

STANDARDS & ETHICS COMMITTEE:

25 JULY 2023

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

**MEMBERS' CODE OF CONDUCT COMPLAINTS UPDATE – QUARTER 1 OF
2023/24**

Reason for Report

1. To provide the Committee 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 1 of 2023/24 (the period running from 1st April 2023 to 30th June 2023).

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 4 of 2022/23 were reported to the Committee meeting on 9th May 2023.

Issues

5. During Quarter 1 of 2023/24, covering the period running from 1st April 2023 to 30th June 2023, a total of 2 complaints alleging a breach of the Members' Code of Conduct were notified to the Monitoring Officer; one by the Ombudsman and the other under the Local Resolution Protocol.
6. In the complaint notified by the Ombudsman, the Ombudsman has decided to investigate part of a previous complaint, following a review of her earlier decision not to investigate. The complaint was about a Community Councillor. Pending the outcome of the Ombudsman's investigation, the details of this complaint must be kept confidential.
7. The other complaint, made under the Local Resolution Protocol, was submitted by a Member about comments made about them by another Member, which were considered to be unfair and misleading to the public. The Monitoring Officer sought to resolve the matter informally by discussing it with the Member complained about, who clarified that the comments were made in a private message to an individual and could not therefore be removed or taken down. It was also noted that the comments related to matters of public record and may be regarded as 'political comments'. On this basis, the Monitoring Officer's view was that there was no direct evidence of a breach of the Code of Conduct and therefore it would not be in the public interest to investigate; and in consultation with the Standards & Ethics Committee Chair, it was agreed that the complaint should not be referred to the Hearings Panel (in accordance with paragraph 3.5 of the Local Resolution Protocol).
8. The table below shows the number and type of complaint received during Quarter 1 of 2023/24 alongside comparative figures for previous quarters:

	Q1 Apr – Jun 2022	Q2 Jul – Sept 2022	Q3 Oct – Dec 2022	Q4 Jan – Mar 2023	Q1 Apr – Jun 2023
Local Resolution	0	1	0	0	1
Ombudsman*	2	1	2	1	1
Total	2	2	2	1	2

* Reported on the basis of the date upon which the complaint is notified to the Monitoring Officer.

Type of Complaint

Member on Member	0	0	0	0	1
Public on Member	2	2	2	1	0
Officer on Member	0	0	0	0	0
Community Councillors	0	0	0	0	1
Total	2	2	2	1	2

Update on Complaints reported previously

Quarter 2 of 2021/22

9. The complaints submitted during Quarter 2 of 2021/22 included a number of complaints which were subject to ongoing discussions under the Local Resolution Protocol. The current position on those complaints is provided below:
- i. Two Members complained about allegedly inaccurate information contained in a political group leaflet. These complaints were raised with the leader of the group concerned, who was asked whether the inaccuracies were accepted and if so, whether they would be corrected and an apology offered on behalf of the group. Agreement on a resolution has not been reached.
 - ii. A Member (Cllr A) complained about comments made about them by another Member (Cllr B) during a meeting with other Members and Council officers. The complainant (Cllr A) considered the comments to be an unacceptable racist slur. In response, the Member (Cllr B) said that the offending comment was made following allegations made by the complainant (Cllr A) against them, which attacked their personal integrity, and Cllr B made a counter-complaint against the complainant (Cllr A). The counter-complaint was resolved informally, with Cllr B withdrawing the complaint and offering an apology to the complainant (Cllr A) for any upset caused by their comments. Cllr A has also been asked to apologise and consider withdrawing the complaint, but to date has not done so.
 - iii. A Member (the same Cllr A referred to in sub-paragraph (ii) above), complained about misleading information, which misrepresented what the complainant had said at a meeting with Members and Officers, being published on social media by another Member (the same Cllr B referred to in sub-paragraph (ii) above). To date it has not been possible to resolve this complaint by informal resolution.
 - iv. A Member (the same Cllr A referred to in sub-paragraphs (ii) and (iii) above) complained that another Member had posted untrue and

misleading information about the complainant on social media. It has not been possible to resolve this complaint by informal resolution.

10. The Committee will recall that, in line with its recommendations, the Local Resolution Protocol has been revised to provide that an unresolved complaint shall not be referred to the Hearings Panel unless the Monitoring Officer is satisfied that there is direct evidence of a breach of the Code and that it is in the public interest to do so, with the proviso that any decision to not refer an unresolved complaint to the Hearings Panel must be made with the agreement of the Chair of the Standards and Ethics Committee (or Vice-Chair, in the absence of the Chair). The Monitoring Officer is considering the four unresolved complaints referred to in paragraph 8 above, to determine whether or not a referral to the Hearings Panel is appropriate.

Code of Conduct Training

11. As reported at the last meeting of the Committee, following a number of repeat training sessions on the Code of Conduct, offered both in person and remotely, as part of the Member Induction Programme, 78 out of the 79 Cardiff Councillors (99% of all Cardiff Councillors) have completed the mandatory Code of Conduct training. In line with the Committee's decision, the Chair wrote to the individual Member who had not completed the training to urge them to do so, and arrangements have now been made for the Member to complete this training.

Legal Implications

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

Financial Implications

13. There are no financial implications arising directly 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

18 July 2023

Background papers

- Standards & Ethics Committee report, 'Members' Code of Conduct Complaints Update – Quarter 4 of 2022/23', 9 May 2023: [Item 7 Report.pdf \(modern.gov.co.uk\)](#)
- Correspondence between Standards and Ethics Committee Chair and Cllr X regarding attendance at mandatory Code of Conduct training, May 2023 – July 2023