cardiff Council (Council resolution dated 21st September 2023).

Members noted that officers were in the process of finalising a Service Level Agreement (SLA) with the CJC which had reached an advanced stage. Once terms were agreed, the SLA would be signed off by each party under the approved officer delegated authority; and the Committee's terms of reference would be amended (in accordance with the Council's September decision) to cover the statutory functions in relation to the CJC by inserting an additional paragraph as follows:

- '(I) In relation to the South East Wales Corporate Joint Committee ('the CJC'), to:
- i. Promote and maintain high standards of conduct by its members and co-opted members;
 - ii. Assist its members and co-opted members to observe the CJC's code of conduct;
 - iii. Advise the CJC on the adoption and revision of a code of conduct;
 - iv. Monitor the operation of the CJC's code of conduct;
 - v. Advise, train or arrange to train its members and co-opted members on matters relating to the CJC's code of conduct; and
 - vi. Make an annual report to the CJC describing how its functions have been discharged during the financial year.'

The Committee RESOLVED to note the information set out in the report and receive a further report at the next suitable Committee meeting.

25 : WORK PROGRAMME 2023/24

The Chair invited Debbie Marles, IMO to introduce the item which was to discuss the Committee's Work Programme and agree the items for consideration by the Standards and Ethics Committee in 2023/24.

A Member asked for a review of the implementation of the Democracy Handbook to be included in the Work Programme. The Interim Monitoring Officer explained that a significant part of the Handbook falls outside the terms of reference of this Committee, but agreed that the Committee could consider the Handbook in so far as it relates to Standards Committees and Group Leaders' duties.

It was also suggested that the Committee should give further consideration to the sections of the Members' Survey which fall within the remit of the Committee and this should be added to the Work Plan.

The Committee RESOLVED to note and agree the Work Programme 2022/23 as set out in Appendix A, with the addition of the two matters noted above.

26 : URGENT ITEMS (IF ANY)

No urgent items were received

27 : DATE OF NEXT MEETING

The next meeting of the Committee is on Tuesday 6 February 2024 at 5.00 pm

The meeting terminated at 6.15 pm