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## AGENDA

<b>Committee</b>	STANDARDS & ETHICS COMMITTEE
<b>Date and Time of Meeting</b>	TUESDAY, 22 MARCH 2016, 4.30 PM
<b>Venue</b>	COMMITTEE ROOM 4 - COUNTY HALL
<b>Membership</b>	Independent Members: Richard Tebboth (Chair), James Downe, Hollie Edwards-Davies, Lizz Roe and Hugh Thomas  Councillors Cowan and Margaret Jones  Community Councillor John Hughes

*Time  
approx.*

### 1 **Apologies for Absence**

To receive apologies for absence.

### 2 **Declarations of Interest**

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

### 3 **Minutes** (*Pages 1 - 8*)

To approve as a correct record the minutes of the meeting held on 15 December 2015

### 4 **Wales Audit Office Corporate Assessment follow on Report** (*Pages 9 - 36*)

Report of the Interim Monitoring Officer

### 5 **Hearing Panel Procedures** (*Pages 37 - 52*)

Report of the Interim Monitoring Officer

### 6 **Monitoring Officer Code of Conduct Complaints Update** (*Pages 53 - 54*)

Report of the Interim Monitoring Officer

**7 Whistleblowing (Pages 55 - 58)**

Report of the Interim Monitoring Officer

**8 Amendment to Members Code & Ethical Framework (Pages 59 - 62)**

Report of the Interim Monitoring Officer

**9 Monitoring Officer Verbal Update**

- Community Council's Charter
- Local Government Wales Bill – Consultation response

**10 Forward Plan 2016/17**

**11 Date of next meeting.**

18 May 2016

**Marie Rosenthal**  
**Director Governance & Legal Services**

Date: Wednesday, 16 March 2016

Contact: Kate Rees,

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***This document is available in Welsh/Mae'r hon ar gael yn Gymraeg***

**STANDARDS & ETHICS COMMITTEE****15 DECEMBER 2015**

Present: Independent Members: Richard Tebboth (Chair), James Downe,  
Hollie Edwards-Davies, Lizz Roe and Hugh Thomas

Councillors Margaret Jones

Community Councillor John Hughes

11 : APOLOGIES FOR ABSENCE

None

12 : DECLARATIONS OF INTEREST

The Chairperson reminded Members of their responsibilities under Part III of the Members' Code of Conduct, to declare any interests in general terms and complete 'personal interest' forms at the start of the meeting and then prior to the commencement of the discussion of the item in question, specify whether it is a personal or prejudicial interest. If the interest is prejudicial Members would be asked to leave the meeting, and if the interest is personal, but not prejudicial. Members would be invited to stay, speak and vote. The following declaration was made.

<i>Committee Member</i>	<i>Item</i>	<i>Nature of Interest</i>
Community Councillor John Hughes	Item 6	Community Councillor for St Fagans Community Council

13 : MINUTES

The minutes of the meeting of the Standards & Ethics Committee held on 22 September 2015 were agreed as a correct record of the meeting and signed by the Chairperson. It was noted that the following Action Point had not yet been progressed.

- A breakdown of the nature of complaints received would be useful. Noted that some information in this regard is included in the Committee's Annual Report. Issues have been raised when the cut and thrust of political debate has veered into personal attack, comments made by Members in social media, and also some made during committee meetings. A number of complaints from members of the public relate to delays in correspondence. Non relate to fraud or corruption. The Monitoring Officer is attempting to get comparative data on complaints from other discussion on this.

14 : STANDARDS CONFERENCE WALES 2015

The All Wales Standards Conference 2015 was hosted by the City of Cardiff Council on 20<sup>th</sup> October 2015, under the direction of the Standards and Ethics Committee. The Committee formed a conference planning task group to agree arrangements for the

conference; and received reports on conference preparations at each of its meetings this year.

The Committee was pleased to hear that positive feedback had been received from delegates attending the conference.

James Downe thanked Liz Roe and Hollie Edwards-Davies for their input and support at the Conference. The Conference presentations proved to be successful and input was appreciated from the representatives.

The Committee noted that further information was required on the outcomes of the workshops:

- Community Council's – Governance and Standards
- Local Complaints Resolution - Practicalities
- Are the Nolan Principles fit for purpose in the current climate and for the next 20 years.

Committee Members suggested that in regards to the Local Complaints Resolution Paul Lucas, Director of Legal and Democratic Services, Rhondda Cynon Taf County Borough Council provide further information on the presentation slides received in order to incorporate into the final report. These slides would then be made available on the Council's website. Once the report was finalised it would be distributed to all local authorities in Wales and published on the Council's website.

It was suggested that Rhondda Cynon Taf's local resolution procedures could be used as a benchmarking test to improve practice at Cardiff.

The Committee discussed the dynamics Community Council's had with its local authorities. Some Standards Committee's in Wales had visited all their respective community council's in order to develop communications and to obtain feedback on local issues. Members felt that Cardiff Council was not communicating effectively with its community councils in certain areas and the Charter was not being adhered to.

The Committee agreed that the Chairperson and Marie Rosenthal finalise the Standards Conference Report before circulating to all Members of the Committee with the final version.

The Committee agreed to amend point 1 of Summary of the conference presentation to read "people living longer".

RESOLVED: The Committee AGREED to:

- Note the information set out in the report and comment as appropriate;
- Delegate Authority to the Monitoring Officer, in consultation with the Chair and Vice-Chair to finalise the Conference Report (Appendix A) and circulate copies to all Conference delegates and speakers; and

- Consider any further action or work the Committee may wish to undertake following on from the Conference and instruct the Monitoring Officer accordingly

## 15 : MEMBERS' CODE OF CONDUCT COMPLAINTS - QUARTER 3

The Committee were provided with an update on complaints made during 2015/16 against Members alleging breaches of the Code of Conduct with a focus on the last 3 months.

The Committee noted the following:

- Use of social media, dealing with correspondence and treating members of the public with respect remain common themes.
- Training on the Code of Conduct and the Ombudsman's most recent Guidance took place on the 15 and 21 September 2015 with good attendance.
- The Chairperson and Vice Chairperson met with political group leaders on the 18 November 2015 to discuss the figures. It was agreed that resolving member on member complaints could take up a disproportionate amount of officer time and that more could be done to resolve this.
- The Local Resolution procedure continued to provide a useful means to informally resolve most member on member complaints. If the matter could not be resolved informally it was then dealt with formally at the Hearing Panel of the Committee.

The Committee was interested to note the comments made by Gerard Elias, the retiring Standards Commissioner for the Assembly in his most recent report.

Marie Rosenthal advised Committee Members that the majority of public complaints were directed towards performance issues and not conduct. There were also issues relating to single member wards.

The Committee was advised that support to Members was provided by Democratic Services, which at present was limited and dealt with issues in respect of split member wards.

The Committee referred to the decision letter from the outcome of the Hearing Panel and were pleased with its wording. The Committee felt the decision letter should be published on the Council's website and circulated to all Members of the Council.

Members discussed the protocols involved to deal with member on member complaints and noted that the same sanctions were used to deal with these issues in the other 22 local authorities in Wales.

RESOLVED: That the report be noted.

## 16 : COMMUNITY COUNCIL CHARTER

The Committee were provided with an update on the Community Council Charter. The aim of the Charter was to support structured, regular engagement and communication

between the County Council and the six Community Councils in Cardiff, based on the key principle of equality of partnership between the two tiers of local government.

The Committee made reference to paragraph 9 of the report which outlined the following: *'Feedback from the Community Council's on the revised draft has been generally positive. However, further consideration had been requested on the following points:*

Several Community Council's had requested specific reference to Section 106 planning obligations agreements (or Community Infrastructure Levy funds), seeking a commitment from the Council to consult and involve the Community Council's in negotiations for Section 106 agreements and decisions regarding the application of funds arising from developments within the Community Council's area.

Community Councillor John Hughes emphasised the importance of communication mechanisms between Community Council's and the Council. Issues had arisen in some local areas, involving road closures which had not been communicated to the respective Community Council's. In some instances these issues were relayed to the particular Ward Councillors, but not the Clerks to Community Council's, who should be provided with the same information. Community Council's should also be advised on issues with land use which would impact on the community infrastructure levy, along with input on monies being directed outside respective Wards.

The Chairperson suggested that Marie Rosenthal liaise with the Head of Planning and the Chairperson of the Planning Committee for input on the Charter and the communications in place with Community Council's when planning applications were being considered.

RESOLVED: The Committee AGREED to.

- Note the revised draft Charter (Appendix A) and the feedback from the Community Council's as set out in the report and make any comments it considers appropriate;
- Note the Monitoring Officer's delegated authority to finalise the revised Charter as agreed by Cabinet in June 2015; and
- Instruct the Monitoring Officer to implement an effective communications plan, once the revised Charter is signed off, to ensure that all Council staff and Members are aware of the Charter and its provisions.

#### 17 : MEMBER PROTOCOL ON SAFEGUARDING VULNERABLE CHILDREN & ADULTS

The Committee was advised that an Independent Review was commissioned by the Chief Executive to look into the role of Members in dealing with parent's complaints and acting as advocate in child protection proceedings. This followed concerns raised by an elected Member about safeguarding practice within Children's Services in relation to a small number of cases. The Review made a number of recommendations which came within the remit of the Standards and Ethics Committee.

At its meeting on 22 September 2015 the Committee considered a draft Protocol addressing the matters recommended by the Independent Review; and heard evidence from the Director of Social Services. It was also suggested that, in order to reinforce the importance and effectiveness of the Protocol, the approved Protocol should be added to the Constitution and Cardiff Undertaking.

The Committee delegated authority to the Monitoring Officer in consultation with the Chairperson to recommend the Protocol to Council; along with amendment of the Cardiff Undertaking to include a new obligation to recognise the collective responsibility of Councillors to safeguard and promote the life chances of looked after children.

The Committee noted the report would be taken to Full Council on 28 January 2016.

RESOLVED:

The Committee AGREED to:

- Note the revised draft Protocol and recommend it to Council for approval, subject to consultation with all Members and any further amendments;
- Authorise the Monitoring Officer in consultation with the Standard and Ethics Committee Chair, to make any further amendments to the Protocol; and
- Recommend to Council amendment of the Cardiff Undertaking to include a new obligation to recognise the collective responsibility of Councillors to safeguard and promote the life chances of looked after children.

## 18 : MEMBERS' PLANNING CODE OF GOOD PRACTICE

The Committee had identified the Council's planning process and procedures as a key item of business in its Forward Work Plan for 2015/16. It was also important to note that the Planning Committee had recently begun to webcast its meetings over the internet.

The Committee had previously received a report at its meeting on 10 January 2007 following a Wales Audit specific recommendation that the Council prepare a code of practice for Councillors and Officers involved in the planning process, having regard to better practice across Wales.

The Planning Code had been prepared in accordance with the Member Code of Conduct and Royal Town Planning Institute Code of Conduct for Chartered Planners.

The Code had the following objectives:

- To guide and protect officers and members in dealing with planning related matters from criticism and challenge.
- To inform potential developers and members of the general public of the standards adopted by Cardiff council and the performance of its planning function
- To ensure that, in the planning process, there were no grounds for suggesting that a decision has been biased, partial or not well founded in any way

Members of the Committee were concerned the Code did not make reference to Community Council involvement and planning site visit protocol.

The number of respective Code's adopted by the Council was outlined to the Committee and it was suggested that the Planning Code be brought back to this Committee for further attention.

The language used in the Code, could be perceived as intimidating and it was suggested that the Code be circulated to the Planning Committee for input.

RESOLVED: The Committee AGREED to note the report and to request a report back to a future meeting to consider this matter further.

19 : DRAFT LOCAL GOVERNMENT (WALES) BILL - WELSH GOVERNMENT CONSULTATION

The Committee received a report which enabled them to consider the Welsh Government's draft Local Government (Wales) Bill proposals in so far as they concerned matters relevant to the Committee; and respond to the Welsh Government's consultation in this respect.

The Monitoring Officer assured the Committee that all Members of the Council had seen the Bill and would be discussed at Cabinet in February 2016. A part of the Bill directly affected the Standards and Ethics Committee and was outlined in Part 4 of the Bill.

The Committee noted that their duties would extend to the Committee's assessment of the extent to which leaders of political groups on the council have complied with their duties under section 52A (1) during the financial year.

The Committee discussed the context of the Bill and were currently of the view that at this point it was difficult to make a fundamental response. The nature of the Bill provided the Committee with the impression that the monitoring of standards was shifting towards observing performance. It was recognised that the terminology in the Bill encouraged the micro management of local government, which in 2014 was not being encouraged by Welsh Government.

RESOLVED: The Committee AGREED to:

- Note the provisions of Part 4 of the draft Local Government (Wales) Bill, in so far as they relate to matters within the (current or proposed) remit of the Committee; and
- Delegate authority to the Monitoring Officer in consultation with the Chair to prepare a response to the Welsh Government's consultation on behalf of the Committee.

20 : LOCAL GOVERNMENT ETHICAL FRAMEWORK - WELSH GOVERNMENT CONSULTATION ON AMENDMENTS TO SUBORDINATE LEGISLATION

The Committee received a report which enabled them to consider the Welsh Government's proposed amendments to subordinate legislation relating to the local government ethical framework; and respond to the consultation on this matter.

The Local Government Act 2000, Part III (and regulations made thereunder) sets an ethical framework for the conduct of local government members. In its 2012 White Paper, 'Promoting Local Democracy' the Welsh Government indicated its view that the current framework provides an appropriate balance between guiding Members on the standards of conduct expected of them, and giving reassurance to the public that misconduct will be dealt with consistently and appropriately. However, the White Paper also set out a number of proposals for improving the operation of the framework. Some of these proposals were addressed in the Local Government (Democracy) (Wales) Act 2013.



The Welsh Government is consulting upon two draft statutory instruments (to be made under Part III of the Local Government Act 2000) intended to give effect to the policy proposals set out in 2012 White Paper and consequential upon legislative changes introduced by the Local Government (Democracy) (Wales) Act 2013 and related matters.

The Committee had no concerns with the proposed amendments. It was, however, noted that the current statutory restriction on the size of standards committees had presented quorum difficulties in Cardiff, and that this concern should be raised in the consultation response.

RESOLVED: The Committee AGREED to:

- Note the proposed amendments to subordinate legislation; and
- Delegate authority to the Monitoring Officer in consultation with the Chairperson to prepare and submit a response to the Welsh Government's consultation on behalf of the Committee.

21 : DATE OF NEXT MEETING.

22 March 2016 @ 4:30pm

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**CITY OF CARDIFF COUNCIL  
CYNGOR DINAS CAERDYDD**



**STANDARDS AND ETHICS COMMITTEE: 22 MARCH  
2016**

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**WALES AUDIT OFFICE CORPORATE ASSESSMENT FOLLOW  
ON REPORT**

**REPORT OF THE INTERIM MONITORING OFFICER**

**AGENDA ITEM: 4**

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**Reason for this Report**

1. To enable the Committee to receive the Wales Audit Office Corporate Assessment Follow On report of the City of Cardiff Council and to consider the proposals made within it.

**Background**

2. The Auditor General for Wales must report on an annual basis on how well Welsh local authorities are planning for improvement in delivering their services. In addition, the Auditor General must conduct a Corporate Assessment of every local authority in Wales once every four years. The Auditor General for Wales has powers to:
  - make proposals for improvement;
  - make formal recommendations for improvement;
  - conduct a special inspection and publish a report and make recommendations;
  - recommend to Ministers of the Welsh Government that they intervene in some way.
3. In March 2014 the Wales Audit Office undertook a Corporate Assessment of the Council which sought to assess if the Council was capable of delivering its priorities and improved outcomes for citizens. Its Corporate Assessment Report was published on 1 September 2014.
4. The Wales Audit Office undertook a follow-on visit in October 2015. It published its Corporate Assessment Follow On report on 26 February 2016. A copy of the report is attached as **Appendix A** to this Report. The WAO Report has been/will be considered by the Policy Review and Performance Scrutiny Committee on 8 March, Cabinet on 10 and 21 March 2016, and Audit Committee on 22 March 2016.

## Issues

5. The Corporate Assessment Follow On report concludes that:

*“The Council has put in place better arrangements to support improvement and to address longstanding issues, but is now at a critical point in embedding them if it is to achieve a step change in delivering improved outcomes.”*
6. The Wales Audit Office reached this conclusion on the basis that:
  - *“overall, the Council has responded positively to the Corporate Assessment findings, and put better arrangements in place to support improvement and address longstanding issues; and*
  - *the Council is now at a critical point in ensuring that improved arrangements are embedded and implemented consistently and constructively across the organisation in order to achieve a step change in delivering improved outcomes.”*
7. The report identifies improved arrangements in financial planning, HR management, performance management, asset management, IT, and governance with the latter helping to promote a better culture of accountability and risk management.
8. Paragraphs 23, 49, and 50 of the report specifically refer to the work of the Standards and Ethics Committee. They read as follows:
  23. *The Council’s Standards and Ethics Committee has a clear remit to monitor the conduct of members. The Committee, in liaison with the Council’s Monitoring Officer, has also organised various training events for Members, including sessions on the appropriate use of Social Media and Data Protection. The Committee’s members have also started to attend various Council committee meetings to observe.*
  49. *The Council’s Standards and Ethics Committee is not sufficiently proactive in taking action relating to concerns we identified regarding the conduct of a small number of Members. The Council has in place the ‘Cardiff Undertaking’ for Members setting out expectations in relation to their conduct. The Standards Committee has also set out in its Annual Report the 10 general principles of public life and its commitment to play a positive and proactive role. However, the Committee could do more to visibly enforce the principles and the Cardiff Undertaking, as it appears that Member engagement is not consistently positive, professional and constructive. Some Members have openly disengaged in Council business and feel the need to engage with the media and social media to get their points across.*
  50. *The Standards and Ethics Committee, in liaison with the Monitoring Officer, organises various training for Members. However, it should give further consideration to how it can*

*increase the number of members attending the training sessions, and what training should be considered essential for Members to discharge their role effectively, for example, the use of social media and data protection.*

9. The Corporate Assessment Follow On report contains one statutory recommendation and 14 proposals for improvement. One of the proposals – Number P5 – specifically refers to the Standards and Ethics Committee. It reads as follows:

*P5 Enhance member accountability by:*

- (a) ensuring that the **Standards and Ethics** Committee plays a more proactive role in promoting and enforcing the Cardiff Undertaking for Councillors and supporting policies in relation to Member conduct and behaviour; and*
- (b) strengthening member development and learning programmes based on competency assessments to improve skills and understanding to enable them to undertake their roles more effectively; and*
- (c) determining what training should be considered essential for Members to discharge their role effectively*

10. The single statutory recommendation of the Wales Audit Office is that the Council must ensure that it addresses these proposals for improvement to deliver improved outcomes within the next 12 months.

11. In response to the formal recommendation of the Corporate Assessment Follow On report, the Council must prepare a statement of action and proposed timetable within 30 days of receipt of this report. Following consultation with the Chair of the Standards and Ethics Committee the following was put forward to Cabinet on 21 March 2016 in relation to Proposal P5:

***P5: Proposal for Improvement***

*The Chair of Standards and Ethics Committee is committed to taking steps to raising proactively the profile of the Cardiff Undertaking for Councillors and to highlighting the importance of appropriate Member conduct and behaviour.*

*New Hearing Panel Rules will be adopted by the Standards & Ethics Committee for dealing with consideration of complaints made under the Council's Local Resolution Protocol. Training is in place for members of quasi-judicial Public Protection; Licensing and Planning Committees, which members must have attended before they can participate in these committees. Annual refresher training on the Code of Conduct and Information Governance has also been provided.*

*Democratic Services Officers will review Member training provision and agree a new programme to commence at the start of the new Council term*

*in May 2017 and will also work with the WLGA on the development of new member induction information and training for 2017/18.*

<b>Ref</b>	<b>Action</b>	<b>Timescale</b>	<b>Responsible Officer(s)</b>
<i>P5a</i>	<i>Standards &amp; Ethics Committee to publish biannual Member Briefings on the work of the committee, underlining the importance of the Cardiff Undertaking and member conduct and behaviour</i>	<i>August 2016</i>	<i>Monitoring Officer</i>
<i>P5b</i>	<i>Democratic Services Committee to review Member Development &amp; Training and agree new approach and programme to commence in May 2017</i>	<i>December 2016</i>	<i>Monitoring Officer</i>
<i>P5c</i>	<i>Democratic Services Committee to agree essential training and frequency of training prior to start of new council term in May 2017.</i>	<i>December 2016</i>	<i>Monitoring Officer</i>

### **Financial Implications**

There are no financial implications arising directly from this Report.

### **Legal Implications**

Relevant legal implications, deriving from the Local Government (Wales) Measure 2009, are referred to in the text of this report.

## **RECOMMENDATIONS**

The Committee is recommended to:

1. receive the Wales Audit Office Corporate Assessment Follow On report;
2. consider the content of the report and discuss ways in which the Wales Audit Office's proposal might be implemented; and
3. consider the draft Statement of Action put to Cabinet.

### **DAVID MARR**

Interim Monitoring Officer  
14 March 2016

*The following appendix is attached:*

Appendix A – Wales Audit Office Corporate Assessment Follow On Report



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU

# Corporate Assessment Follow On City of Cardiff Council

Issued: February 2016  
Document reference: 735A2015



This Corporate Assessment Follow On report has been prepared on behalf of the Auditor General for Wales by Non Jenkins, Chris Pugh, David Wilson, Sara-Jayne Byrne, Allison Rees, Phil Morgan, Avril Watkins, Andrew Strong and Emily Owen delivered the work, under the direction of Alan Morris.

**Huw Vaughan Thomas**  
**Auditor General for Wales**  
**Wales Audit Office**  
**24 Cathedral Road**  
**Cardiff**  
**CF11 9LJ**

The Auditor General is independent of government, and is appointed by Her Majesty the Queen. The Auditor General undertakes his work using staff and other resources provided by the Wales Audit Office, which is a statutory board established for that purpose and to monitor and advise the Auditor General. The Wales Audit Office is held to account by the National Assembly.

Together with appointed auditors, the Auditor General audits local government bodies in Wales, including unitary authorities, police, probation, fire and rescue authorities, national parks and community councils. He also conducts local government value for money studies and assesses compliance with the requirements of the Local Government (Wales) Measure 2009.

Beyond local government, the Auditor General is the external auditor of the Welsh Government and its sponsored and related public bodies, the Assembly Commission and National Health Service bodies in Wales.

The Auditor General and staff of the Wales Audit Office aim to provide public-focused and proportionate reporting on the stewardship of public resources and in the process provide insight and promote improvement.

Cover image credit - Kieran Ridley



# Contents

<b>Summary report</b>	<b>4</b>
The Council has put in place better arrangements to support improvement and to address longstanding issues, but is now at a critical point in embedding them if it is to achieve a step change in delivering improved outcomes	4
Recommendations and Proposals for Improvement	5
<b>Detailed report</b>	<b>9</b>
Overall, the Council has responded positively to the Corporate Assessment findings, and put better arrangements in place to support improvement and address longstanding issues	9
The Council is now at a critical point in ensuring that improved arrangements are embedded and implemented consistently and constructively across the organisation in order to achieve a step change in delivering improved outcomes	17

# Summary report

**The Council has put in place better arrangements to support improvement and to address longstanding issues, but is now at a critical point in embedding them if it is to achieve a step change in delivering improved outcomes**

- 1 In September 2014 we reported our Corporate Assessment of the City of Cardiff Council, which concluded that 'Fragmented leadership and management have meant that weak performance in key service areas has not improved.' We came to this conclusion because:
  - a political and managerial instability over a number of years has meant that the Council has been unable to develop the culture and framework necessary for continuous improvement;
  - b the Council has identified what it wants to achieve for its citizens but has lacked an effective means of delivery;
  - c some processes intended to ensure good governance are not being implemented, and decision-making processes are inefficient and lack transparency;
  - d whilst there have been some recent changes, performance management has failed to consistently secure improvement in the past;
  - e although the Council ensures a balanced budget, prospects for achieving proposed savings in 2014-15 are uncertain and the anticipated level of future funding means current methods of service delivery are unsustainable;
  - f corporate human resource arrangements are founded on positive practice but are not being implemented consistently;
  - g the Council is improving its use of information technology and its information management arrangements;
  - h the Council is not managing its land and property assets well; and
  - i the Council engages well in collaboration with others and is able to demonstrate improved outcomes for citizens.
- 2 The Corporate assessment report made one proposal for improvement, which was that 'the Council ensures the implementation of its Organisational Development Plan resolves the range of issues identified in this assessment'.
- 3 This follow-on review seeks to answer the question: 'Is the Council effectively addressing the issues raised in the Corporate Assessment?'

- 4 In order to inform our Corporate Assessment Follow-on we also undertook two tracer reviews of the decision-making processes in relation to:
- a revisions to the Council’s leisure services and its progress in taking forward alternative delivery models; and
  - b revisions to the Council’s waste strategy (and associated arrangements).

The findings of these tracer reviews have informed our corporate assessment follow-on work and have been incorporated into this report.

- 5 Our follow-on review concludes that: **‘The Council has put in place better arrangements to support improvement and to address longstanding issues, but is now at a critical point in embedding them if it is to achieve a step change in delivering improved outcomes.’**

- 6 We came to this conclusion because:

- a overall, the Council has responded positively to the Corporate Assessment findings, and put better arrangements in place to support improvement and address longstanding issues; and
- b the Council is now at a critical point in ensuring that improved arrangements are embedded and implemented consistently and constructively across the organisation in order to achieve a step change in delivering improved outcomes.

## Recommendations and Proposals for Improvement

- 7 In this report, the Auditor General has made one formal recommendation and 14 proposals for improvement as follows.

### Recommendations

Recommendation	
R1	The Council must ensure that it addresses the proposals for improvement as set out in this report to deliver improved outcomes within the next 12 months.

## Proposals for Improvement

Proposals for Improvement	
<b>Leadership and management</b>	
P1	Develop further <b>engagement opportunities</b> with staff and Members to consistently embed a constructive performance management culture across the organisation to help deliver improved outcomes.
<b>Governance</b>	
P2	Clarify the <b>roles and responsibilities</b> within the Council's decision making framework. In particular: <ul style="list-style-type: none"><li>a ensuring that meetings of the Informal Cabinet meetings are recorded appropriately;</li><li>b ensuring that the title and roles of Assistants to Cabinet Members' are applied consistently ensuring that their limited roles and responsibilities do not cloud any accountabilities;</li><li>c review the role and membership of Cabinet Advisory Groups to ensure that those members involved do not sit on any Scrutiny Committee responsible for scrutinising the same/similar issues; and</li><li>d ensure that a decision is made on the issue about whether to delegate executive decision-making to individual Cabinet Members.</li></ul>
P3	Further strengthen the Council's <b>scrutiny</b> function by: <ul style="list-style-type: none"><li>a developing an approach to scrutinising cross cutting issues; and</li><li>b ensuring that any vacancies on scrutiny committees are filled quickly.</li></ul>
P4	Ensure that all <b>committee agendas, minutes and decision-logs</b> are published in a timely manner on the Council's website, and increase the number of committees that are webcast.
P5	Enhance Member accountability by: <ul style="list-style-type: none"><li>a ensuring that the <b>Standards and Ethics</b> Committee plays a more proactive role in promoting and enforcing the Cardiff Undertaking for Councillors and supporting policies in relation to Member conduct and behaviour; and</li><li>b strengthening member development and learning programmes based on competency assessments to improve skills and understanding to enable them to undertake their roles more effectively; and</li><li>c determining what training should be considered essential for Members to discharge their role effectively.</li></ul>

## Proposals for Improvement

### Performance Reporting

- P6 Further strengthen **performance reporting arrangements** to support decision making by:
- a including SMART performance measures within directorate delivery plans, and ensure that these are reported to Cabinet and scrutiny to demonstrate progress;
  - b consistently using and reporting on a Red/Amber/Green rating for Corporate Plan commitment actions and Directorate Plan actions in quarterly reports provided to Scrutiny;
  - c mandating consistent service level plans; and
  - d prioritising key performance indicators (KPIs) where the Council will seek to demonstrate improved performance and outcomes.

### Corporate Enablers

- P7 Adopt a more cohesive and co-ordinated approach to **corporate enabler functions** to better help the Council drive improvement.
- P8 Further develop the Council's **performance management arrangements** by
- a enhancing the Council's performance management strategy to include guidelines timescales, processes and procedures to support a consistent approach; and
  - b increasing the level of performance management and challenge undertaken by the central performance team.
- P9 Further develop the Council's **Human Resource** processes and strategies by:
- a strengthening the Council's staff appraisal process by including explicitly measurable objectives, capturing information on training on a corporate basis, and developing links to staff's future career aspirations to support workforce and succession planning; and
  - b further embedding the Council's workforce strategy and integrating this with financial and service planning.
- P10 Complete the data capture exercise relating to the **use of assets** and develop a single system to hold appropriate asset management information.
- P11 Ensure all outstanding actions from the Construction Excellence Wales review of the Council's building maintenance framework are completed.

## Proposals for Improvement

### Corporate Enablers

- P12 Further strengthen the Council's **financial planning processes** by:
- a developing more explicit links between the Medium Term Financial Plan and the Council's improvement planning arrangements;
  - b strengthening links between the Medium Term Financial Plan and service plans;
  - c ensuring that savings proposals owned by Directorates are linked to the Organisational Development Programme where relevant, are fully costed, and that delivery is driven by the Organisational Development Programme Board; and
  - d ensuring all budget savings plans are fully developed as appropriate with realistic timescales when the annual budget is set.
- P13 Further strengthen the Council's **IT arrangements** by:
- a further developing the draft Digital ICT strategy and formally agreeing this strategic vision for delivering digitally enabled services;
  - b deploying the Customer Relationship Management system fully to appropriate services across the Council;
  - c implementing the mobile scheduling and flexible working technologies where appropriate; and
  - d expanding the number and depth of ICT KPIs measured and reported, to cover the whole ICT service, and benchmark against public service comparators.
- P14 Further strengthen the Council's **information governance arrangements** by:
- a completing the outstanding actions from the Information Commissioner's Office audit on data protection and information confidentiality;
  - b increasing the level of staff completion of the Council's information confidentiality and data protection e-learning training programme;
  - c fully implementing the Electronic Records Management System across the Council;
  - d improving the Council's response rates against statutory targets in respect of data protection subject access requests and Freedom of Information Act requests; and
  - e completing a Caldicott principles into practice self-assessment.

- 8 The Council must respond to the formal recommendation by preparing a statement of action and proposed timetable within 30 days of receipt of this report.



## Detailed report

Overall, the Council has responded positively to the Corporate Assessment findings, and put better arrangements in place to support improvement and address longstanding issues



## The Council's leadership and management have become more cohesive, have improved engagement with members and staff, and have put in place a clear strategic direction

- 9 Since our Corporate Assessment in September 2014, the Council's leadership is more cohesive. The Leader was appointed in March 2014, and a new Cabinet was put in place following a competitive selection process.
- 10 The Council's leadership and management have improved the culture of the organisation by promoting better engagement with members and staff and encouraging greater openness and self-awareness of the Council's weaknesses and strengths.
- 11 The leadership has taken a number of steps to develop and promote an engaging culture, including the practice of involving opposition leaders in various discussions. For example:
  - a opposition leaders continue to be routinely invited to attend Cabinet meetings in order to raise any issues and ask questions directly of the Cabinet;
  - b the Leader continues to hold regular meetings with opposition leaders;
  - c opposition leaders are invited to attend and partake in the Council's Challenge Forum meetings;
  - d the Chair of the Policy Review & Performance Scrutiny Committee is invited to attend the Council's Challenge Forum meetings in an observer capacity; and
  - e there is clear commitment to supporting the development of the skills of Members via a Member development strategy.
- 12 During our review, we identified a significant consensus of support for the Chief Executive, both from officers and Members. Like the Leader, the Chief Executive has adopted an inclusive approach to engaging with officers, regularly meeting with front line staff and middle tier managers to discuss the Council's improvement progress.
- 13 There is a clear and open commitment, both politically and managerially, to recognise and address the Council's longstanding poor performance.
- 14 The Council has established a clear strategic direction. The Council's Corporate Plan 2015-17 identifies four priorities which are supported by 11 improvement objectives. To assess whether the Council will be successful in delivering its priorities and objectives, national and local indicators to measure performance have been identified. Mandatory directorate delivery plans have been introduced containing the actions and indicators from the Corporate Plan 2015-17, to drive and deliver improvement at a service level.



- 15 The Council has more recently responded proactively to the Welsh Government's long-term strategy of achieving zero waste, addressing the fact that previously it has not achieved Welsh Government targets in relation to recycling. The Council's new waste strategy was consulted on as part of Ask Cardiff 2015, and approved by Cabinet in April 2015. In developing the new strategy, there was appropriate scrutiny with clear, timely and transparent decision making. The impact of the waste strategy on the Council's recycling rates is uncertain as the final performance against recycling targets for 2015-16 is not yet known.
- 16 Following a review of potential alternative delivery models for leisure services in January 2014 by Max Associates, the Council's Cabinet decided to carry out a procurement process for the future management of 11 leisure facilities and two Arts venues. Officers and Members had consistent views in relation to the desired outcomes and the delivery model for leisure services in the future. Residents were consulted on the proposals via Ask Cardiff 2015 and a project board has been established to oversee the project. The new Director of City Operations has a proactive role in this project to embed accountability arrangements.
- 17 The CSSIW published its Annual Review and Evaluation of the Council's Performance 2014-2015 in October 2015 which reported that:
- a The director for social services presents a clear picture of the challenges and areas of progress made within the directorate over the past year. The director also sets clear aims to deliver improvements over the coming year.
  - b The Council is undertaking a strategic overview of services which is enabling the Council to begin to plan for changes within the department.
- 18 During October 2015, Estyn undertook a Significant Improvement visit at the Council to review progress against recommendations made during a monitoring visit in February 2014. One of the recommendations was to 'Improve the effectiveness of the joint planning across the range of partnership working'. In respect of this recommendation, Estyn reported that there is now a more strategic approach to building a culture of partnership working where partners are working more closely to improve wellbeing in order to address underachievement. In addition Estyn reported that there is an increase in the effectiveness of the Council's consultation, and this shift in culture has resulted in better engagement between the Council and its schools.
- 19 Estyn concludes that overall, improvements in partnership working are contributing to better outcomes in schools. Over the period 2013-2015 there has been an improvement of around nine per cent in the proportion of Cardiff pupils achieving the level 2 threshold including English or Welsh and mathematics. During the same period, there have also been improvements in the proportion of pupils achieving the Foundation Phase Outcome Indicator and the core subject indicator at key stage 2. Although secondary attendance levels did not improve in 2014-

15, historical increases from previous years have been maintained. However, the Council has been less effective in working with partners to reduce exclusions and increase the proportion of young people who are engaged in education, employment or training.

- 20 The Council's restructure of its senior management was completed in June 2015, reducing the number of Directors from 11 to seven to help reduce silo working between departments and improve co-ordination and communication amongst the senior management team. Through our interviews with officers and Members we found that overall the restructure was seen as a positive action, and was starting to help improve the effectiveness of delivering services as well as reducing silo working.

### Improving governance arrangements are helping to promote a better culture of accountability and risk management

- 21 Cabinet meetings are conducted in an appropriate manner, and Cabinet members are settling into their roles with robust challenge provided via the opposition leader's questioning. From our observations, reports provided to Cabinet are well written and presented effectively.
- 22 The Council's scrutiny function is improving. Actions from scrutiny meetings are issued to the relevant Cabinet member by the Scrutiny Committee Chair, and our review found that Cabinet members respond promptly.
- 23 The Council's Standards and Ethics Committee has a clear remit to monitor the conduct of members. The Committee, in liaison with the Council's Monitoring Officer, has also organised various training events for Members, including sessions on the appropriate use of Social Media and Data Protection. The Committee's members have also started to attend various Council committee meetings to observe.
- 24 The Council's Audit Committee has an important status within the Council, with the Leader and Chief Executive attending to make presentations on relevant issues. In October 2015, the Committee introduced a tracker system to monitor external regulator reports and Council actions in respect of relevant recommendations and proposals for improvement.
- 25 The quality and impact of the Council's wider accountability processes have improved. These improvements include appraisals for the Leader and Cabinet Members as well as the Chief Executive, and the introduction of a number of mechanisms to directly challenge directorate performance and increase personal accountability of senior managers. For example, the introduction of the Challenge Forum and the Star Chamber.

- 26 The Council has improved the way it identifies and manages risks. The corporate risk register identifies 25 corporate risks and sets out how these are to be managed. The risk management policy contains clear definitions and guidance to officers when determining levels of risk. The Cabinet reviews the risk register on a bi-annual basis and corporate risks are included within the quarterly performance reports to Cabinet.
- 27 The Council has addressed the recommendations from the Information Commissioner's Office 'Undertaking'<sup>1</sup> from August 2013, relating to arrangements for responding to data protection subject access requests. In June 2014 the Information Commissioner's Office found that 'reasonable assurance' could be taken from the Council's information governance arrangements, whilst providing a number of recommendations for improvement. A follow-up review was undertaken in October 2014 and found that further progress had been made.
- 28 The Council has developed an Information Management Strategy for the period 2014-18. A Records Management Policy has also been developed to support the Information Management Strategy which sets out the Council's record retention arrangements. A corporate wide Electronic Records Management System has been piloted and implemented in a small number of areas across the Council as part of the Information Management Strategy. In September 2015 the Council updated its Information Governance Training strategy, with the Information Management Strategy and Records Management Policy being embedded into its e-learning modules for staff.

**The Council's leadership and management are committed to establishing a better performance management culture and improved arrangements are in place to monitor outcomes**

- 29 Longstanding performance management weaknesses are beginning to be addressed and a better performance management culture is emerging. The Leader and Chief Executive are leading efforts to ensure consistent application of performance management across the Council. A performance management strategy has been developed that conveys the importance of reliable, consistent, timely and accurate performance information.
- 30 Quarterly performance reports relating to the Council's directorate delivery plans are presented to Cabinet and Scrutiny Committees. These reports provide both an update on key actions and targets and identify any emerging challenges and risks, which are accompanied by mitigating actions.
- 31 The Council has also introduced the 'Star Chamber' to enable the Leader, Cabinet Members and the Chief Executive to scrutinise directors in respect of their quarterly performance reports. Our observation of the Star Chamber identified that it offers a robust mechanism to question and challenge directorate performance.

<sup>1</sup> There are a number of tools available to the Information Commissioner's Office for taking action to change the behaviour of organisations and individuals that collect, use and keep personal information. One option is the issuing of an 'undertaking' committing an organisation to a particular course of action in order to improve its compliance. [Taking Action - Data Protection page on The Information Commissioner's website](#)

- 32 Cabinet Members recognise the Council's National Strategic Indicators (NSIs) and Public Accountability Measures (PAMs) as important measures of progress and success. The Council has shown ambition by stating in its Corporate Plan that for 2015-16 and 2016-17 it is aiming for over 50 per cent of its NSIs and PAMs to be ranked in the top half when compared against all Welsh Councils.
- 33 As part of our review, we carried out an examination of a sample of the Council's Performance Indicators and operational data systems. Data quality reviews are undertaken to gain assurance that the Council's performance measurement systems are robust and that resulting performance data is accurate. We examined six performance indicators (four National strategic indicators and two local indicators) and the underlying systems used to compile the results.
- 34 For those indicators we reviewed we found that the performance measurement systems are robust and that resulting performance data was generally accurate. Support is provided by the central performance team to assess and verify performance information.

## The Council has improved its arrangements for financial planning, HR management, and asset management and IT

The Council's medium term financial plan has been extended to cover a longer period, and there is increased engagement with directorates in the setting of targets and reshaping of the budget

- 35 The Council's Medium Term Financial Plan now covers the period 2016-17 to 2018-19. Positive steps have been taken to improve the identification of savings for 2016-17 and for the medium term, through engagement with directorates and an exercise to reshape the base budget. Members and directorates are actively involved in the process of setting the savings targets.
- 36 The Council has also raised the profile of financial resilience in a number of ways, including: finance training programmes; member seminars; and the sharing of summarised budget and financial information via a Financial Resilience Dashboard.

## The Council's Human Resource arrangements are helping to strengthen staff capacity and capability

- 37 A revised Personal Performance and Development Review policy was implemented in April 2015. The policy sets out the performance appraisal purpose, relevant roles and responsibilities and the procedure for setting objectives and rating staff performance. A target has been set for 90 per cent completion of staff appraisals by quarter four of 2015-16. As at January 2016, the Council's compliance rate with performance reviews has improved, with 90 per cent of staff having completed the appraisal process.
- 38 The Council has made improvements to days lost to sickness absence by implementing a range of proactive and reactive measures. These include; introducing specific objectives for managers relating to sickness absence, a revision of the Attendance and Well Being policy, a tool kit and a training programme.
- 39 The Council has developed a Workforce Strategy for the period 2015-2018, which recognises the need to respond to future financial and delivery challenges. The strategy is aligned with the Council's vision, values and priorities as set out in its Corporate Plan 2015-17, and places an increased emphasis and priority on workforce planning, identifying the gaps in the current workforce and what the future human resource requirements will be. The strategy contains a basic profile of the current workforce and a clear action plan, with explicit outcomes for seven priority areas:
- a workforce planning,
  - b performance management;
  - c employee voice;
  - d trade union partnership;
  - e learning and development;
  - f health and wellbeing; and
  - g the employee charter.
- 40 Progress against the strategy is reported on a quarterly basis to the Enabling and Commissioning Programme Board and the Organisational Development Board.

### The Council is developing a more strategic and co-ordinated approach to the management of assets

- 41 The Corporate Asset Management Plan identifies the strategic importance of utilising its assets more effectively and sets targets for reduced costs and appropriate ownership. The Asset Management Board and Asset Management Working Group bring together managers from across the Council and its partners to manage assets as a corporate resource, rather than on an individual directorate basis.
- 42 Information held on assets has also improved. The Council now maintains a register of all properties including detailed information about them, such as running costs, floor area and backlog maintenance. Awareness amongst staff of the importance of asset management has been raised via a poster campaign.

### The Council has taken steps to develop and deploy digital services and flexible working technologies

- 43 A draft Digital Strategy is being further developed to deploy a 'digital first' approach to redesigning services. This approach is designed to enable the public to communicate and transact with the Council electronically, whilst paying for services using mobile technologies through fully automated IT systems. The Council acknowledges that modern technology needs to be combined with a customer-focussed approach to ensure services are easy to use and efficient. The Council is aiming to converge the IT systems used across the organisation to focus on fewer corporate solutions and standards for the storing of information.
- 44 The deployment of a new Customer Relationship Management system is planned for December 2015. This maintains all public contacts and services in a single IT system, enabling new channels for a more automated based service delivery; for example, reporting a missed bin collection via a mobile device. The Council has developed a three-year phased implementation plan for the system and aims to move all services online by 2018-19.
- 45 The Council has also begun implementing flexible working technologies across service areas. From May 2014 mobile scheduling was introduced to Community Maintenance to automate and redesign services, allowing Council staff to work in a more agile and efficient way. Mobile scheduling is currently planned for deployment in Adult re-ablement by the end of 2015.

The Council is now at a critical point in ensuring that improved arrangements are embedded and implemented consistently and constructively across the organisation in order to achieve a step change in delivering improved outcomes

### **The commitment of the Council's Leadership and Management to a cohesive and inclusive culture is not always being engaged with consistently or constructively across the Council**

- 46 The Council's leadership and management have demonstrated increased cohesion and engagement and set out clearer strategic aims regarding performance and accountability. However, the extent to which these arrangements and new opportunities are constructively engaged with is not consistent across the Council. We found that the extent to which performance management and accountability was embedded throughout the organisation was variable.
- 47 The Council has acknowledged strategic weaknesses within Adult Social Care, and commissioned the services of a peer reviewer to undertake a diagnostic assessment of the service. The diagnostic identified that professional leadership in the service has been underpowered, and while the senior team operated effectively as individuals there has been limited collective action. The Council reported this to its Community and Adult Services Scrutiny Committee, which shows its openness and a commitment to surface and address longstanding issues collectively in an engaged manner.
- 48 Whilst it is clear that most Members and officers we spoke to as part of this review are positive about the direction in which the Leadership and Management are developing a more engaged culture, they were also clear that the arrangements and new opportunities to engage are not being consistently or constructively engaged with by all. Variable Member engagement and attendance are observed at Scrutiny Committee meetings, the Leader's meetings with opposition leaders, the Challenge Forum, Member Training and Member Briefing sessions. However, commitment to attending and engaging in full Council meetings, which are always webcast to the public, is strong.

### **There are a number of weaknesses in governance arrangements, some of them longstanding, that are yet to be fully addressed**

- 49 The Council's Standards and Ethics Committee is not sufficiently proactive in taking action relating to concerns we identified regarding the conduct of a small number of Members. The Council has in place the 'Cardiff Undertaking' for Members, setting out expectations in relation to their conduct. The Standards Committee has also set out in its Annual Report the 10 general principles of public life and its commitment to play a positive and proactive role. However, the Committee could do more to visibly enforce the principles and the Cardiff Undertaking, as it appears that Member engagement is not consistently positive, professional and constructive. Some Members have openly disengaged in Council business and feel the need to engage with the media and social media to get their points across.



- 50 The Standards and Ethics Committee, in liaison with the Monitoring Officer, organises various training for Members. However, it should give further consideration to how it can increase the number of members attending the training sessions, and what training should be considered essential for Members to discharge their role effectively, for example, the use of social media and data protection.
- 51 The Council has Informal Cabinet meetings, as is the usual practice in most Councils. However, the role and responsibilities of the Informal Cabinet need to be clarified and communicated to Members and officers. Appropriate documentation and records of discussions as well as actions should be kept to enable a clear decision making trail (including recording when it has been agreed not to take a decision or not to consider a specific option).
- 52 Three Assistants to Cabinet Members have been appointed. Their functions are clearly defined in the Council's constitution, but during our review they were often referred to as Assistant Cabinet Members, which are posts that are not permissible. This lack of clarity raises the risk that they may be perceived to be members of the Cabinet or inappropriately become directly involved in the decision making process. However, the Council advised us that they did not do so.
- 53 An Affordable Housing Advisory Group, which provides advice to the Cabinet on specific policy issues, has been established. There are two Members who are both part of the Advisory Group and a Scrutiny Committee whose remit covers the policy area being developed by the Advisory Group that they sit on. This clouds accountability arrangements and the independence of Scrutiny.
- 54 Decisions relating to the Council's executive functions are taken by the Cabinet as a whole or delegated to its Senior Officers. These arrangements are set out in the Council's constitution and recorded in its decision register, both of which are available on the Council's website. The Council has started to consider whether to delegate some of these executive decisions to individual Cabinet Members so as to help speed up executive decision-making, in line with the comments we made in our September 2014 Corporate Assessment report. However, the issue of whether to delegate executive decisions to individual Cabinet Members has not yet been resolved by the Council.
- 55 The Scrutiny Committees have a number of vacancies, and often have low member attendance. Not all Members are perceived to be fulfilling their democratically elected roles, and the responsibilities entrusted to them to constructively challenge policy and decision makers. This undermines the potential effectiveness and impact of Scrutiny.
- 56 Transparency via the Council's webcasting is not consistent. Currently only full Council and, since November 2015, Planning Committee meetings are webcast live. The Council is developing the wider use of webcasting through the use of trials, but it has yet to be fully implemented for all committee meetings.



- 57 Whilst improvements have been made in ensuring that committee minutes are promptly and accurately published on the Council's website, there are still some instances where this is not the case.
- 58 The Council is aware that a number of the recommendations made by the Information Commissioner in June 2014 during its review of the Council's information governance arrangements have yet to be fully addressed.
- 59 The Council is currently below its target for completion of information confidentiality and data protection e-learning. As at October 2015, 81 per cent of staff had completed the training for 2015 against a target of 85 per cent.
- 60 The Council started to implement a corporate Electronic Records Management System during 2015. However, this has only been piloted in a small number of areas and not rolled out across the whole Council.
- 61 The Council monitors its response to data protection subject access requests and Freedom of Information Act requests against statutory targets. At the time of our review, data protection information subject access requests have been measured at 86 per cent against a compliance target of 90 per cent for responses within 40 days. All Freedom of Information Act requests must be responded to within twenty days. At the time of our review, the Council had only achieved this in respect of 75 per cent of requests managed by the corporate information management team, and 71 per cent in respect of requests managed by the Council's directorates.
- 62 In April 2014 the Council formally acknowledged the Director of Social Services as the Caldicott Guardian<sup>2</sup>. Whilst it is good practice to complete a Caldicott Principles into Practice self-assessment on the Council's Caldicott arrangements, as at December 2015 this has not been done.

### **The Council is yet to demonstrate a step change in improvement in some key service areas and does not consistently report performance measures effectively**

- 63 During October 2015, Estyn undertook a Significant Improvement visit at the Council to review progress against recommendations made during the monitoring visit in February 2014. One of the recommendations being followed up was 'Reduce exclusions and reduce the proportion of young people who are not in education, employment or training post-16'. In respect of this recommendation, Estyn identified that the percentage of young people who are not in education, employment or training (NEET) in Cardiff continues to fall. Despite this, the Council continues to be one of the worst performing in Wales and the variation across schools is too great. In Cardiff schools in 2014, Year 11 NEETs ranged from 0.4 per cent to 13 per cent.

<sup>2</sup> Caldicott Guardians ensure that all organisations working in Health and Social Care have appropriate policies and processes in place to protect sensitive information, in the form of patient-identifiable data, from unnecessary and insecure disclosure. NHS Wales Informatics Service, **Caldicott (Principles into Practice (C-PIP) Foundation Manual for Caldicott Guardians**, Second Edition 2012.

- 64 The CSSIW published its Annual Review and Evaluation of the Council's Performance 2014-2015 in October 2015, which reported that performance indicators that demonstrate some key areas of performance still require improvement. CSSIW, **Performance Evaluation Report 2014–15: The City of Cardiff Council social services**, October 2015.
- 65 There are 18 NSI and PAMs relating to adult and children services. The Council's performance declined between 2013-14 and 2014-15 in respect of fourteen of these performance indicators, with three improving and one remaining unchanged.
- 66 In 2013-14 the Council did not meet the Welsh Government target of 52 per cent for recycling, only achieving 49.7 per cent, ranking it twentieth out of twenty two when compared to all Councils in Wales. In 2014-15 the Council exceeded the 52 per cent target, achieving 53.3 per cent. However, the Council has acknowledged that this improvement was, in part, due to the inclusion in the figures of a stockpile of street sweepings, which was a one-off inclusion. The Welsh Government recycling target for 2015-16 is 58 per cent. The Council will require a step change in performance to meet this target, and it has launched a new strategy to help it achieve this. The Council is confident that this target will be met, however, until the end of 2015-16 this is uncertain.
- 67 Based on the National Strategic Indicators (NSIs) and Public Accountability Measures (PAMs), the Council's overall performance has declined. The 2014-15 NSI and PAM data shows 26 indicators declined with 18 improving and one unchanged.
- 68 The content and presentation of information in the quarter one performance report presented to Cabinet varied between Directorates. The report set out all of the indicators against which the Council measures progress, including NSIs, PAMs and other local indicators. Progress against target for these indicators is reported using a Green/Amber/Red rating where: Green is on target; Amber is not on target but is recoverable in relation to its target; and Red is not on target and significant work is required to recover it to a position of being on target. In respect of these indicators 62 are rated as Green, 34 as Amber and 14 as Red. Whilst each Directorate sets out how many Corporate Plan Commitment actions and Directorate Plan actions are Green, Amber or Red, the narrative does not consistently explain which rating is attached to the specific actions.
- 69 Scrutiny Committees receive the quarterly performance reports in the same format as those presented to Cabinet. Therefore, the weaknesses relating to performance reporting to Cabinet are replicated during the scrutiny process.
- 70 Both officers and Members acknowledge that, due to current financial constraints, the Council can no longer improve the performance of all NSI and PAM indicators. However, our interviewees were uncertain which indicators the Council should target to improve performance.

- 71 The Council's Corporate Plan 2015-17 and directorate delivery plans do not always contain baseline data to provide the necessary context for the Council's performance. The quality of performance measures varies in the directorate delivery plans, as measures are often not outcome focussed. In addition, not all plans contain information in relation to partners, or links to the Council's Medium Term Financial Plan.
- 72 Service Level plans are not mandatory, and those that are in place are inconsistent. We reviewed four service plans, which three had different timescales: 2015-16; 2015-17; and 2015-18. There is also a lack of consistency in the performance measures contained within the service level plans against which improvement can be measured, and services held to account.

### Corporate enabler functions are not operating in a sufficiently cohesive way to drive improvement

- 73 Corporate enabler functions should support the efficient and effective delivery of Council services. The Council's enabling functions, such as Performance Management, Human Resources, Asset Management, Procurement, Finance and IT, are being strengthened. However, they are not yet working in a sufficiently cohesive way to provide the necessary strong core of support and challenge to help the Council drive service improvement.
- 74 Performance management arrangements are underpowered and are not implemented fully across the Council. The Council has produced a performance management strategy that conveys the importance of performance management information. However, the strategy lacks the guidance, timescales, processes and procedures necessary to ensure a consistent approach and to support accountability. Our interviews identified mixed views on the level of challenge provided by the central performance team to the directorates. It appears to us that the role of the central performance team is to monitor rather than support the management and improvement of performance. In October 2015 the Council published its annual assessment of performance in respect of the previous year, in accordance with the Local Government (Wales) Measure 2009 (the Measure). The Council failed to provide an overall assessment of performance for each of the Council's improvement objectives, and therefore failed to satisfy the requirements of the Measure.
- 75 Whilst the Council has a workforce strategy in place, it is unclear how workforce planning is embedded in and integrated with financial and service planning. The staff appraisal process does not consistently contain sufficiently explicit measurable objectives. Nor does the appraisal process produce corporate information on training received and delivered, and the workforce's future career aspirations.

- 76 Improved arrangements to manage assets are yet to be fully established. The Council has yet to complete its assessment of the current use and suitability of its assets its future accommodation needs. Management information relating to assets is not drawn from a single system, instead coming from a range of sources requiring manual collation to produce management reports. This inefficient arrangement is hindering the Council from being able to fully deliver its Corporate Asset Management Strategy.
- 77 The Council has responded to a review of its building maintenance framework by Construction Excellence Wales in June 2015. The report contained a number of criticisms concerning accountability, the management of property assets, communication, decision-making, inefficiencies and waste, and the non-management of performance. A detailed action plan has been developed and its progress was reported to the Audit Committee in November 2015. However, whilst some actions in the plan have been completed a number are outstanding and were not achieved by the target completion date.
- 78 As part of the Council's decision to consider alternative delivery models for leisure services, we identified that the original timescale for the procurement process relating to the future management of a number of leisure venues was not achieved. We found that it was uncertain when the procurement process would conclude and when Cabinet would be required to make a decision. We also identified that the support provided to Cabinet Members to facilitate the decision making in relation to the procurement could have been strengthened. For example, by providing briefings to Members on the complexities in the procurement process. Delays in the procurement process may impact on the achievement of the Council's 2015-16 savings, although the Council is confident that the required savings will be achieved elsewhere within the same directorate.
- 79 The Council is developing financial savings plans but these are not yet fully developed or underpinned by a robust delivery strategy. The Council reported a net surplus of £1.741 million on its 2014-15 budget. This was achieved by application of one-off savings not originally anticipated, and the use of the centrally held £4 million contingency budget to mitigate planned savings not being achieved. In-year service overspends are reported transparently, but the year-end position is balanced using corporate flexibilities, including the contingency budget savings.
- 80 The outturn position included a shortfall on the 2014-15 savings target of £6.9 million. Current projections are that £2.8 million of this shortfall, along with £5.7 million of the 2015-16 target savings are unlikely to be achieved by 31 March 2016. Undelivered savings mainly relate to service delivery changes which have not happened or are taking longer to implement than anticipated, resulting in either a part-year or no in-year saving. This suggests that savings plans are not sufficiently advanced when the budget is set.

- 81 The Council has forecast a Medium Term Financial Plan shortfall of £116 million for the period 2016-17 to 2018-19, which includes a target of £44 million for policy-led savings. The Council recognises that the budget gap for future years is subject to change and key variables will need to flex to reflect this. The Council's Organisational Development Plan is the key driver for reviewing the shape and scope of services that can be delivered within the budget available. However, savings plans included in the Medium Term Financial Plan are not directly linked to work streams or projects in the Organisational Development Plan.
- 82 During 2015-16, we undertook a separate review in relation to the Council's financial resilience. The report has been issued separately to the Council and summarised in this report.
- 83 The pace at which the Council has deployed new initiatives using technology to deliver service modernisation and support business transformation has been slower than planned. The Council intended to start the three-year roll out of the Customer Relationship Management System in October 2015, but at the time of reporting this has not occurred. It is also uncertain whether the Council will be able to manage the deployment of the Customer Relationship Management system to meet the timescales identified in the strategic three-year road map, and deliver the expected benefits. Given current financial constraints, the Council is facing a challenge to provide sufficient capital and revenue budget to upgrade ageing IT systems.
- 84 The pace of deployment of business process change projects has been slow until more recently. For example, the roll out of mobile scheduling has not yet been implemented consistently across the Council. Service redesign and cultural changes have also not occurred consistently to allow the Council to increase the pace of the roll-out of mobile scheduling to automate manual processes.
- 85 ICT KPIs have been developed and aligned to the emerging corporate performance management approach developed in 2014. The KPIs on the ICT service are reported quarterly at a directorate and corporate level. However, this small number of KPIs provide limited information and do not cover wider ICT service criteria such as cost measures. In addition, assessment of the Council's ICT service performance does not include benchmarking against comparators.

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**CITY & COUNTY OF CARDIFF  
DINAS A SIR CAERDYDD**

**STANDARDS AND ETHICS COMMITTEE:**

**22 MARCH 2016**

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**REPORT OF THE INTERIM MONITORING OFFICER**

**HEARINGS PANEL PROCEDURE**

**AGENDA ITEM : 5**

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**Reason for this Report**

1. To allow the Committee to consider proposed amendments to the Hearings Panel Procedure.

**Background**

2. Under its terms of reference the Standards and Ethics Committee has responsibility to hear and determine any complaints of misconduct by Members or a report of the Monitoring Officer, whether on reference from the Ombudsman or otherwise.

On 2 May 2013 the Committee appointed a Sub-Committee, known as the Hearings Panel, to discharge these functions on its behalf.

3. Complaints may be referred to the Hearings Panel by:-
  - (i) The Ombudsman under Part 3 of the Local Government Act 2000.
  - (ii) The Monitoring Officer under the Local Resolution Protocol adopted by the Council on 23 May 2013 to deal with relatively minor "Member on Member" complaints.
4. The purpose of this Report is to allow the Committee to consider proposed amendments to the Hearings Panel Procedure.

**Issues**

5. Part 3 of the Local Government Act 2000 allows the National Assembly for Wales to prescribe a Model Code of Conduct for local authority members.
6. The National Assembly made a Model Code under the Local Authorities (Model Code of Conduct) (Wales) Order 2008. This Council has adopted the Assembly's Model Code of Conduct and it is published in the Council's Constitution.

7. The formal mechanism for enforcing the Code of Conduct is set out in Part 3 of the Local Government Act 2000. The Public Services Ombudsman for Wales has jurisdiction to investigate complaints that a local authority member has failed to comply with the Code of Conduct.
8. In 2013 the Ombudsman indicated that the majority of “Member on Member” complaints referred to him were relatively low level behavioural issues, typically during what could often be seen as the cut and thrust of Council debate and local politics.
9. The Ombudsman indicated that such complaints could be more appropriately resolved informally by the adoption of “Local Resolution Protocols”. These are voluntary arrangements that have no statutory force.
10. The City of Cardiff Council adopted a Local Resolution Protocol on 23 May 2013 and every Councillor has signed up to it when they signed the Cardiff Undertaking.
11. The Protocol anticipates that a complaint should first be formally mediated by the Monitoring Officer. If this informal approach does not resolve the complaint the Protocol allows the complaint to be referred to a Sub-Committee of the Standards and Ethics Committee comprised of independent members. This Sub-Committee is referred to as the Hearings Panel.
12. Also in 2013 the Standards and Ethics Committee adopted a Procedure to govern the conduct of hearings by the Hearings Panel. A copy is provided as **Appendix A**.
13. It is now proposed to revise the Procedure and a copy of the proposed revised procedure is provided as **Appendix B**.
14. The main changes proposed are as follows:-
  - (a) The imposition of a time limit of 3 months for referral of a complaint under the Protocol to the Monitoring Officer.
  - (b) Clarity is provided that the officer who attempts to mediate a complaint will not subsequently be the officer who advises the Hearings Panel.
  - (c) There will be one comprehensive hearing to deal with issues of fact, breach of the Code, and sanction rather than 3 mini-hearings as at present.
  - (d) The Panel’s written decision will be published on the Council’s website for a period of 21 days rather than indefinite publication of the full decision as at present. This matches the statutory requirement in respect of complaints which are referred from the Ombudsman. [In any event there is a statutory requirement for the minutes of the Sub-Committee to be published].



## **Legal Implications**

15. The relevant legal implications are set out in the body of this Report.

## **Financial Implications**

16. There are no direct financial implications arising from this Report.

## **RECOMMENDATION**

The Committee is asked to consider and comment upon whether the revised Hearings Panel Procedure set out at **Appendix B** should be adopted.

**David Marr**  
**Interim Monitoring Officer**  
1 March 2016

## **APPENDICES**

Appendix A	Existing Hearings Panel Procedure
Appendix B	Proposed Hearings Panel Procedure

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**CARDIFF COUNTY COUNCIL**  
**STANDARD AND ETHICS COMMITTEE**

**LOCAL RESOLUTION PROTOCOL**

**PANEL HEARING PROCEDURE**

## 1. Introduction

- 1.1. Cardiff Council has adopted a Local Resolution Protocol. The purpose of the Protocol is to enable “minor member on member” allegations of breaches of the Member’s Code of Conduct to be dealt with at a local level, rather than being referred to the Public Services Ombudsman for Wales.
- 1.2. In accordance with the Protocol a sub-committee of the Standards and Ethics Committee has been formed to carry out hearings in relation to alleged breaches. This sub-committee is referred to in this document as the “**Hearings Panel**”.
- 1.3. This document sets out how matters may be referred to the Hearings Panel and the Procedure that the Panel shall adopt in relation to matters that are referred to it.

## 2. Referral to the Hearing Panel

- 2.1. The Protocol provides for the parties involved in the complaint to first attempt to informally resolve the matter with the assistance of the Monitoring Officer. The complaint may be referred to a meeting of the Hearing Panel if:
  - a. the Monitoring Officer is of the view that making informal attempts to mutually resolve the matter is inappropriate; or
  - b. having made attempts to mutually resolve the matter, the Member who is making the complaint (known as the “**Complainant**”) asks the Monitoring Officer to refer the matter to the Hearing Panel.
- 2.2. In such cases the Monitoring Officer will make arrangements convene a meeting of the Hearing Panel and to refer that matter to it.
- 2.3. Prior to the Hearing, the Monitoring Officer will arrange for the following documents to be made available to the Panel Members, the Complainant and the Member against whom the complaint is made (known as the “**Respondent**”).<sup>1</sup>

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<sup>1</sup> We have not provided timescales in an attempt to leave flexibility as to how these documents are produced and how quickly a Panel can be convened.

- a. A brief written summary from the Complainant, comprising of:
  - i a brief summary of the conduct that has given rise to the complaint;
  - ii a list of any witnesses the Complainant wishes to call to appear before the Hearing Panel;
  - iii a list and copies of any documents the Complainant wishes to draw to the attention of the Hearing Panel; and
  - iv details of the paragraphs of the Code that are alleged to have been breached.
  
- b. Following the Monitoring Officer giving the Respondent a copy of the documents referred to in paragraph a above, a brief written summary of the response from the Respondent to the allegations, including:
  - i a brief summary of the Respondent's response to the facts as alleged by the Complainant;
  - ii a list of any witnesses the Respondent may wish to call to appear before the Hearing Panel; and
  - iii a list and copies of any documents the Respondent may wish to draw to the attention of the Hearing Panel.
  
- c. If the Monitoring Officer believes it appropriate in the circumstances, a brief written report from the Monitoring Officer in relation to any investigations into or attempts to settle the complaint or any other matter the Monitoring Officer believes to be relevant to the deliberations of the Hearing Panel.

2.4. If a matter involves "cross allegations" with two or more Members making allegations of breaches of the Code against each other, the Monitoring Officer (in consultation with the Chair) may convene one Hearing to deal with all such allegations simultaneously. In such circumstances the Monitoring Officer may amend the requirements of paragraph 2.3 to ensure that fair opportunity to present and respond to complaints are afforded to each Member prior to the Hearing.

### **3. Legal Advice and the Monitoring Officer's Role at Hearings**

- 3.1. The Monitoring Officer (or the Deputy Monitoring Officer) shall be in attendance at Hearings to advise the Hearing Panel.
  
- 3.2. If the Monitoring Officer has investigated a complaint, he/she will attend a Hearing in his/her role as the person who has investigated the complaint and will not be present to provide legal advice to the Committee. In such cases, the Deputy Monitoring Officer or another of the Authority's lawyers will be present to advise the Committee.
  
- 3.3. The Committee may take legal advice from its advisor at any time before or during the Hearing or while the outcome is being considered.

The substance of any legal advice given to the Committee should be shared with the Complainant and Respondent, but not the detail of the request for legal advice.

#### **4. Representation**

- 4.1. Members may be represented or accompanied during the Hearing by another Member, or any other person if they so desire. However, when making a decision on representation Members should bear in mind that Local Resolution is intended to provide a relatively informal forum to resolve relatively minor complaints.
- 4.2. Members are responsible for meeting their own costs of any representation.

#### **5. Composition and Decisions of the Hearing Panel**

- 5.1. The Hearing Panel shall be composed of three independent members of the Standards and Ethics Committee. The Standards and Ethics Committee may also resolve to co-opt suitably experienced independent persons to serve as members on the Hearing Panel.
- 5.2. The Hearing Panel shall appoint one of them to serve as Chair for each Hearing.
- 5.3. Except for decisions that are expressed in this Procedure to be taken by the Chair, any decision of the Hearing Panel shall be made on the basis of a simple majority vote.

#### **6. General Powers of the Hearing Panel in relation to this Procedure**

- 6.1. The Chair may agree to vary this procedure in any particular instance where they are of the opinion that such a variation is necessary in the interests of fairness. The Chair may also vary this procedure in the interests of ensuring an efficient hearing (provided that such variation does not have any detrimental impact on the fairness of this procedure).
- 6.2. Panel members may ask any questions they wish to anyone taking part in the Hearing.
- 6.3. The Panel may also require the attendance of a particular person or the production of specific documentation where they are of the view it would assist their deliberations.

#### **7. Introductions**

- 7.1. At the start of the Hearing, the Chair shall introduce each of the Members of the Hearing Panel and everyone involved in the Hearing. The Chair shall then explain the procedure that the Panel is to follow in

conducting the Hearing and should obtain confirmation from everybody taking part in the Hearing that they have understood the procedure.

## **8. Preliminary Procedural Issues**

- 8.1. The Panel should then resolve any issues or disagreements about how the Hearing should continue, including whether all or part of the Hearing should be heard without the attendance of the public.
- 8.2. If a party wishes to adduce additional information to the Panel that was not included in the summaries they produced for circulation prior to the Hearing they should apply to the Panel for permission to do so before the commencement of the formal part of the Hearing.
- 8.3. It will assist if the Legal Advisor and the other party have been provided with details of the late information as early as possible but at least two days before the commencement of the Hearing. The Panel retains sole discretion whether to permit the late introduction of information but shall always seek to ensure that neither party is prejudiced and all parties are able to present evidence which is relevant to the matters before the Panel.
- 8.4. If any party fails to attend the Hearing, the Panel may, depending on any reasons given for such non-attendance, continue with the proceedings or adjourn the Panel to another date.

## **9. Stage 1 – Formal Findings of Fact**

- 9.1. After dealing with any preliminary issues, the Panel should then consider whether or not there are any significant disagreements about the facts.
- 9.2. If there is no disagreement about the facts, the Panel can move on to the next stage of the Hearing.
- 9.3. If there is disagreement about the facts, the Complainant should be invited to make representations to support the allegations they are making. With the Panel's permission, the Complainant may call witnesses to give evidence. The Panel may allow the Respondent an opportunity to challenge or comment upon any evidence put forward by the Complainant or any witness called by the Complainant.
- 9.4. The Respondent should then have the opportunity to make representations to support their version of the facts. With the Panel's permission, the Respondent may call witnesses to give evidence. The Panel may allow the Complainant an opportunity to challenge or comment upon any evidence put forward by the Respondent or any witness called by the Respondent.

9.5. The Panel shall then retire to consider their decision in relation to the facts.

9.6. Once the Panel has reached a decision and the Hearing has been re-convened, the Chair will announce the Panel's findings of fact.

## **10. Stage 2 – Did the Member fail to follow the Code?**

10.1. The Panel then needs to consider whether or not, based on the facts it has found, the Respondent has failed to follow the Code of Conduct. It should be noted that this stage of the hearing does not provide either the Complainant or the Respondent an opportunity to re-examine the facts of the case.

10.2. The Complainant should first be invited to give reasons as to why they believe (on the facts as determined by the Panel) the conduct of the Respondent amounts to a breach of the Code.

10.3. The Respondent should then be invited to give reasons as to why they believe (on the facts as determined by the Panel) their conduct does not amount to a breach of the Code.

10.4. The Panel shall then retire to consider their decision in relation to whether the facts found by the Panel amount to a breach of the Code.

10.5. Once the decision is reached and the Hearing re-convened, the Chair will announce the Panel's decision as to whether there has been a breach of the Code.

## **11. Stage 3 – Breach of the Code and Sanctions**

### **11.1. If it is found that the Councillor has not breached the Code of Conduct.**

- a. If the Panel determines that the Respondent has not breached the Code, the Panel shall dismiss the case.
- b. However, the Panel may consider whether it should make any general recommendations to the Members involved or all Members as a consequence of any matters arising from the Hearing.

### **11.2. If it is found that the Councillor has failed to follow the Code of Conduct**

- a. If the Panel determines that the Respondent has failed to follow the Code, it will consider any representations from:
  - i the Complainant; and

- ii the Respondent,

as to any extenuating circumstances and whether or not the Panel should impose any sanction and what form that sanction should take.

- b. The Panel shall then retire to consider their decision in relation to whether a sanction should be imposed. In making that determination the Panel may consider any factor they consider to be relevant, including:
  - i the severity of the offence;
  - ii the level of remorse the Respondent has shown and any apologies they have made; and
  - iii whether there is any indication of the behaviour being repetitious or whether the Respondent has previously been found to have committed similar offences.
- c. Once the decision is reached and the Hearing re-convened, the Chair will announce the Panel's decision as to whether a sanction will be imposed.

### **11.3. Sanctions Available to the Panel**

- a. The Panel may impose such sanctions as are stated as being available to it in the Protocol (as amended from time to time).

## **12. The Written Decision**

- a. The Panel will announce its decision orally on the day.
- b. The Panel will also issue a written decision shortly after the end of the Hearing. A copy of the written decision shall be published on the Authority's website not later than 14 days after the date of the Hearing.



**CITY OF CARDIFF COUNCIL**  
**LOCAL RESOLUTION PROTOCOL**  
**STANDARDS AND ETHICS COMMITTEE**  
**HEARINGS PANEL PROCEDURE**

## **1. Introduction**

- 1.1. The City of Cardiff Council has adopted a Local Resolution Protocol. The purpose of the Protocol is to enable minor “member on member” allegations of breaches of the Members’ Code of Conduct to be dealt with at a local level rather than being referred to the Public Services Ombudsman for Wales.
- 1.2. In accordance with the Protocol a Sub-Committee of the Standards and Ethics Committee has been formed to carry out hearings in relation to alleged breaches. This Sub-Committee is referred to in this document as the “**Hearings Panel**”.
- 1.3. This document sets out how matters may be referred to the Hearings Panel and the Procedure that the Panel shall adopt in relation to matters that are referred to it.
- 1.4. In this document references to the Monitoring Officer shall include references to their Deputy or other officer appointed for the purposes of the Protocol.

## **2. Stage 1 (Initiation of a Complaint)**

- 2.1. Any Member who wishes to make a complaint under the Protocol should send their complaint to the Monitoring Officer within three months of the event which has given rise to the complaint; or within three months of the substance of the complaint coming to the attention of the Member submitting the complaint.
- 2.2. The Monitoring Officer will advise whether the complaint falls within the Protocol or whether the Complainant should consider referral to the Ombudsman.
- 2.3. If the Monitoring Officer determines that the complaint falls within the Protocol he/she will seek an informal resolution of the matter (although see paragraph 2.4 below). The parties should note that details of attempts to achieve an informal resolution may be referred to at any subsequent hearing by the Hearings Panel.
- 2.4. The complaint may be referred to a meeting of the Hearings Panel if:

- a. the Monitoring Officer is of the view that making informal attempts to mutually resolve the matter is inappropriate; or
  - b. having made attempts to mutually resolve the matter, the Complainant asks the Monitoring Officer to refer the matter to the Hearings Panel.
- 2.5. In such cases the Monitoring Officer will make arrangements to convene a meeting of the Hearings Panel and to refer that matter to it.
- 2.6. The Monitoring Officer may choose not to deal with the complaint personally at Stage 1 in order to be able to advise the Hearings Panel under Stage 2, in which case the Deputy Monitoring Officer or other officer nominated for the purpose will provide advice to the parties under Stage 1 and seek informal resolution.

Alternatively if the Monitoring Officer deals with the complaint at Stage 1 the Deputy Monitoring Officer or other officer nominated for the purpose will advise the Hearings Panel at Stage 2.

### **3. Stage 2 (Referral to the Hearings Panel)**

- 3.1. The Complainant will provide the Monitoring Officer with written details of their complaint to include:
- i a written account of the conduct that has given rise to the complaint;
  - ii a list of any witnesses whom the Complainant wishes to call to appear before the Hearings Panel;
  - iii a list and copies of any documents that the Complainant wishes to draw to the attention of the Hearings Panel; and
  - iv details of the paragraphs of the Members' Code of Conduct that are alleged to have been breached.
- 3.2. The Monitoring Officer will give the Respondent a copy of the documents referred to in paragraph 3.1 above. The Respondent will give the Monitoring Officer written details of their response to the allegations to include:
- i written details of the Respondent's response to the facts as alleged by the Complainant;
  - ii a list of any witnesses whom the Respondent wishes to call to appear before the Hearings Panel; and
  - iii a list and copies of any documents that the Respondent wishes to draw to the attention of the Hearings Panel.
- 3.3. Prior to the hearing the Monitoring Officer will arrange for the documents referred to in paragraphs 3.1 and 3.2 to be made available to the Panel Members, the Complainant, and the Respondent. If the Monitoring Officer believes it appropriate in the circumstances the

Monitoring Officer will also provide a Report in relation to any investigations into or attempts to settle the complaint or any other matter that the Monitoring Officer believes to be relevant to the deliberations of the Hearing Panel.

- 3.4. If a matter involves cross allegations with two or more Members making allegations of breaches of the Code against each other, the Monitoring Officer (in consultation with the Chair) may convene one Hearing to deal with all such allegations simultaneously. In such circumstances the Monitoring Officer may amend the requirements of paragraphs 3.1 – 3.3 to ensure that a fair opportunity to present and respond to complaints is afforded to each Member prior to the Hearing.

#### **4. Legal Advice and the Monitoring Officer's Role at Hearings**

- 4.1. The Monitoring Officer, Deputy Monitoring Officer, or other officer nominated for the purpose shall be in attendance at hearings to advise the Hearings Panel.
- 4.2. If the Monitoring Officer has investigated a complaint, he/she will attend a hearing in his/her role as the person who has investigated the complaint and will not be present to provide legal advice to the Hearings Panel. In such cases, the Deputy Monitoring Officer or another of the Authority's lawyers will be present to advise the Hearings Panel.
- 4.3. The Hearings Panel may take legal advice from its advisor at any time before or during the hearing or while the outcome is being considered.

#### **5. Attendance and Representation at Hearings**

- 5.1. If Members who are party to the complaint do not wish to attend the hearing or fail to attend the hearing the hearing may proceed in their absence.
- 5.2. Members may be represented or accompanied during the hearing by another Member, or any other person if they so desire. However when making a decision on representation Members should bear in mind that Local Resolution is intended to provide a relatively informal forum to resolve relatively minor complaints.
- 5.3. Members are responsible for meeting their own costs of any representation.

#### **6. Composition and Decisions of the Hearings Panel**

- 6.1. The Hearings Panel shall be composed of three independent members of the Standards and Ethics Committee. The Standards and Ethics Committee may also resolve to co-opt suitably

experienced independent persons to serve as members on the Hearings Panel.

- 6.2. The Hearings Panel shall appoint one of their number to serve as Chair for each hearing.
- 6.3. Except for decisions that are expressed in this Procedure to be taken by the Chair, any decision of the Hearings Panel shall be made on the basis of a simple majority vote.

## **7. General Powers of the Hearings Panel in relation to this Procedure**

- 7.1. The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness. The Chair may also vary this procedure in the interests of ensuring an efficient hearing (provided that such variation does not have any detrimental impact on the fairness of the proceedings).
- 7.2. Panel members may ask any questions they wish to anyone taking part in the Hearing.
- 7.3. The Panel may also seek the attendance of a particular person or the production of specific documentation where they are of the view it would assist their deliberations.

## **8. Introductions**

- 8.1. At the start of the hearing the Chair shall introduce each of the Members of the Hearings Panel and everyone involved in the hearing. The Chair shall then explain the procedure that the Panel is to follow in conducting the hearing and should obtain confirmation from everybody taking part in the hearing that they have understood the procedure.

## **9. Additional Information**

- 9.1. If a party wishes to present additional information to the Panel that was not included in the written material that they produced for circulation prior to the hearing they should apply to the Panel for permission to do so before the commencement of the formal part of the hearing.
- 9.2. It will assist if the Legal Advisor and the other party have been provided with details of the late information as early as possible but at least two days before the commencement of the hearing. The Panel retains sole discretion whether to permit the late introduction of information but shall always seek to ensure that neither party is prejudiced and all parties are able to present evidence which is relevant to the matters before the Panel.

## **10. Order of Procedure at the Hearing**

- 10.1. After the introductions and any other preliminary matters the Complainant may address the Hearings Panel and may be questioned by members of the Panel.
- 10.2. Any witnesses that the Claimant wishes to call may address the Hearings Panel and may be questioned by members of the Panel.
- 10.3. The Respondent may address the Hearings Panel and may be questioned by members of the Panel.
- 10.4. Any witnesses that the Respondent wishes to call may address the Hearings Panel and may be questioned by members of the Panel.
- 10.5. The Complainant may address the Hearings Panel with any closing remarks.
- 10.6. The Respondent may address the Hearings Panel with any closing remarks.
- 10.7. The Hearings Panel will retire to deliberate in private.

## **11. The Hearings Panel's Deliberations**

- 11.1. When it deliberates the Hearings Panel will make any necessary findings about the facts. It will then consider whether the Respondent failed to follow the Members' Code of Conduct.
- 11.2. If the Hearings Panel determines that the Respondent has not breached the Members' Code of Conduct it shall dismiss the complaint, but it may make general recommendations or remarks to the Members involved or to all Members.
- 11.3. If the Hearings Panel determines that the Respondent has failed to follow the Code it shall consider what sanction, if any, to impose. The sanctions available to the Panel under the Local Resolution Protocol are as follows:
  - (i) A statement that the complaint has substance but no further action is required
  - (ii) Referral of the Respondent for training on a particular topic.
  - (iii) A private or public written warning. If public, that warning shall be announced and circulated at the next meeting of Council.
  - (iv) Censure of the Respondent at the next meeting of Council.

(v) Referral to the Public Services Ombudsman for investigation if the complaint is considered to be deserving of more serious sanctions than the Hearings Panel has the power to impose.

In making a determination as to sanction the Hearings Panel may consider any factor that they consider to be relevant, including:

- i the severity of the offence;
- ii the level of remorse that the Respondent has shown and any apologies that they have made; and
- iii whether there is an indication of the behaviour being repetitious or whether the Respondent has previously been found to have committed similar offences.

11.4. Once a decision has been reached by the Hearings Panel the parties may re-convene and the Chair will announce the decision orally.

## **12. The Written Decision**

12.1. The Panel will issue a written decision shortly after the end of the Hearing. The written decision shall be published on the Authority's website not later than 14 days after the date of the Hearing for a period of 21 days.

**CITY & COUNTY OF CARDIFF  
DINAS A SIR CAERDYDD**



**STANDARDS AND ETHICS COMMITTEE**

**22 MARCH 2016**

**REPORT OF THE INTERIM MONITORING OFFICER**

**AGENDA ITEM 6**

**MEMBER CODE OF CONDUCT COMPLAINTS 2015/16**

**Reason for Report**

1. To provide a brief update on complaints made during 2016 against Members alleging breaches of the Code of Conduct with a focus on the last 3 months.

**Background**

2. During 2015/16, the Monitoring Officer dealt with a total of 96 Code of Conduct complaints.

The table below shows the position for the last 15 months. There have been 10 complaints recorded for the last 3 months.

	<b>Q1 Jan Feb Mar</b>	<b>Q2 April, May, June</b>	<b>Q3 July, Aug, Sept</b>	<b>Q4 Oct, Nov, Dec</b>	<b>Q1 Jan, Feb Mar</b>
Total	20	9	24	8	18
<b>Complaint Type</b>					
Member on Member	12	5	15	3	4
Public on Member	8	3	8	5	6
Officer on Member	0	1	1	0	0
Community Councillors	0	0	0	0	8

**Complaints by the Public**

3. The figures for the last three months repeat the trends emerging from the previous quarter. Several of the complaints relate to planning applications

and conduct at Planning Committee meetings or site visits. These have been reviewed with the Committee Chair and committee officers to ensure that clear guidance is provided to planning applicants and objectors about the processes to be followed. Others relate to timeliness in dealing with members' correspondence. Additional resources to support members with their casework have been agreed as part of the coming year's budget.

4. It is unusual to receive notice from the Ombudsman of formal complaints against Community Councillors. These have been noted.

### **Member on Member Complaints**

4. The volume of Member on Member complaints reported to the Monitoring Officer remains low. Several relate to concerns about compliance with the ward member protocol. This will become more significant during the pre-election period for the forthcoming election in May. Advice has been provided to all Members on the use of Council resources during this period. The Ward protocol makes it clear that council resources will normally only be provided to assist members with casework emanating from their own ward.
5. The Local Resolution procedure continues to provide a useful means to informally resolve most member on member complaints. If the matter cannot be resolved; it is then referred to the Hearings Panel of the Committee.

### **Legal Implications**

6. There are no legal implications arising from the content of this report.

### **Financial Implications**

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

### **Recommendation**

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

**DAVID MARR**  
**INTERIM MONITORING OFFICER**  
**15 MARCH 2016**



**CITY OF CARDIFF COUNCIL  
CYNGOR DINAS CAERDYDD**



**STANDARDS AND ETHICS COMMITTEE**

**22<sup>ND</sup> MARCH 2016**

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**REPORT OF THE INTERIM MONITORING OFFICER  
AGENDA ITEM: 7**

**WHISTLEBLOWING UPDATE**

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**Reason for this Report**

1. To provide the Committee with information to enable it to oversee and monitor the Council's whistleblowing procedures and to consider any ethical issues arising.

**Background**

2. The Standards & Ethics Committee has responsibility to 'oversee and monitor the Council's Whistleblowing procedures and to consider ethical issues arising' (paragraph (e) of the Committee's terms of reference).
3. The Whistleblowing Policy sets out the arrangements adopted by the Council aimed at ensuring that workers are able to raise concerns in the public interest about a danger, risk, malpractice or wrongdoing within the Council without fear of adverse consequences. The Policy explains the statutory protection available to workers under the Public Interest Disclosure Act 1998, and is intended to encourage and enable workers to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle outside.
4. The Whistleblowing Policy was revised and approved by Cabinet in October 2014 on the recommendations of this Committee, to reflect legislative changes, clarify certain provisions and adopt best practice. The revised Policy has been publicised through posters in all core Council buildings, and articles in the Core Brief, Your Inbox and Our News disseminated to all staff.
5. Under the Policy, the Monitoring Officer is required to keep a record of all reports made and their outcomes and to report periodically to the Standards Committee. At its meeting in January 2014, the Committee considered information on reports made during 2012 and 2013 and the number of reports made since 2007. The Committee requested comparative information on the number of reports received in other Welsh Authorities, which was considered at its meeting in March 2014. The Committee noted that the numbers of

reports received in Cardiff were broadly similar to the numbers received in other Authorities.

## Issues

6. The number of whistleblowing reports notified to the Monitoring Officer during 2014 and 2015 is as follows:

2015	- 1
2014	- 7

Further information on the concerns raised and the respective outcomes will be provided to Members at the Committee meeting on an exempt and confidential basis.

7. To put these numbers into context, the Committee may wish to note the number of whistleblowing reports recorded by the Monitoring Officer in previous years (reported to the Committee in January 2014), as follows:

2013	- 2
2012	- 2
2011	- 0
2010	- 1
2009	- 4
2008	- 2
2007	- 5

8. Members will note the relatively high number of reports made during 2014, which may in part be attributable to an increased awareness of the Whistleblowing Policy, as a result of the Committee's review and the adoption of a revised Policy and associated publicity measures. Members will note that there was a similar increase in numbers during 2007 when the Policy was previously reviewed and publicised. Arrangements have now been put in hand to ensure that publicity of the Policy is renewed and re-issued at regular intervals to ensure awareness is maintained.
9. One recently concluded investigation has identified that managers and human resources staff may require further information and training on the scope of the Whistleblowing Policy, to ensure that the procedure is properly and promptly implemented. Further guidance is being developed to address this issue.
10. The Committee is invited to note the contents of this report and further information provided at the meeting, and make any observations as appropriate.

## Legal Implications

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

## **Financial Implications**

12. There are no direct financial implications resulting from this report.

## **RECOMMENDATIONS**

The Committee is recommended to note the information provided and make any observations as appropriate.

**David Marr**  
**Interim Monitoring Officer**  
15 March 2016

The following Background Papers have been taken into account:

Reports of Monitoring Officer to the Standards & Ethics Committee - 'Whistleblowing Policy dated 28 January 2014 and 18 March 2014; and minutes thereof

Cabinet report 'Revised Whistleblowing Policy', dated 9 October 2014; and decision in respect thereof

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**CITY OF CARDIFF COUNCIL  
CYNGOR DINAS CAERDYDD**



**STANDARDS AND ETHICS COMMITTEE:**

**22 MARCH 2016**

**REPORT OF THE INTERIM MONITORING OFFICER**

**AGENDA ITEM: 8**

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**MINOR AMENDMENTS TO MEMBERS' CODE OF CONDUCT AND  
ETHICAL FRAMEWORK**

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**Reason for this Report**

1. To inform the Committee of minor amendments to the Model Code of Conduct and various other aspects of the statutory ethical framework, which have been introduced by new subordinate legislation made by the Welsh Government.

**Background**

2. The Local Government Act 2000, Part III (and regulations made thereunder) sets an ethical framework for the conduct of local government members. In its 2012 White Paper, 'Promoting Local Democracy', the Welsh Government set out a number of proposals for improving the operation of the framework, some of which were addressed in the Local Government (Democracy)(Wales) Act 2013 ('the 2013 Act').
3. On 30<sup>th</sup> November 2015, the Welsh Government issued a consultation on two draft statutory instruments (under Part III of the Local Government Act 2000), intended to give effect to the policy proposals set out in the 2012 White Paper and consequential upon the legislative changes introduced by the 2013 Act and related matters.
4. The proposed changes were considered by the Committee at its meeting in December 2015. The Committee noted that the proposals were largely technical, in that substantive changes to the law had already been made by the 2013 Act, and the proposals were mostly consequential changes to subordinate legislation and the Model Code of Conduct to make them compatible with the primary legislation.
5. The Committee expressed no concerns with the proposed amendments, but it was suggested that the Welsh Government should be asked to take this

opportunity to review the current restriction on the size of a standards committee, in light of the quorum problems which had been experienced in Cardiff. The Committee delegated authority to the Monitoring Officer, in consultation with the Chair, to prepare and submit a response to the Welsh Government's consultation on behalf of the Committee. A response on behalf of the Committee was sent accordingly.

## Issues

6. Two new statutory instruments have now been made, both of which come into force on 1<sup>st</sup> April 2016. The key changes introduced are set out below.

### The Local Authorities (Model Code of Conduct)(Wales)(Amendment) Order 2016

7. This Order amends the Model Code of Conduct for Members as follows:
  - a) Consequential amendments are made to reflect the transfer of responsibility for the maintenance of community councils' registers of interests from the Monitoring Officer to the 'proper officer' of each community council, which was introduced by the 2013 Act with effect from 1<sup>st</sup> May 2015.
  - b) The requirements for registering interests are clarified, to require that any interest disclosed for the first time must be entered in the Members' register of interests. This requirement applies to both Community Councillors and County Councillors, although the exemption for Community Councillors from the advance registration requirements (applicable to certain financial and other interests) is maintained.
  - c) The obligation on a Member to report a potential breach of the Code to the Ombudsman is removed.
  - d) The personal interests provision regarding perceived conflict between a Member's ward role and decisions taken on behalf of the Authority (paragraph 10(2)(b) of the Code) is removed. This is to overcome unintended difficulties in relation to Members' participation in business relating to their ward. Members are, however, reminded that when participating in decisions relating to their ward, they must be mindful of the general obligation to act objectively and in the wider public interest (pursuant to paragraph 8 of the Code).
8. The Council is required to consider the amendments to the Model Code and adopt a revised Code of Conduct within 6 months from the date on which the Amendment Order is made. The Amendment Order was made on 27<sup>th</sup> January 2016, which means a revised Code must be adopted by 26<sup>th</sup> July 2016. However, it is suggested that Authorities should adopt a revised Code no later than their forthcoming annual meetings.

### Local Government (Standards Committees, Investigations, Dispensations and Referral)(Wales)(Amendment) Regulations 2016

9. This Order amends 3 statutory instruments (the Standards Committee Regulations 2001, the Functions of Monitoring Officers and Standards

Committees Regulations 2001, and the Grant of Dispensations Regulations 2001), as follows:

- a) A number of consequential amendments are made to include reference to joint standards committees, introduced by the 2013 Act.
  - b) The current maximum term of office for local authority and community council members of a standards committee (4 years) is removed, to reflect the postponement of the 2016 local government elections. Article 9 of the Council's Constitution needs to be amended accordingly; and consideration needs to be given to extending current Members' (in particular, the Community Council Committee member's) terms of office at the Council's forthcoming annual meeting.
  - c) Provision is made to enable standards committees to delay publication of agendas and information related to consideration of misconduct investigations until the misconduct proceedings are concluded. It is suggested, however, that misconduct hearings should generally be held in public, unless there are particular reasons why some or all of the proceedings should be held in private.
  - d) Provision is made to allow referral of misconduct matters to the standards committee of another authority, in order to overcome any potential conflict of interest which a standards committee may have.
  - e) The period of suspension imposed by a standards committee is limited to the remainder of a Members' term of office if this is less than 6 months. This clarification is in line with comparable powers of the Adjudication Panel.
  - f) A new requirement is introduced for a Member to seek permission from the President or nominated member of the Adjudication Panel for Wales in order to appeal against the determination of a standards committee. This is intended to remove frivolous or unmeritorious appeals.
  - g) Provision is made to allow referral of a dispensation application to the standards committee of another authority, for example, where there is a potential conflict of interest or to expedite an urgent application.
  - h) A new general dispensation category is introduced to enable a standards committee to grant a dispensation, allowing a Member with an otherwise prejudicial interest to participate in a matter, if it considers it appropriate in all the circumstances. The Committee's Policy on Dispensations will need to be amended to include this new basis for a dispensation.
10. Members will note that certain constitutional and policy amendments are required in order to reflect the above legislative changes. Members will also note that the Committee's suggestion regarding the current restriction on the size of a standards committee has not, unfortunately, been addressed by the Welsh Government at this time.

### **Legal Implications**

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

### **Financial Implications**

12. There are no financial implications arising from this report.

## **RECOMMENDATION**

The Committee is recommended to:

1. Note the amendments made to the Model Code of Conduct and certain aspects of the statutory ethical framework, as set out in the report;
2. Recommend to Council the adoption of a revised Code of Conduct for Members, reflecting the amendments to the Model Code;
3. Delegate authority to the Monitoring Officer to make the necessary amendments to:
  - (a) Article 9 of the Constitution ('Standards and Ethics Committee'), subject to the approval of Council, and
  - (b) the Committee's Policy on Dispensations, in consultation with the Chair.

**David Marr**  
**Interim Monitoring Officer**  
15 March 2016

### Background Papers

Welsh Government's letter dated 2<sup>nd</sup> March 2016 'Local Government Ethical Framework', informing Authorities about the new legislation

Standards and Ethics Committee report 'New Statutory Instruments on the Ethical Framework - Welsh Government Consultation', 15 December 2015

Welsh Government Consultation Document, 'Local Government Act 2000 – Part III, Conduct of Local Government Members, Amendments to Subordinate Legislation, 30 November 2015