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## AGENDA

<b>Committee</b>	STANDARDS & ETHICS COMMITTEE
<b>Date and Time of Meeting</b>	WEDNESDAY, 6 OCTOBER 2021, 5.00 PM
<b>Venue</b>	REMOTE MEETING VIA MS TEAMS
<b>Membership</b>	Independent Members: Prof. James Downe (Chair) Jason Bartlett, Hollie Edwards-Davies, Arthur Hallett and Chrissie Nicholls Councillors Cunnah, Sandrey and Williams  Community Councillor Stuart Thomas

### 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 3 - 6*)

To approve as a correct record the minutes of the previous meeting on 7 July 2021.

### 4 **Social Media Codes** (*Pages 7 - 32*)

### 5 **Whistleblowing Reports 2020** (*Pages 33 - 38*)

**Appendix A of the report is exempt from publication as it contains exempt information of the description contained in paragraphs 13 and 14 of Part 4 of Part 5 of Schedule 12A of the Local Government Act 1972. The public may be excluded from the meeting by resolution of the Committee pursuant to Section 100A(4) of the Local Government Act 1972 during discussion of this item.**

### 6 **Members Code of Conduct Complaints (Q2 2021-22)** (*Pages 39 - 42*)

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

- 7 **Annual Report 2020-21** (*Pages 43 - 48*)
- 8 **Election of Chair** (*Pages 49 - 50*)
- 9 **Forward Work Programme 2021-22** (*Pages 51 - 54*)
- 10 **Urgent Items (if any)**
- 11 **Date of next meeting**

The date of the next meeting of the Standards & Ethics Committee will be on Wednesday 9 February 2022. The venue to be confirmed.

**Davina Fiore**

**Director Governance & Legal Services**

Date: Thursday, 30 September 2021

Contact: Mandy Farnham,

02920 872618, [Mandy.Farnham@cardiff.gov.uk](mailto:Mandy.Farnham@cardiff.gov.uk)

**This meeting will be recorded for subsequent broadcast on the Council's website. The whole of the meeting will be recorded, except where there are confidential or exempt items. A copy of the recording will also be retained in accordance with the Council's data retention policy.**

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STANDARDS & ETHICS COMMITTEE

7 JULY 2021

Present: Independent Members: James Downe (Chair)  
Jason Bartlett, Hollie Edwards-Daviaes, Arthur Hallett and  
Chrissie Nicholls

Councillors Cunnah, Sandrey and Williams

Community Councillor Stuart Thomas

96 : APOLOGIES FOR ABSENCE

No apologies for absence were received. Councillor Williams indicated that he would be late attending.

97 : DECLARATIONS OF INTEREST

Davina Fiore, Director of Governance and Legal Services declared a prejudicial interest in respect of item 7.

98 : COMMITTEE MEMBERSHIP & TERMS OF REFERENCE

The Committee noted that Council, at its Annual Meeting on 27 May 2021, re-appointed Councillors Cunnah, Sandrey and Williams to the Committee and agreed the Terms of Reference.

99 : MINUTES

The Committee approved as a correct record the minutes of the meeting on 3 March 2021.

100 : SOCIAL MEDIA CODES

The Committee were provided with a report and information to enable consideration to be given to developing a social media code of principles for Members; and a code of practice on social media use for groups and organisations which work with the Council, in accordance with the Motion carried at the Council meeting in March 2021, and in light of more recent concerns raised as a result of comments and allegations made about members of the Planning Committee.

Members discussed a number of topics:

- whether Councillors should be advised not to 'like' social media posts without having first read them noting that there had been examples in the past of inappropriate material being 'liked';
- the importance of consulting with external partners in the social media field, such as Glitch, who could provide additional guidance and advice;
- actions and decisions made by individual Councillors in their capacity as Cabinet Members ought to be open to criticism. Members were advised that the latest

version of the report distinguished between personal criticism of individuals and criticism of their policy decisions and actions.

- concerns around the use of anonymous social media accounts; Councillors, in the code would be advised not to use such accounts; ;
- whether there was a need for the Social Media Code to be embedded within the Code of Conduct, although it was noted that if Councillors did not treat others with respect, and this would apply to comments made on Social Media, there would potentially be a breach of the Code of Conduct. However, it was not possible to make the principles of the Social Media Code legally enforceable in relation to outside parties. It is hoped that outside parties, for example Cardiff Civic Society would be prepared to sign up to the Code, although there would be difficulties in enforcement at that point; and
- the limited extent to which the issues affect Community Councillors. Should that change, it may be that Community Councillors would want to sign up to it.

RESOLVED:

- to note that draft Social Media Codes would be brought back to a future meeting of the Committee.

#### 101 : MEMBERS CODE OF CONDUCT COMPLAINTS (Q4 2020-21 & Q1 2021-22)

The Committee received an update on complaints made during Quarter 4 of 2020-21 and Quarter 1 of 2021-22 against Members of Cardiff Council or any of Cardiff's Community Councils, alleging a breach of the Members' Code of Conduct.

Members were advised that several complaints related to specific issues in relation to Planning Committee, and that the Ombudsman had decided not to investigate in most cases.

Members noted that one complaint had been referred to the Hearings Panel and that the pre-hearing processes were underway.

RESOLVED:

- to note the content of the report.

#### 102 : SENIOR OFFICERS PERSONAL INTERESTS DECLARATIONS

*The Director of Governance and Legal Services reaffirmed her interest in this item and left the meeting during discussion of this item.*

The Committee received a report reviewing the personal interests declarations made by Senior Officers of the Council.

Members were advised that Senior Officers Business Interests have been published since 2019.

RESOLVED:

- the public be excluded from the meeting during the discussion of information contained in Appendix B of the report as it contained exempt information of the description contained in paragraph 12, part 4 of Schedule 12 A, Local Government Act 1972.
- to note the information provided in respect of senior officers personal interests declarations

103 : OBSERVATION OF MEETINGS

Community Councillor Stuart Thomas declared a personal interest, on the basis that he is a Community Councillor who sits on the Pentrych Community Council.

The Committee considered a report on feedback provided following the observation of meetings (a community council meeting and a planning committee meeting).

Members discussed an observation in relation to the failure to follow procedures by one Community Council in relation to the publication of agenda's and minutes. Members were advised that further discussions would be held with the relevant Council's clerk.

Members noted that since the introduction of the Local Government and Elections (Wales) Act 2021 – from 1 April Community Councils are obliged, within 7 days of the meeting, to publish the names of the members who attended the meeting; any apologies for absence; any declarations of interest; any decisions taken; and the outcome of any votes.

RESOLVED:

- to note the meeting observation feedback received and continue to observe appropriate meetings of the Council, Committees and Community Councils.

104 : FORWARD WORK PLAN

The Committee received the Work Programme for 2021-22 and were invited to make comments and suggestions on the Programme.

The Committee noted:

- the induction training in the leadup to the Local Elections being considered by the Democratic Services Committee and the need for Code of Conduct training to be compulsory;
- the legislation bringing in the new duty in relation to Group Leaders having to promote high standards of conduct amongst members of their own groups. The Committee considered that training should be extended to Deputy Group Leaders and Whips; and
- the Social Media Codes Report would be available by the next meeting

RESOLVED:

- to note and agree the Work Programme

105 : URGENT ITEMS (IF ANY)

No urgent items were tabled.

106 : DATE OF NEXT MEETING.

The date of the next meeting is to be confirmed.

The meeting terminated at 6.09 pm

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

**SOCIAL MEDIA CODES**

**Reason for this Report**

1. To enable the Committee to consider draft social media codes for (i) Elected Members and (ii) Partner organisations, developed in accordance with the Motion carried at the Council meeting in March 2021 ('the Social Media Codes').

**Background**

2. At the full Council meeting in March 2021, the following Motion was carried:

'This Council recognises:

- That Councillors have a duty to promote kind and honest discourse both on and off line.
- That discussion, debate and scrutiny are vital to a democracy but must be carried out without abuse.
- That robust debate is a crucial part of the scrutiny process and should not be discouraged.
- That social media is an increasingly aggressive space where abuse is common place.
- That misinformation is often the trigger for such abusive behaviour.
- That anonymous accounts with no trail of accountability are often the worst culprits.
- That public figures are often the target for abusive behaviour and that it inevitably has a significant detrimental impact on their wellbeing.

Proposes to:

- Introduce a code of principles for social media use, that has an emphasis on promoting accurate discourse and encourages councillors to not write or share posts that contain obvious inaccuracies or aggression against colleagues.
- Develop a Code of Practice for groups and organisations which the Council works with, which sets similar high expectations of respectful and honest engagements, and which asks them to conduct themselves in a transparent manner rather than operating anonymous account.'

3. The Standards and Ethics Committee considered a report on this matter at its last meeting, on 7<sup>th</sup> July 2021, and provided comments on points to be included in each code. The Monitoring Officer was instructed to draft (i) a Members' Code of Principles on Social Media Use; and (ii) a Partner Organisations' Code of Practice on Social Media, (collectively referred to in this report as 'the Social Media Codes'). It was agreed that the Monitoring Officer should consult on the draft Social Media Codes with Members and partner organisations, and report back to the Committee.

## Issues

4. The Committee will be aware that social media comments continue to feature frequently in Member conduct complaints. The Council's resolution to develop Social Media Codes was discussed with Members during the Members' Code of Conduct refresher sessions run by the Monitoring Officer earlier in the summer. Members' comments were then reflected in the draft Social Media Codes.
5. Draft Social Media Codes have been circulated to all Members and discussed with group leaders and whips. In response to queries from Members, the following points have been clarified in the draft Members' Code of Principles for Social Media Use:
  - (i) 'Accountability' (point 7 of the draft Code) - – in recognition of the fact that it may not always be possible for Members to fully read long threads / feeds of comments made via their platforms, the principle that Members are responsible for monitoring and editing third party comments made via their platforms has been amended to clarify that Members are expected to make all *reasonable* efforts to do so, which means that context should be taken into account in considering what is reasonable in this regard;
  - (ii) 'Informed' (point 8 of the draft Code) – similarly to point (i) above, in recognition of the fact that it may not always be possible for Members to fully read long threads / feeds of comments, the principle that Members should not 'like' or share anything they have not fully read and understood has been amended to clarify that Members are expected to make all *reasonable* efforts to do so, which means that context should be taken into account in considering what is reasonable in this regard; and
  - (iii) 'Transparency' (point 9 of the draft Code) – the principle that Members should openly identify themselves and refrain from anonymous comments or the use of 'sock puppet accounts' (false online identities created for the purposes of deception) has been amended to clarify that this does not prevent Members from posting comments on community pages, as long as the Member is openly identifiable.
6. The Committee is invited to consider whether any further amendments should be made to the Members' Code of Principles for Social Media Use, and specifically, to consider the following comments from Members:
  - (i) Point 5, 'Honesty' –this principle should be amended to refer to the need to be mindful of the '#bekind agenda'. Members will note that there is a



separate principle, 'Respect and consideration', under point 1, which may address this; and

- (ii) Point 9, 'Transparency' – this wording should be strengthened to say that 'false accounts' should not be generated at all, not just to refer to false accounts created for purposes of deception ('sock puppet accounts').

7. The draft Partner Organisations' Code of Practice on Social Media has also been shared with Cardiff's Public Service Board, comprised of the city's public service leaders, and the Cardiff Civic Society. In response to feedback received from Natural Resources Wales, an additional point has been added regarding partnership working, to say that partner organisations should, where reasonably practicable, seek to agree the content of statements or announcements about partnership projects before making them.
8. Revised draft Social Media Codes have been prepared, taking account of all feedback received. The draft Members' Code of Principles on Social Media Use is attached as **Appendix A**; and the draft Partner Organisations' Code of Practice on Social Media is attached as **Appendix B**.
9. The Committee will note that the Members' Social Media Code of Principles (**Appendix A**) reflects the standards of conduct required of elected Members by law (specifically, the principles of conduct set by order made under section 49 of the Local Government Act 2000, 'the Act'; and the model Code of Conduct set by order made under section 50 of the Act), as applied to Members' use of social media. As such, any breach of its principles may also be found to be a breach of the Members' Code of Conduct, which is enforceable under the statutory standards regime.
10. In Cardiff, the Members' Code of Conduct consists of the mandatory provisions of the statutory model code of conduct. However, under section 51(4) of the Local Government Act 2000, the Council may decide to include other provisions which are consistent with the model code. In order to clarify the standards of conduct expected of Members using social media, it is recommended that the Members' Social Media Code of Principles should be incorporated within the Members' Code of Conduct. A marked up copy of the Members' Code of Conduct is attached as **Appendix C**, showing the recommended amendments (insertion of a new paragraph 4A).
11. The Partner Organisations' Code of Practice will not be legally enforceable, although organisations which deal with the Council frequently may be asked to sign up to it. The purpose of the Partner Organisations' Code of Practice is to clarify the Council's expectations. However, if a partner organisation does not comply with it, this will not, in itself, give the Council the right to refuse to engage with them. Legal remedies are unlikely to be available, so legal advice should be sought in any particular case.

## Legal Implications

12. The adoption of the Social Media Codes, and any amendment to the Members' Code of Conduct, are subject to the approval of Council. The Standards and Ethics Committee is responsible for making any recommendations to Council in this regard.
13. If any amendments are made to the Members' Code of Conduct, with the approval of full Council, the Council is required, as soon as reasonably practicable, to publish a newspaper notice informing the public that the Code of Conduct has been revised and is available for inspection, make copies of the revised Code of Conduct available for public inspection and send a copy to the Public Services Ombudsman for Wales (section 51(6) of the Local Government Act 2000).
14. Other relevant legal provisions are referred to in the body of the report.

## Financial Implications

15. There are no financial implications arising from the recommendations of the report.

## RECOMMENDATION

The Committee is recommended to:

1. Provide any comments on: (i) the draft Members' Code of Principles on Social Media Use (**Appendix A**); and (ii) the draft Partner Organisations' Code of Practice on Social Media (**Appendix B**);
2. Authorise the Monitoring Officer, in consultation with the Chair, to make any amendments required to the draft Social Media Codes (**Appendix A** and **Appendix B**) and recommend them for adoption by full Council;
3. Recommend to full Council that the Members' Code of Conduct should be amended as shown in **Appendix C**, to incorporate the approved Members' Code of Principles on Social Media Use; and
4. Recommend to full Council that the Partner Organisations Code of Practice on Social Media, once approved, should be published on the Council's website.

**Davina Fiore**

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

29 September 2021

## **APPENDICES**

Appendix A	draft Members' Code of Principles on Social Media Use
Appendix B	draft Partner Organisations' Code of Practice on Social Media
Appendix C	Members' Code of Conduct, draft amendments

### Background papers

Standards and Ethics Committee report 'Social Media Codes', 7<sup>th</sup> July 2021  
Council, March 2021, Notice of Motion 2, and minutes of the meeting

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Cardiff Council  
Members' Social Media Code of Principles

At the full Council meeting in March 2021, Cardiff Council passed a Motion which recognised that:

- a) Councillors have a duty to promote kind and honest discourse both online and off line;
- b) Discussion, robust debate and scrutiny are vital to a democracy and should not be discouraged, but must be carried out without abuse;
- c) Social media is an increasingly aggressive space where abuse is common place and public figures are often the target for abusive behaviour, which inevitably has a significant detrimental impact on their wellbeing;
- d) Misinformation is often the trigger for such abusive behaviour; and
- e) Anonymous accounts with no trail of accountability are often the worst culprits,

And agreed to introduce a Code of Principles for social media use.

After consideration of this issue by the Standards and Ethics Committee and consultation with Members, the Council has adopted the following principles in relation to its Members' use of social media:

**1. Standards of conduct**

All Members are required to comply with the duties set out in the statutory [Members Code of Conduct.pdf \(moderngov.co.uk\)](#), and these duties continue to apply to Members' use of social media. Amongst other things the Code requires that:

You must—

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

(paragraph 4 of the Code of Conduct)

You must not—

- (a) disclose confidential information or information which should reasonably

be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

(paragraph 5 of the Code of Conduct)

You must—

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(paragraph 6.1(a) of the Code of Conduct)

## **2. Respect and consideration**

Members should treat everyone with respect and consideration. Whilst legitimate criticism is part of democratic accountability, criticism should be fair, constructive and courteous, and Members should not post comments which may be regarded as malicious, aggressive, disrespectful or bullying.

## **3. Equality**

Members' comments should treat everyone equally, without discrimination, in particular, against groups with 'protected characteristics' under equality laws (ie. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation) or Welsh language speakers.

## **4. Professionalism**

Members are expected to participate in robust political debate, but should refrain from making, or acting in any way which encourages, unfair or inaccurate public criticisms of the authority or its councillors or officers doing their jobs. Policies may be criticised, without making unnecessary personal comments.

## **5. Honesty**

Members' comments should reflect views which they honestly hold. They should refrain from making misleading comments.

## **6. Accuracy**

Information given should be factually correct and not misleading. Members should make all reasonable efforts to verify the factual accuracy of the information they post.

## **7. Accountability**

Members should be accountable for their comments, including 'liking' or sharing comments made by others, and are also responsible for making all reasonable efforts to monitor and edit any third-party comments made via their platforms.

## **8. Informed**

Members should try to make sure they have sufficient information about a subject before commenting on it and make all reasonable efforts to fully read and understand the substance of information before they 'like' or share it.

## **9. Transparency**

Members should openly identify themselves as a Councillor and refrain from anonymous comments or the use of 'sock puppet accounts' (false online identities created for the purposes of deception). For the avoidance of doubt, this does not prevent Members from posting comments on community pages, as long as the Member is openly identifiable.

## **10. Confidentiality**

Members must take care to avoid disclosing any confidential, exempt or personal information, without clear authorisation or consent from any individuals concerned.

### Status of this Code and Consequences of Breach

By resolution of the Council, this Code has been incorporated into the Members' Code of Conduct for elected Members of Cardiff Council. This means that a failure to comply with any of the above principles may constitute a breach of the Members' Code of Conduct, which may result in misconduct proceedings and associated sanctions being imposed on any Member found to be in breach.

### Informal Resolution

Members are encouraged to raise concerns they may have about the content of social media with the member concerned and/or with the relevant Group Whip and Group Leader, saying how they would like the matter to be resolved in a reasonable and proportionate way. For example, this could include asking for a comment to be amended or removed. All members are expected to act in a reasonable manner to seek to resolve any concerns. If this does not achieve resolution, or if it is a recurring problem or a pattern of behaviour, members are encouraged to report their concerns to the Monitoring Officer.

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## Partner Organisations' Social Media Code of Practice

At the full Council meeting in March 2021, Cardiff Council passed a Motion which recognised that:

- a) Discussion, robust debate and scrutiny are vital to a democracy and should not be discouraged, but must be carried out without abuse;
- b) Social media is an increasingly aggressive space where abuse is common place and public figures are often the target for abusive behaviour, which inevitably has a significant detrimental impact on their wellbeing;
- c) Misinformation is often the trigger for such abusive behaviour; and
- d) Anonymous accounts with no trail of accountability are often the worst culprits,

And agreed to develop a Code of Practice for groups and organisations who work with the Council ('Partner Organisations'), to set out the Council's expectations in relation to their use of social media when engaging with the Council or Council business.

### Code of Practice

Cardiff Council's expectations from Partner Organisations when using social media to communicate with the Council, its Members or officers, or on matters relating to the Council, Council business, its Members or officers, are as follows:

1. **Respectful and professional engagement** - Criticism may be legitimate, but should be respectful, professional and honest.
2. **Accuracy** - information published about the Council should be factually correct, and organisations should make all reasonable efforts to verify the factual accuracy of information they post.
3. **Openness and transparency** – any comments about the Council should be published openly, without concealing the identity of the person or organisation responsible for them. 'Sock puppet accounts' (false online identities created for the purposes of deception) should not be used.
4. **Accountability** - organisations are responsible for monitoring and editing any comments made by others on their own webpages and should ensure they have suitable processes in place for this.
5. **Unacceptable comments** – organisations should have complaints processes in place for requests to be made for libellous, offensive, incorrect or otherwise unacceptable comments to be deleted or removed. It should be noted that

abusive, discriminatory, offensive or defamatory comments are unacceptable and may lead to the Council taking action against those responsible.

6. **Partnership working** – all partner organisations should try, where reasonably practicable, to share with relevant partners the content of any statements or announcements in press releases about partnership projects before they are made. Any social media content about partnership projects should then be based on statements and or announcements which have been shared where practicable.

It is acknowledged that many organisations will have their own guidance and policies on social media, which will apply to those organisations more generally. This Code of Practice is not intended to detract from any organisation's own guidance or policies in any way.

DRAFT

## PART 5 – CODES AND PROTOCOLS

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### CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS OF THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF

#### Adoption

This Code was adopted by the Authority on 15 May 2008 and amended on 26 May 2016

#### PART I

#### Interpretation

1.1 In this code—

"co-opted member" ("*aelod cyfetholedig*"), in relation to a relevant authority, means a person who is not a member of the authority but who—

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

"meeting" ("*cyfarfod*") means any meeting—

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

"member" ("*aelod*") includes, unless the context requires otherwise, a co-opted member;

“register of members’ interests” (“cofrestr o fuddiannau’r aelodau”) means the register established and maintained under Section 81 of the Local Government Act;

“registered society” means a society, other than a society registered as a credit union, which is—

- (a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or
- (b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

"relevant authority" ("*awdurdod perthnasol*") means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995;

"you" ("*chi*") means you as a member or co-opted member of a relevant authority; and

"your authority" ("*eich awdurdod*") means the relevant authority of which you are a member or co-opted member.

## 1.2 In relation to a community council—

- (a) “proper officer” (“*swyddog priodol*”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and
- (b) “standards committee” (“*pwyllgor safonau*”) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

## PART II

### General Provisions

- 2.1 Save where paragraph 3(a) applies, you must observe this code of conduct—
- (a) whenever you conduct the business, or are present at a meeting, of your authority;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6.1(a) and 7.
- 2.2 You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.
- 3 Where you are elected, appointed or nominated by your authority to serve—
- (a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
  - (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 4 You must—
- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
  - (b) show respect and consideration for others;
  - (c) not use bullying behaviour or harass any person; and
  - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.
- 4A When using social media, you must comply with the Members' Code of Principles on Social Media Use, adopted by Cardiff Council (Annex 1 to this Code).

5 You must not—

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

6.1 You must—

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

6.2 You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7 You must not—

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority—
  - (i) imprudently;
  - (ii) in breach of your authority's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

8 You must—

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by—
  - (i) the authority's Head of Paid Service;
  - (ii) the authority's Chief Finance Officer;
  - (iii) the authority's Monitoring Officer;
  - (iv) the authority's Chief Legal Officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9 You must—

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

## PART III

### INTERESTS

#### Personal Interests

- 10.1 You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

10.2 You must regard yourself as having a personal interest in any business of your authority if—

- (a) it relates to, or is likely to affect –
  - (i) any employment or business carried on by you;
  - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
  - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
  - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
  - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
  - (vi) any land in which you have a beneficial interest and which is in the area of your authority;
  - (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
  - (viii) any body to which you have been elected, appointed or nominated by your authority;
  - (ix) Any -
    - (aa) public authority or body exercising functions of a public nature;
    - (bb) company, registered society, charity, or body directed to charitable purposes;
    - (cc) body whose principal purposes include the influence of public opinion or policy;
    - (dd) trade union or professional association; or



- (ee) private club, society or association operating within your authority's area,  
in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) *[Deleted]*
- (c) a decision upon it might reasonably be regarded as affecting –
  - (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
  - (ii) any employment or business carried on by persons as described in 10.2(c)(i);
  - (iii) any person who employs or has appointed such persons described in 10.2(c)(i), any firm in which they are a partner, or any company of which they are directors;
  - (iv) any corporate body in which persons as described in 10.2(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (v) any body listed in paragraphs 10.2(a)(ix)(aa) to (ee) in which persons described in 10.2(c)(i) hold a position of general control or management,  
to a greater extent than the majority of –
    - (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
    - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

## Disclosure of Personal Interests

- 11.1 Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

- 11.2 Where you have a personal interest in any business of your authority and you make -
- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or
  - (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.
- 11.3 Subject to paragraph 14.1(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- 11.4 You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11.1, give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing—
- (a) details of the personal interest;
  - (b) details of the business to which the personal interest relates; and
  - (c) your signature.
- 11.5 Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16.1, your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.
- 11.6 For the purposes of sub-paragraph 11.4, a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

- 11.8 For the purposes of sub-paragraph 11.3, where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

## **Prejudicial Interests**

- 12.1 Subject to sub-paragraph 12.2 below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

- 12.2 Subject to sub-paragraph 12.3, you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to—

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to—

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits

Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

- (iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of Local Government (Wales) Measure 2011 (1), or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989 (2);
- (c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

12.3 The exemptions in subparagraph 12.2(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

### **Overview and Scrutiny Committees**

13.1 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

### **Participation in Relation to Disclosed Interests**

14.1 Subject to sub-paragraphs 14.2, 14.2(a) 14.3 and 14.4, where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee—

- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
  - (i) where sub-paragraph 14.2 applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

- (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
  - (b) not exercise executive or board functions in relation to that business;
  - (c) not seek to influence a decision about that business;
  - (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
  - (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.
- 14.2 Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- (a) Where you have a prejudicial interest in any business of your authority and submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under a statutory right or otherwise.
  - (b) When submitting written representations under sub paragraph 14.2(a) you must comply with any procedure that your authority may adopt for the submission of such representations.
- 14.3 Sub-paragraph 14.1 does not prevent you attending and participating in a meeting if—
- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
  - (b) you have the benefit of a dispensation provided that you—
    - (i) state at the meeting that you are relying on the dispensation; and
    - (ii) before or immediately after the close of the meeting give written notification to your authority containing—
      - (aa) details of the prejudicial interest;
      - (bb) details of the business to which the prejudicial interest relates;

- (cc) details of, and the date on which, the dispensation was granted; and
- (dd) your signature.

14.4 Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

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## PART IV

### THE REGISTER OF MEMBERS' INTERESTS

#### Registration of Personal Interests

- 15.1 Subject to sub-paragraph 15.4, you must, within 28 days of—
- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
  - (b) your election or appointment to office (if that is later),
- register your personal interests, where they fall within a category mentioned in paragraph 10.2(a) in your authority's register of members' interests by providing written notification to your authority's monitoring officer.
- 15.2 Subject to sub-paragraph 15.4, you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10.2(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.
- 15.3 Subject to sub-paragraphs 15.4, you must, within 28 days of becoming aware of any change to a personal interest falling within a category mentioned in paragraph 10.2(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of community council to your authority's proper officer.
- 15.4 Sub-paragraphs 15.1, 15.2 and 15.3 do not apply to sensitive information determined in accordance with paragraph 16.1.
- 15.5 Sub-paragraphs 15.1 and 15.2 do not apply if you are a member of a relevant authority which is community council when you act in your capacity as a member of such an authority.
- 15.6 You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

#### Sensitive Information

- 16.1 Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

- 16.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph 16.1 is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.
- 16.3 In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

### **Registration of Gifts and Hospitality**

- 17 You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.



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

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**WHISTLEBLOWING REPORTS 2020****APPENDIX A IS EXEMPT FROM PUBLICATION PURSUANT TO THE LOCAL GOVERNMENT ACT 1972, SCHEDULE 12A, PART 4 PARAGRAPHS 13 & 14****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 approved by Cabinet in October 2014 on the recommendations of this Committee. The Policy is publicised through posters in all core Council buildings and guidance for staff and managers is published on the Council's intranet.

5. Under the Policy, the Monitoring Officer is required to keep a record of all reports made and their outcomes and to report as necessary to the Standards Committee. At its meeting in September 2020, the Committee considered a report on whistleblowing reports made during 2018 and 2019, with brief details of the concerns raised and outcome in each case.

## Issues

6. The number of whistleblowing reports notified to the Monitoring Officer during 2020, along with comparative numbers for previous years, is set out below:

<b>YEAR</b>	<b>NUMBER OF WHISTLEBLOWING REPORTS</b>
2016	4
2017	3
2018	1
2019	6
<b>2020</b>	<b>2</b>

7. Further information on the concerns raised and the outcomes in each case are set out in **Appendix A (Exempt from publication)**.
8. A review of the Whistleblowing Policy was due to be undertaken in 2020/21, but has been delayed in consultation with colleagues in Internal Audit, who are currently reviewing the Council's whistleblowing arrangements. Any recommendations from the Internal Audit review will be addressed in the review of the Policy, and the Committee is invited to receive a further report on this matter in Spring 2022.
9. The Committee is invited to note the contents of this report, and make any observations considered appropriate.

## Legal Implications

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

## Financial Implications

11. 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.

**Davina Fiore**  
**Director of Governance and Legal Services and Monitoring Officer**  
29 September 2021

## **Appendices**

Appendix A – Whistleblowing Reports 2020 – **EXEMPT FROM PUBLICATION**

### Background papers

Report of Monitoring Officer to the Standards & Ethics Committee - 'Whistleblowing Reports 2018-19'  
September 2020

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By virtue of paragraph(s) 13, 14 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

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**STANDARDS AND ETHICS  
COMMITTEE****6<sup>th</sup> OCTOBER 2021**

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

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**MEMBERS' CODE OF CONDUCT COMPLAINTS – UPDATE****Reason for Report**

1. To provide the Committee with an update on complaints made against Members of Cardiff Council or any of Cardiff's Community Councils alleging a breach of the Members' Code of Conduct, in particular, complaints received during Quarter 2 of 2021/22 (the period running from 1<sup>st</sup> July 2021 to 30<sup>th</sup> September 2021).

**Background**

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

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

3. The Committee considers the number of complaints made and any themes or patterns emerging, but does not consider the specific details of each individual case, unless the complaint is formally referred to the Committee for a decision.
4. Complaints received during Quarter 4 of 2020/21 and Quarter 1 of 2021/22 were reported to the Committee meeting on 7<sup>th</sup> July 2021.

## Issues

### Complaints received during Quarter 2 of 2021/22

5. During Quarter 2 of 2021/22, covering the period running from 1<sup>st</sup> July 2021 to 30<sup>th</sup> September 2021, a total of 8 complaints alleging a breach of the Members’ Code of Conduct were reported to the Monitoring Officer.
6. The table below shows the figures for this period alongside comparative figures for the previous four quarters.

	Q2 Jul - Sept 2020	Q3 Oct - Dec 2020	Q4 Jan – Mar 2021	Q1 Apr – Jun 2021	Q2 Jul – Sept 2021
Member on Member	0	0	1	1	<b>6</b>
Public on Member	0	9	1	4	<b>2</b>
Officer on Member	0	0	0	0	<b>0</b>
Community Councillors	0	0	0	0	<b>0</b>
<b>Total</b>	<b>0</b>	9	2	5	<b>8</b>

7. Brief details of the eight complaints submitted during Quarter 2 of 2021/22 are as follows:
  - (i) Two Members complained about allegedly inaccurate information contained in a political group leaflet. These complaints were raised with the leader of the group concerned, who was asked whether the inaccuracies were accepted and if so, whether they would be corrected and an apology offered on behalf of the group. Informal resolution discussions are ongoing.
  - (ii) A Member complained about comments made about them by another Member during a meeting with other Members and



Council officers. The complainant considered the comments to be an unacceptable racist slur on the complainant. In response, the Member said that the offending comment was made following allegations made by the complainant against them, which attacked their personal integrity. The Member also made a counter-complaint against the complainant, alleging that the complainant had made discriminatory comments about them during the same meeting. In response to the Monitoring Officer's attempts to informally resolve this matter, the first Member complained of offered an apology to the complainant for any upset caused by their comments. Discussions are ongoing.

- (iii) The counter-complaint referred to in paragraph (ii) above, which has been recorded as a separate complaint. The Monitoring Officer is engaged in ongoing discussions to seek an informal resolution.
- (iv) A Member complained that another Member had threatened them during a meeting with other Members and Council Officers. The complaint was informally resolved by the Member offering an apology and clarifying that this was not their intention. The complainant then withdrew the complaint.
- (v) A Member complained about misleading information, misrepresenting what the complainant had said at a meeting with Members and Officers, being published on social media. The Monitoring Officer is engaged in ongoing discussions to seek an informal resolution.
- (vi) A Member complained that another Member had posted untrue and misleading information about the complainant on social media. The Monitoring Officer is engaged in ongoing discussions to seek an informal resolution.
- (vii) A member of the public complained about comments made by a Member on social media, alleging that they breached the Member's duty to treat everyone equally, without discrimination. The Ombudsman's decision is awaited.
- (viii) Another member of the public complained about comments made by a Member on social media, alleging that they breached the Member's duty to treat everyone equally, without discrimination. The Ombudsman's decision is awaited.

8. Six out of the eight complaints received during Quarter 2 were made to the Monitoring Officer under the Local Resolution Protocol. Four of the complaints (referred to in paragraphs 7 (ii), (iii), (iv) and (v) above) all relate to the same meeting attended by Members and Officers; and three of those complaints involve the same two Members. The two complaints

from members of the public both concern the same Member and the same issue.

#### Update on Complaint reported during Quarter 4 of 2020/21

9. At its last meeting, in July 2021, the Code of Conduct Complaints report (paragraph 8) included information about a complaint made during Quarter 4 of 2020/21, which was submitted by a Member on behalf of all members of their political group, alleging that another Member had delivered election leaflets in breach of Covid restrictions in effect at that time. The complainants were referred to the Ombudsman. The Ombudsman's decision is awaited.
10. It is understood that legal proceedings have been instigated against the Member in relation to this matter and a hearing is to be held at Cardiff Magistrates Court on 21<sup>st</sup> October 2021. The Committee will be provided with an update on this matter in due course.

#### **Legal Implications**

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

#### **Financial Implications**

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

#### **Recommendation**

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

**Davina Fiore**

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

29 September 2021

#### Background papers

Standards and Ethics Committee report 'Member Code of Conduct Complaints, Quarter 4 of 2020/21 and Quarter 1 of 2021/22, July 2021

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

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**ANNUAL REPORT 2020/21****Reason for this Report**

1. To enable the Committee to consider the content of its Annual Report 2020/21 and approve arrangements for the report to be finalised and presented to the full Council meeting in October 2021.

**Background**

2. In order to maintain the profile of the Standards and Ethics Committee and awareness of the importance of high standards of Member conduct, the Committee prepares an annual report on the work it has undertaken during the municipal year for presentation to full Council. This practice was established over fifteen years ago, as a matter of good practice.
3. The Committee's Annual Report 2019/20 was presented to full Council by the Chair of the Committee in January 2021 and was well received. The Chair confirmed that the number of conduct complaints remained low and the majority of complaints received were from Members in respect of other Members. Issues raised by Members included ways to respond to abuse targeted at Members; the circumstances in which criticism of the authority may be regarded as bringing the Council into disrepute; and concerns about issues faced by women entering into politics. The Lord Mayor thanked the Chair and the Committee for their report.

**Issues**

4. Part 4 of the Local Government and Elections (Wales) Act 2021 ('the 2021 Act') introduces changes to the statutory ethical framework (set under Part 3 of the Local Government Act 2000), including a new statutory requirement for Standards Committees to produce an annual report on the exercise of their functions. The new legislative requirements are due to take effect after, and in relation to, the financial year 2022/23, meaning they will not apply until the Committee's annual report for 2022/23. Nevertheless, the Committee is invited

to have regard to the new requirements, and consider whether it wishes to introduce any changes to the Committee's annual report prior to the new legislation coming into force.

5. Key points of the new legislative requirements, taking effect from the annual report 2022/23, include the following:

(a) Reporting period – the annual report is to relate to the financial year, that is, the 12 month period ending on 31<sup>st</sup> March. This represents a change to the practice adopted in Cardiff to date, which has been to report on work undertaken during the municipal year, that is, during the 12 month period ending on the date of Annual Council in May.

(b) Timing of presentation – the annual report must be presented to Council as soon as reasonably practicable after the end of each financial year

(c) Content – the annual report must describe how the Committee's functions have been discharged during the financial year; and in particular, must include a summary of—

- (i) what has been done to discharge the Committee's statutory functions (the general and specific functions conferred on the committee by section 54 and 56 of the Local Government Act 2000);
- (ii) reports and recommendations made or referred to the Committee in relation to investigations by the Ombudsman and references to the Monitoring Officer (under Chapter 3 of Part 3 of the Local Government Act 2000), and action taken by the Committee following its consideration of such reports and recommendations;
- (iii) notices given to the committee in relation to adjudications by the Adjudication Panel for Wales (under Chapter 4 of Part 3 of the Local Government Act 2000); and
- (iv) the Committee's assessment of the extent to which leaders of political groups on the council have, during the financial year, complied with their new duties in relation to standards of conduct (imposed under the new section 52A(1) of the Local Government Act 2000, which comes into force on 5<sup>th</sup> May 2022).

(d) Committee recommendations to Council – the annual report may also include recommendations to the authority about any matter in respect of which the Committee has functions.

(e) Council response – full Council must consider the Committee's annual report within 3 months from receiving the report.

6. It is understood that the Welsh Government is reviewing the ethical framework and the model Code of Conduct in the light of the new provisions of the 2021 Act. Any further changes made or guidance issued will be reported to Committee in due course.

7. The work undertaken by the Committee during 2020/21 has been inevitably affected by the Covid pandemic and associated government restrictions and the Council's subsequent focus on essential business priorities. As a result, the Committee meetings scheduled for March and July 2020 had to be cancelled. Since then, the Committee has met on the following dates: 30th September 2020; 9th December 2020; 3rd March 2021 and 7th July 2021. It is proposed that the Annual Report 2020/21 should therefore report on the work considered at the Committee meetings held on 30th September 2020; 9th December 2020; and 3rd March 2021.
8. Based on the standard format of previous annual reports and the work undertaken by the Committee during the last year, suggested contents include:
  - a) Chair's Foreword – the Chair is invited to set the context for the report, noting that the work of the Committee has been inevitably affected by the Covid-19 pandemic and the essential business priorities of the Council during this period. The Chair may also wish to note the Committee's general observations about standards of conduct and mention the new legislation which will place the Committee's annual report onto a statutory footing with effect from 2022/23.
  - b) Principles of public life – to remind Members of the ten general principles of public life based on the principles originally set down by the Nolan Committee in 1995.
  - c) Role of the Committee – to set out the Committee's terms of reference and how the Committee approaches its role.
  - d) Work undertaken by the Committee during 2020/21:
    - i. Hearing Procedures and Arrangements – to note that the Committee revised its procedures and arrangements for hearings in light of experience following a 5 day hearing held at the beginning of 2020 (which was reported in the previous annual report).
    - ii. Members' Safeguarding Protocol – following an independent review of the Protocol, the Committee recommended a revised version, incorporating a number of clarifications and updates, aimed to ensure that Members are provided with clear guidance on their roles and responsibilities in relation to safeguarding vulnerable children and adults. This was subsequently adopted by full Council in November 2020.
    - iii. Cardiff Undertaking – amendments to the Undertaking were recommended to Council to incorporate a commitment to complying with the Members' Safeguarding Protocol; reflect recommendations made by Internal Audit in respect of the principles of stewardship and leadership; and a few minor drafting improvements for clarity. All elected Members affirmed their commitment to the new Undertaking at the Annual Council meeting in November 2020 (and May 2021).

- iv. Members Survey 2019/20 – the Committee considered the outcomes of the Members Survey and agreed proposed actions to be taken in response.
- v. Senior Officers' Personal Interests – the Committee completed its consideration of the arrangements for disclosure of senior officers' personal interests and agreed to receive a confidential annual report on declarations made.
- vi. Whistleblowing reports 2018-2019 – the Committee considered the number, nature and outcomes in relation to whistleblowing reports made during 2018-19.
- vii. Guidance from the Adjudication Panel for Wales (APW) – the Committee noted the APW's updated guidance in relation to various aspects of APW proceedings (specifically, disclosure of evidence, anonymity and the role of the Monitoring Officer).
- viii. Gifts and Hospitality received by Members – to report on the Committee's routine review of the Members Hospitality Register
- ix. Officers' Gifts and Hospitality Guidance – the Committee reviewed the officers' guidance and made changes, to include rules on the provision of hospitality, require the registration of refused offers and various other minor amendments.
- x. Member Briefing – the Committee considered and issued a Member Briefing to update Members on the work of the Committee and provide advice and guidance on various relevant issues.
- xi. New legislation (Changes to the statutory ethical framework) – the Committee considered a report outlining changes to the statutory ethical framework being introduced by the Local Government and Elections (Wales) Act 2021, specifically, in relation to the new duties being imposed on political group leaders in relation to standards of conduct and responsibilities for the Committee to monitor compliance and arrange any necessary training; and also the new statutory requirements for the Committee to produce an annual report.
- xii. Consultation on revised Ombudsman's Code of Conduct Guidance – the Ombudsman's revised guidance was considered and a response submitted to the consultation.
- xiii. Observation of meetings - to note the Committee's feedback following observation of meetings of full Council and Community Council meetings.
- xiv. Independent Member vacancies – to note that the Committee approved a public appointments process and set up an Appointments Panel, to recruit and select 2 new Independent Members to fill vacancies which are due to arise in November 2021 and June 2022.

- e) Complaints about Member conduct – to give an overview of complaints reported during the year.
  - f) Meeting with Group Leaders and Whips - To report that the Committee's annual meeting with group leaders and whips held in September 2020 was reported in the previous annual report; and the 2021 meeting is scheduled to be held in October 2021.
  - g) Future work priorities, to reflect the Committee's Forward Work Plan 2021/22
  - h) Committee members biographies and Committee meeting attendance figures
  - i) Contact details for the Chair, the Monitoring Officer and the Ombudsman.
9. The Committee is invited to consider the contents of its Annual Report 2020/21 and provide any appropriate comments.

### **Legal Implications**

10. Relevant legal provisions are referred to in the body of the report. There are no other direct legal implications arising from this report.

### **Financial Implications**

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

### **RECOMMENDATION**

The Committee is recommended to:

- 1) Provide comments on the contents of the Committee's Annual Report 2020/21;
- 2) Delegate authority to the Monitoring Officer, in consultation with the Chair, to draft and finalise the Annual Report, having regard to comments provided by Members of the Committee; and
- 3) Ask the Chair to present the Annual Report to full Council in October 2021.

**Davina Fiore**

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

29 September 2021

Background papers

Council report 'Standards & Ethics Committee Annual Report', January 2021; and minutes  
Standards and Ethics Committee minutes 30<sup>th</sup> September 2020; 9<sup>th</sup> December 2020; and 3<sup>rd</sup> March 2021



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

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**ELECTION OF CHAIR****Reason for this Report**

1. To elect a new Chair (and Vice-Chair, if necessary) to take up the position after the expiry of the current Chair's term of office.

**Background**

2. Under the Standards Committees (Wales) Regulations 2001 ('the 2001 Regulations', Regulation 22) and the Council's Constitution, Article 9.2(f), the members of the Committee must elect a Chairperson and a Vice Chairperson from amongst the independent members of the Committee. The Chairperson and the Vice Chairperson are to be elected for a period of between 4 and 6 years or until the term of office of that person as an independent member of the Committee comes to an end, whichever is the shorter; and may be reappointed for a second term.

**Issues**

3. The term of office of the Chair is due to end on 1<sup>st</sup> November 2021. As this is the Chair's second term of office, no further reappointment is possible (under Regulation 21 of the 2001 Regulations). The Committee therefore needs to elect a new Chair to take up the position after the expiry of the current Chair's term of office on 1<sup>st</sup> November 2021. Nominations are invited for the position of Chair.
4. If the position of Vice-Chair may consequently become vacant, then a new Vice-Chair will also need to be elected. Members may wish to note that the current Vice-Chair's second term of office is due to end on 21<sup>st</sup> June 2022.

**Legal Implications**

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

## **Financial Implications**

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

## **RECOMMENDATIONS**

The Committee is recommended to elect a new Chair to take up the position after the expiry of the current Chair's term of office on 1<sup>st</sup> November 2021, and also elect a new Vice-Chair, if that position consequently becomes vacant, with effect from the same date.

**Davina Fiore**

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

29 September 2021

## **Background papers**

Standards and Ethics Committee report, 'Independent Member Appointments', 3<sup>rd</sup> March 2021

**STANDARDS AND ETHICS COMMITTEE:****6 OCTOBER 2021**

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

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**WORK PROGRAMME 2021 - 22****Reason for this Report**

1. To consider the Committee's Work Programme and agree the items for consideration by the Standards and Ethics Committee in 2021/22

**Background**

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

**Issues**

4. Attached **as Appendix A** is the Work Programme for 2021/22 which reflects ongoing priorities and standard reports and the frequency of reporting. The Committee is invited to review the plan taking into account available resources, and add or remove items and agree the frequency of reporting.

**Legal Implications**

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

#### 54 Functions of standards committees

(1) *The general functions of a standards committee of a relevant authority are--*  
*(a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and*  
*(b) assisting members and co-opted members of the authority to observe the authority's code of conduct.*

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

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

#### **Financial Implications**

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

#### **RECOMMENDATION**

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

**Davina Fiore**  
**Director of Governance and Legal Services and Monitoring Officer**  
**29 September 2021**

#### Appendix

Appendix A                      Work Programme 2021 - 22

#### Background Papers

Standards & Ethics Committee report, Work Programme 2021/22, July 2021

**STANDARDS AND ETHICS COMMITTEE – WORK PROGRAMME – 2021/22**

**APPENDIX A**

<b>TOPIC</b>	<b>OBJECTIVE/OUTCOME</b>	<b>WHO IS RESPONSIBLE?</b>	<b>PRIORITY</b>	<b>STATUS</b>	<b>REPORT TO COMMITTEE</b>
(1) Gifts and Hospitality	To monitor and review the acceptance of gifts and hospitality by Members (annually).	Monitoring Officer	Medium	Scheduled	Early 2022
(2) Code of Conduct Complaints	To receive information on complaints made against Members of the Council alleging breaches of the Code of Conduct (quarterly).	Monitoring Officer	Medium	Ongoing	ON AGENDA
(3) Member Briefings	To publish Member Briefings on the work of the Committee and member conduct issues	Chair / Monitoring Officer	Medium	Scheduled	Early 2022
(4) Training	To consider induction training on the Members' Code of Conduct; and training for group leaders in relation to new duties for Members' conduct	Monitoring Officer	High	Ongoing	Early 2022
(5) Feedback from Observation of Council & Committee meetings	Independent Members to attend Council, Committee and Community Council meetings to become more acquainted with the work of the Councils; and report feedback for consideration by the Committee	Independent Members of the Committee	Medium	Ongoing	As and when feedback is received
(6) Whistleblowing Policy	(1) To monitor reports made under the whistleblowing policy and	Monitoring Officer	Medium	Scheduled	(1) ON AGENDA

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	STATUS	REPORT TO COMMITTEE
	consider any ethical issues arising;  (2) To review the Whistleblowing Policy to ensure it remains fit for purpose.				(2) Early 2022
(7) Officers Personal Interests	To receive a report on Senior Officers Personal Interests Declarations (annually)	Monitoring Officer / HR	Medium	Scheduled	Summer 2022
(8) Annual Meeting with Group Leaders and Whips	To facilitate ongoing engagement with representatives from all political groups; and consider new duties in relation to Members' conduct (coming into effect in May 2022)	Elected Members	Medium	Scheduled	September 2021
(9) Annual Report 2020/21	Prepare Annual Report 2020/21	Committee Chair/ Monitoring Officer	Medium	Scheduled	ON AGENDA
(10) Social Media Codes	To consider developing (i) a Members' Code of Principles on Social Media Use; and (ii) a Partner Organisations' Code of Practice on Social Media	Monitoring Officer / Committee	Medium	Scheduled	ON AGENDA