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AGENDA

Committee	STANDARDS & ETHICS COMMITTEE
Date and Time of Meeting	TUESDAY, 14 FEBRUARY 2023, 5.00 PM
Venue	CR 4, COUNTY HALL - MULTI LOCATION MEETING
Membership	Independent Members: Jason Bartlett (Chair), Arthur Hallett, David Mills, Chrissie Nicholls and Rashpal Singh Councillors Cowan, Cunnah, and Latif Community Councillor Julia Charles

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 5 - 12*)

To approve as a correct record the minutes of the previous meeting, 25 October 2022.

4 **Revision of the Elected Member Survey** (*Pages 13 - 30*)

5 **Local Resolution Protocol and Procedure** (*Pages 31 - 44*)

6 **Registration of Gifts and Hospitality received by Elected Members** (*Pages 45 - 64*)

7 **Whistleblowing Reports 2021-2022** (*Pages 65 - 72*)

Appendix A and B of the report are exempt from publication as they contain exempt information of the description contained in paragraphs 13 and 14 of Part 4 and paragraph 21 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

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pursuant to Section 100A(4) of the Local Government Act 1972 during discussion of this item.

- 8 Public Services Ombudsman for Wales - Updated Code of Conduct Guidance and Process; and Equality and Human Rights Casebook 2022-23** *(Pages 73 - 118)*
- 9 Members' Code of Conduct, Complaints Update - Quarter 3 2022-23** *(Pages 119 - 126)*
- 10 Cardiff Undertaking** *(Pages 127 - 130)*
- 11 Observation of Meetings** *(Pages 131 - 136)*
- 12 Forward Work Programme 2022-23** *(Pages 137 - 140)*
- 13 Urgent Items (if any)**
- 14 Date of next meeting**

The date of the next meeting is 9 May 2023.

Davina Fiore

Director Governance & Legal Services

Date: Wednesday, 8 February 2023

Contact: Mandy Farnham,

02920 872618, Mandy.Farnham@cardiff.gov.uk

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STANDARDS & ETHICS COMMITTEE

25 OCTOBER 2022

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

Councillor Jayne Cowan

Community Councillor Julia Charles

13 : COMMITTEE MEMBERSHIP

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

14 : APOLOGIES FOR ABSENCE

Apologies were received from Rashpal Singh and Councillor Cunnah.

15 : DECLARATIONS OF INTEREST

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

16 : MINUTES

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

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

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

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

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

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

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

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

The Committee RESOLVED to:

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

18 : ELECTED MEMBER EXIT SURVEY COMPARISON 2017 & 2022

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

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

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

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

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

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

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

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

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

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

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

The Committee RESOLVED to note the content of the report.

19 : OBSERVATION OF MEETINGS

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

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

The Committee RESOLVED to:

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

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

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

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

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

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

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

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

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

The Committee RESOLVED to note the contents of the report.

21 : ANNUAL REPORT 2021-22

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

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

The Committee RESOLVED to:

- 1) Agree the proposed contents and structure of the Committee's Annual Report 2021/22;
- 2) Delegate authority to the Monitoring Officer, in consultation with the Chair, to draft and finalise the Annual Report, having regard to comments provided by Members of the Committee;
- 3) Ask the Chair to present the Committee's Annual Report 2021/22 to the next suitable meeting of full Council; and
- 4) Instruct the Monitoring Officer to send the Committee's Annual Report 2021/22 to each of the Community Councils in Cardiff, and a copy to the Public Services Ombudsman for Wales.

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

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

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

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

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

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

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

The Committee RESOLVED to:

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

23 : MEMBER BRIEFING

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

The Committee RESOLVED to:

- 1) Agree the suggested contents and timing of the Member Briefing, as set out in the report;
- 2) Delegate authority to the Monitoring Officer, in consultation with the Chair, to finalise the Briefing, having regard to comments provided by Members of the Committee; and
- 3) Instruct the Monitoring Officer to issue the finalised Member Briefing to all Members of Cardiff Council and Cardiff's six Community Councils.

24 : NATIONAL STANDARDS COMMITTEE FORUM

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

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

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

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

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

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

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

The Committee RESOLVED to:

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

26 : WORK PROGRAMME 2022-23

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

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

27 : SENIOR OFFICERS' PERSONAL INTERESTS DECLARATIONS

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

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

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

28 : URGENT ITEMS (IF ANY)

None were received.

29 : DATE OF NEXT MEETING.

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

The meeting terminated at 6.30 pm

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

REVISION OF THE ELECTED MEMBER SURVEY**Reason for this Report**

1. To consider proposals for the revision of the questions relating to unacceptable behaviours contained in the Elected Member Survey which are within the remit of the Standards and Ethics Committee.

Background

2. At its meeting on 25th October 2022 the Committee considered a report which provided a comparative analysis of the 2017 and 2022 Members Exit Survey.
3. The committee identified several issues arising from the data provided and requested that a report be submitted for consideration at its next meeting which would provide:
 - a. the possible definitions of bullying, harassment and discrimination
 - b. providing questions which would better reflect the impact of unacceptable behaviours on individuals with protected characteristics
 - c. identifying the frequency that unacceptable behaviours were experienced or witnessed
 - d. confirming an understanding of the reporting process for unacceptable behaviours
 - e. clarifying that incidents of unacceptable behaviours had been appropriately managed particularly for the individuals who had experienced these incidents
 - f. ensuring that there were opportunities within the protected characteristics responses to reflect all personal identifications.

IssuesDefinitions

4. The Standards and Ethics Committee's Terms of Reference include monitoring, overseeing and advising the Council on the Code of Conduct for Councillors. The

questions are included in the members survey in relation to these objectives. It is therefore considered appropriate to use the definitions of bullying, harassment and discrimination which are included in the Ombudsman's Guidance on the Code of Conduct, as these are the definitions which would be used to inform a decision on whether or not the Councillors' Code of Conduct had been breached. .

a. Bullying:

Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person, or a person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health. This can be contrasted with the legitimate challenges which a member can make in questioning policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

The Ombudsman guidance states when considering allegations of bullying and harassment, I will consider both the perspective of the alleged victim, and whether the member intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied. Bullying is often carried out face to face but, increasingly, it can be carried out in print or using electronic media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing. You need to ensure that your behaviour does not cross the line between being forceful and bullying. There can be no hard and fast rules governing every set of circumstances, but the relative seniority of the officer will be a factor in some cases. Very senior officers can be involved in robust discussion with members and be well placed to put their own point of view forcefully. The same is not true of more junior officers and members need to be aware of this. This is not to say that I condone the bullying of senior officers, only that the greater the power difference between the officer and the member, the greater the likelihood that the officer will consider behaviour to constitute bullying, Paragraph 2.14-2.16 of the Guidance. [General : 27 FINAL Investigation Report Template s21 casework support only \(ombudsman.wales\) \)](#)

b. Harassment

Engaging in unwanted conduct on the grounds of gender, race, disability, sexual orientation, age or religion, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment. Paragraph 2.3 of the Ombudsman's Code of Conduct Guidance. . [General : 27 FINAL Investigation Report Template s21 casework support only \(ombudsman.wales\) \)](#)

Discrimination

5. . There are four main forms of discrimination:

- Direct discrimination: treating people differently because of their gender, race, disability, sexual orientation, age or religion.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their gender, race, disability, sexual orientation, age or religion, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of gender, race, disability, sexual orientation, age or religion, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.
- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination

The Ombudsman's guidance states, "You should at all times seek to avoid discrimination".

6. It is recommended that these definitions be used at the start of the relevant section of the survey to provide the respondent with an understanding of the relevant behaviour.

Survey questions

7. The unacceptable behaviours questions contained within the existing Member survey has been reviewed and the revised questions are shown at **Appendix A**. The Committee should be mindful that the number and complexity of questions in a survey and the frequency that similar surveys are undertaken can affect the completion rate and quality of the survey responses. Care has been taken to provide suitable response options to enable ease of completion of the survey.

8. The questions are divided into several sections which include:

a. Your Experience of Bullying

This section seeks to identify if the respondent has experienced bullying and if they have, the nature, type, frequency, method and source of bullying that they have experienced. If the respondent has not experienced any bullying behaviours they will automatically be taken to the next section of the survey.

b. Your Experience of Harassment

This section seeks to identify if the respondent has experienced harassment and if they have, the nature, type, frequency, method and source of harassment that they have experienced. If the respondent has not experienced any harassment they will automatically be taken to the next section of the survey

c. Your Experience of Discrimination

This section seeks to identify if the respondent has experienced discriminatory behaviours and if they have, the nature, type, frequency, method and source of the discriminatory behaviours that they have experienced. If the respondent has not experienced any discriminatory behaviours they will automatically be taken to the next section of the survey.

d. Reporting of unacceptable behaviours you experienced

This section identifies if others were informed (formally or informally) of the behaviours that were experienced and identifies who incidents were reported to and provides options as to why incidents were not reported.

In addition, the views of the recipient of unacceptable behaviours are requested to determine how they were supported, how the organisation managed the incidents that were reported and if they considered that the outcome for the groups and/or individuals who were undertaking unacceptable behaviours was appropriate.

e. Observations of or witnessing unacceptable behaviours

The section is not as detailed as the previous sections and seeks to confirm the recipient of these unacceptable behaviours, the type of behaviours that were witnessed, the groups and/or individuals who were undertaking these behaviours and the reporting of these incidents. There are also questions seeking the views of the witness regarding the support of the recipient and the outcome of the perpetrator.

f. Knowledge of and confidence in reporting unacceptable behaviours

This section seeks confirmation of the awareness and process for reporting unacceptable behaviours. It also identifies whether incidents were reported and whom incidents were report to.

9. Each of the questions within **Appendix A**, includes a short rationale for the question and the expected outcomes from asking that question.
10. The survey will be produced using the SNAP survey software which will enable its completion on a laptop, personal computer or Smartphone. Indications of the likely routing have also been included in Appendix A, to show how questions will progress depending on the response provided. This will also limit the number of responses required when the question is not relevant.
11. Hard copy versions of the survey will also be provided to those members who would prefer to complete the survey using this method. Anyone requiring additional support to complete the survey may seek assistance from Democratic Services Officers.
12. The survey will be anonymous and Democratic Services will use proven practices to ensure that anonymity is maintained whilst providing an opportunity for maximise completions.

13. In addition to the questions in **Appendix A**, a series of demographic monitoring questions will be added to the end of the survey. These will identify the respondents, protected characteristics and will be used in the analysis of the completed survey. Minor revisions the survey to include more “Other, please specify” options will be added to ensure that the respondents are able to identify themselves in respect of protected characteristics i.e. non-white Welsh which are not included in the standard categories.

Analysis of the completed survey

14. A detailed analysis of the completed survey will be undertaken by a researcher from Democratic Services. The analysis will use the relevant data to provide responses for the intended outcomes identified in **Appendix A**.

Collaboration with the Democratic Services Committee

15. In 2016, the Chairs of the Standards and Ethics Committee and the Democratic Services Committee agreed that a Member Exit Survey be undertaken to enable lessons to be learned about the experiences of Councillors during their five-year term of office, and reasons for leaving or not standing for re-election.
16. Other collaborative surveys have been carried out in the intervening years. At its meeting on 6 February 2023, the Democratic Services Committee considered the benefits of including questions within its remit in a subsequent interim survey. It was determined that currently, the Committee had no specific research requirements for inclusion in an interim survey although this will remain under review.

Timescale for future surveys

17. It is considered appropriate that an interim survey be held between January and March 2024. This survey is intended to make use of the responses to the questions in Appendix A to provide evidence of any unacceptable behaviours and assist in identifying actions to address any concerns respondents may have.
18. There is an intention to launch an Exit Survey late in 2026 for completion by January 2027. The resulting data will be analysed and compared with previous exit surveys. All future survey are intended to be mapped to previous surveys to provide reasonable comparisons.
19. The questions contained within the draft survey at Appendix A are anticipated to be used in both the 2024 survey and 2026 Exit survey for comparative purposes. This analysis will assist in identifying trends on the prevalence of unacceptable behaviours during this administration.
20. However, additional surveys could be undertaken if other aspects of unacceptable behaviours need be considered and addressed.

Legal Implications

21. Relevant legal implications are set out in the body of the report.

Financial Implications

22. The costs from any surveys undertaken with Elected Members will be met from existing budgets.

Recommendations

23. The Committee is recommended to:
- a. consider the contents of the report and the draft survey questions at Appendix A.
 - b. agree the definitions be used with the surveys.
 - c. Propose relevant amendments to be made to the questions at Appendix A for inclusion in the survey in January 2024.
 - d. Approve that the agreed questions will be used in an interim survey in 2024 and in the 2026 Exit Survey

DAVINA FIORE

DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER

8 February 2023

Appendices:

Appendix A Proposed Questions – Unacceptable Behaviours

Background papers:

[Elected Member Exit Survey Comparison 2017 & 2022](#) report to Standards and Ethics Committee on 25 October 2022

[General : 27 FINAL Investigation Report Template s21 casework support only \(ombudsman.wales\) \)](#)

PROPOSED QUESTIONS – UNACCEPTABLE BEHAVIOURS**Introduction**

Rationale of the survey and guarantee of anonymity and confidentiality of responses, and compliance to data protection legislation

Your Experience of Bullying**Bullying Definition here:**

Q1 Do you feel that you have been subjected to bullying behaviours in your role as elected Member during this political administration?

- Yes **(go to Q2 and proceed with the rest of Qs)**
 No **(go to Q8)**

Will provide data on numbers of those who perceive or feel they have been subjected to bullying behaviours

Q2 How often have you experienced these behaviours?

- Once
 Twice
 More than twice

Will provide data on the frequency that respondents have experienced bullying behaviours. This can be cross tabulated with data on gender or length or service to try to establish whether certain genders are more likely to experience bullying behaviours and whether duration or length of service affects likelihood of bullying, e.g., new members likely to experience bullying compared those who have been longer in service.

Q3 What was the nature of the bullying you experienced? Was it:

- Physical - could involve physical attack or aggression such as hitting, kicking or pushing etc.
 Verbal - could involve shouting, name calling, making verbal threats etc.
 Indirect - could include spreading rumours, writing graffiti, exclusion from group
 Online - could include bullying behaviours including mobile phone calls and text messages, social media platforms, sending images etc.
 Other, please describe

This information will provide an overview on how the bullying was undertaken or the mechanism or approach used by the perpetrator. This makes use of the broad category/ies or types of bullying behaviours as identified by the anti-bullying alliance.

Note: that the above Question cannot be deleted to give way to an expanded Question 4

Q4 How would you describe the bullying you experienced?

- Physical abuse – kicking, punching, hitting, slapping etc.
- Humiliation - spoken to badly, belittled, undermined, discredited, denigrated, made to feel uncomfortable in front of group or team, external stakeholders or members of the public.
- Negative micromanagement - excessive control - constant scrutiny of work checking of whereabouts and work, questioning everything. Made to feel incompetent. Constantly told doing things wrong, nothing ever right and never satisfied with results.
- Isolation - exclusion and marginalisation- Isolation from group or team. Ignored and not spoken to. Information not passed on. Deliberately excluded from meetings and decisions.
- Verbal aggression and intimidation - anger, shouting, ranting, swearing and thumping fists on the table. Spoken to abruptly, rudely and in a demeaning way. Verbal abuse, threats etc.
- Favouritism - treated differently and less favourably to others. Excluded from aspects of work reserved for more favoured people.
- Other, please describe

This will provide descriptive information on the specific behaviours that have been experienced by the victim and does not necessarily limit this to the approach or method that was used by the perpetrator e.g., favouritism can involve both verbal and indirect methods of bullying.

Q5 Was the bullying you experienced associated with any of the protected characteristics' under the Equalities Act 2010 or fall under one of the following categories?

- Racist or faith-targeted - Related to your race, skin colour or nationality (including citizenship) ethnic or national origins
- Faith based - related to your religion or personal beliefs
- Homophobic or Biphobic - related to your chosen or assumed sexuality
- Transphobic - targeted for being, or being assumed to be, trans or non-binary.
- Sexual or sexist - bullying with a sexual or sexist element.
- Disablist bullying - related to your disability or learning difficulties or educational needs Age related -- bullying associated with your age group
- Appearance - targeted bullying related to your physical appearance or body shape, for example
- Don't know
- No, none of the above
- Other please describe

This will provide further information on the victims' views on whether the bullying experienced is associated with any protected characteristics that they may have. Should provide insight on awareness raising and further work needed to improve awareness and knowledge of the Equalities legislation and protected characteristics and acceptable behaviours associated with it.

Q6 Which individuals or groups subjected you these bullying behaviours or from whom did you receive this treatment?

- Elected Members of the Council in my political group
- Elected Members from another political group in the Council
- From Officers/Managers of Cardiff Council
- From officers of external public sector organisations or Council partner organisations, e.g., Health Board, police force, regulatory or audit bodies etc.
- From members of the public or ward constituents
- From media representatives/officers
- From contacts or followers on social media
- Other, please specify

This will provide information on the perpetrators or the characteristics of groups and/or individuals who are perceived to be undertaking or responsible for these bullying behaviours.

Q7 Where or when did your experience of bullying happen or usually happens?

- During informal interactions/ with other Elected Members or Council officers
- Before, during or after Full Council meetings
- Before, during or after formal Committee meetings
- At Group meetings
- In the Members lounge
- In the local community or ward - While working or interacting with ward members/constituents
- When on-line on social media platforms
- At my home or residential area
- Other, please describe

This will provide some information on the 'timings' or the locations' when bullying is experienced.

Your Experience of Harassment

Harassment - definition here

Q8 Do you feel you have been subjected to or have experienced some form of harassment whilst undertaking your role as an elected member since the start of this political term?

- Yes (go to Q9 and proceed with the rest of Qs)
- No (go to Q13)

This will provide data on the numbers those who experienced harassment vs numbers of those who have experienced other unacceptable behaviours such as bullying and discrimination.

Q9 If Yes, what form of harassment did you experience?

- Inappropriate comments - negative and inappropriate comments about the way you dress, your clothing, hair and appearance. Inappropriate comments about your body or the anatomy. Repeating information provided in confidence to others
- Verbal harassment - Frequent negative/derogatory and personal comments. Referred to in third person when present.
- Making life difficult - Continually bombarding with emails, threatening emails, lots of 'small things' over long period of time.
- Sexual harassment – inappropriate behaviours characterised by sexual comments, persistent unwanted advances, inappropriate behaviour e.g., touching, and making someone feel uncomfortable by looking at them inappropriately.
- Other, please describe

This will provide descriptive information on the types or scope of harassment behaviours that the victims feel they have experienced and will provide data on numbers of those who feel they have been subjected to these behaviours

Q10 How often have you experienced these behaviours?

- Once
- Twice
- More than twice

Q11 Which individuals or groups have subjected you to harassment or from whom did you receive this treatment?

- Elected Members of the Council in my political group
- Elected Members from another political group in the Council
- From Officers/Managers of Cardiff Council
- From officers of external public sector organisations or Council partner organisations, e.g., Health Board, police force, regulatory or audit bodies etc.
- From members of the public or ward constituents
- From media representatives/officers
- From contacts and followers on social media
- Other, please specify

Q12 Where or when did your experience of harassment happen or usually happen?

- During informal interactions/ with other Elected Members or Council officers
- Before, during or after Full Council meetings
- Before, during or after formal Committee meetings
- At Group meetings
- In the Members lounge
- In the local community or ward - while working or interacting with ward members/constituents
- When on-line on social media platforms
- At my home or residential area
- Other, please describe

Your Experience of Discrimination

Discriminatory behaviours definition here

Q13 Do you feel that you have experienced or have been subjected to discriminatory behaviours whilst undertaking your role as an elected Member since the start of this new political term?

- Yes (go to Q14 and proceed with the rest of the Qs)
- No (go to Q18)

This will provide data on the numbers those who experienced harassment vs numbers of those who have experienced other unacceptable behaviours such as harassment and bullying.

Q14 If YES, what was the nature of the discrimination that you experienced?

- Age related - treated differently or unfavourably because you are (are not) or perceived as a certain age or age group
- Disability related - when you are treated less well or put at a disadvantage due to your disability
- Gender reassignment related - discriminated against because you are transsexual or when your gender identity from the sex assigned to you when you were born
- Racial - discrimination or use of discriminatory language because of your race - your colour, your nationality, ethnic origin e.g., racist comments or abuse
- Religious or philosophical belief or lack of - when you are treated differently or unfavourably or favourably because of you are (or are not) or perceived to be of a particular religion or philosophical belief.
- Sexual orientation - treated differently e.g., experience to homophobia - because of your sexual orientation - heterosexual, gay, lesbian or being perceived to be of a particular sexual orientation
- Sex discrimination or sexism - being treated differently or less favourably or worse you are (or are not) of a particular sex or are member of the opposite sex.
- Maternity or pregnancy - being treated unfavourably because you are pregnant or has a new child, e.g., denying time off maternity appointments or refusal of paternity leave.
- Health related - treated less favourably because of medical condition including mental health (or condition of close family member), being bullied back to work after being sick, being denied reasonable adjustments.
- Other, please describe

This will provide information on the specific type/s or category/ies of protected characteristics that the discriminatory behaviour/s was based on or related to.

Q15 How often have you experienced these behaviours?

- Once
- Twice
- More than twice

Q16 Which individuals or groups subjected you to discriminatory behaviours?

- Elected Members of the Council in my political group
- Elected Members from another political group in the Council
- From Officers/Managers of Cardiff Council
- From officers of external public sector organisations or Council partner organisations, e.g., Health Board, police force, regulatory or audit bodies etc.
- From members of the public or ward constituents
- From media representatives/officers
- From contacts or followers on social media
- Other, please specify

Q17 Where or when did your experience of discriminatory behaviours happen or usually happen.

- During informal interactions/ with other Elected Members or Council officers
- Before, during or after Full Council meetings
- Before, during or after formal Committee meetings
- At Group meetings
- In the Members lounge
- In the local community or ward - while working or interacting with ward members/constituents
- When on-line on social media platforms
- At your home or residential area
- Other, please describe

Reporting of unacceptable behaviours you experienced

Q18 Did you tell anyone (not formally report) of the unacceptable behaviour incidents (Bullying, Harassment, Discrimination) that you have experienced?

- Yes (go to Q20)
- No (go to Q19)

Q19 If NO, why did you not tell anyone of the incident you experienced?

- Concerned about personal impact or repercussions
- Not sure how it will be received by colleagues or friends
- It is a personal issue and want to keep it private – not anyone's business
- Not sure who I can trust with this matter/issue
- Do not feel able to judge if issue is serious enough to be worth raising
- Do not know how to raise a concern
- None of these
- Other, please describe

Q20 If YES, who have you told about your experience?

- My Group Leader
- My Group Whip
- Other Members in my political Group
- A Committee Chair
- The Monitoring Officer
- The Head of Democratic Services
- My family members
- My close friends
- Other, please specify

This will provide information on who the victims feel confident to talk to about their experience/s of unacceptable behaviours. Will also provide information on informal channels used by victims to discuss their experience of these behaviours.

After completion of Q20, proceed to Q21

Q21. Have you formally reported the incident/s that you have experienced?

- Yes **(go to Q23)**
- No **(go to Q22)**

This will provide information on the number of those who formally reported any unacceptable behaviour incidents they experienced.

Q22. If NO, why have you chosen not to formally report the incident that you have experienced?

- Concerned about personal impact or repercussions
- Not sure how it will be received by colleagues
- It is a personal issue and want to keep it private – not anyone's business
- Not sure who I can trust with this matter/issue
- Not confident concern will be addressed
- Have raised concern before and was not listened to
- No way to raise concern anonymously
- Do not feel able to judge if issue is serious enough to be worth raising through the formal channels
- Do not know how to raise a concern formally
- None of these,
- Other, please specify

This will provide information of the reasons why 'victims' are unwilling to formally report the incidents they experience and contextual information to enable appropriate support to be provided to encourage reporting of incidents experienced.

After completion of Q22, proceed to Q26

Q23. If Yes, to whom did you formally report the incident/s you experienced?

- My Group Leader
- My Group Whip
- A Committee Chair
- The Monitoring Officer
- The Head of Democratic Services
- Other, please specify

This will provide info on whether 'victims' report incidents to the specified officers who have responsibility over this matter and an insight to whether they make use of the current formal arrangements for reporting unacceptable behaviours that they experience

Q24 After reporting the bullying, harassment or discriminatory incident/s that you experienced, do you feel that you were:

	Strongly Disagree	Disagree	Neither	Agree	Strongly Agree
Treated fairly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Well Supported	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This will provide feedback information on whether victims feel that they have been treated fairly and supported well in using the current arrangements for dealing with unacceptable behaviours

Q25. How satisfied are you with the outcomes or resolution of the incident/s that you reported?

Very unsatisfied	Unsatisfied	Neither	Satisfied	Very Satisfied
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This will provide feedback information on the 'victims' satisfaction of the outcomes of the process for dealing with the incidents that they experienced.

After completion of Q25, proceed to Q26

Observations of or witnessing unacceptable behaviours

Q26 Since the start of your current term as Elected Member, have you observed or witnessed the following unacceptable behaviours displayed by other Elected Members?

	Yes	No
Bullying	<input type="checkbox"/>	<input type="checkbox"/>
Harassment	<input type="checkbox"/>	<input type="checkbox"/>
Discriminatory behaviours	<input type="checkbox"/>	<input type="checkbox"/>

(If Yes go to Q27 and proceed with the rest of Qs)

(If No go to Q34)

Note: We can ask the question separately for each one of the categories to determine the types of bullying, harassment and discrimination that was observed by other Members.

This will provide information on the prevalence of perceived unacceptable behaviours (Bullying, Harassment, Discrimination) observed or witnessed by elected Members.

Q27 To whom were these unacceptable behaviours directed to:

- Another Member in the same political group
- Another Member of another political group
- Council officers
- Officers of external partner organisations
- the media
- Members of the public
- Contacts or followers on social media
- Other, please specify

This will provide information on the perceived recipients of unacceptable behaviours

Q28 Where or when did you observe or witness these unacceptable behaviours happen or usually happen?

- During informal interactions/ with other Elected Members or Council officers
- Before, during or after Full Council meetings
- Before, during or after formal Committee meetings
- At Group meetings
- In the Members lounge
- In the local community or ward - While working or interacting with ward members/constituents
- At your home or residential area
- On-line on social media platforms
- Other, please describe

Q29 Did you report the incidents that you observed or witnessed

- Yes **(go to Q30 and proceed with the rest of Qs)**
- No **(go to Q33)**

Q30 If YES, who have you told or reported the incidents that you observed or witnessed?

- My Group Leader
- My Group Whip or another Member in my political group
- A Committee Chair
- The Monitoring Officer
- The Head of Democratic Services
- Other, please specify

Q31 After reporting the bullying or harassment or discriminatory incident/s that you observed, do you feel that the victim has been or was:

	Strongly Disagree	Disagree	Neither	Agree	Strongly Agree
Treated fairly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Well Supported	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q32 After reporting the bullying or harassment or discriminatory incident/s that you observed or witnessed, do you feel that the accused:

	Strongly Disagree	Disagree	Neither	Agree	Strongly Agree
Was treated fairly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Acknowledged their unacceptable behaviours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q33 If NO, why did you not formally report the incidents that you observed or witnessed?

- Concerned about personal impact or repercussions
- Not confident concern will be addressed
- Have raised concern before and was not listened to
- No way to raise concern anonymously
- Do not feel able to judge if issue is serious enough to be worth raising
- Do not know how to raise a concern
- None of these
- Other, please specify

After completion of Q33, proceed to Q34

Knowledge of and confidence in reporting unacceptable behaviours

Q34 Do you think you have a duty to report unacceptable behaviours - bullying, harassment and discrimination that you experience, and/or observe or witness whilst undertaking your role as an Elected Member of the Council?

- Yes **(go to Q36 and proceed with the rest of Qs)**
- No **(go to Q35)**
- Not sure **(go to Q35)**

Q35 If No, or not sure, please provide more information

After completion of Q35, proceed to Q36

- Q36 Are you currently aware of the process for reporting unacceptable behaviours that you experience when undertaking your role as an elected Member of the Council?
- YES**, I am confident that I know the process and who I should contact or report the incidents that I experience
 - NO**, I am not aware of the process or who I need to contact or report incidents of unacceptable behaviours
 - Unsure**, I am not sure nor confident on what to do and who to contact if /when I experience unacceptable behaviours
 - Any other comments

Q37 Your views on how the Council deals with unacceptable behaviours - bullying, harassment and discrimination.

	Strongly Disagree	Disagree	Neither	Agree	Strongly Agree
Bullying, harassment and discrimination misconduct is taken seriously by the Council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It is safe to speak up and raise concerns about bullying, harassment and discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It is safe to personally challenge inappropriate behaviours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Those who raise concerns are supported and protected	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If bullying or any unacceptable behaviour is found to have taken place, appropriate action is taken	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q38

What do you think needs to be done to improve current arrangements for dealing with unacceptable behaviours i.e., bullying, harassment and discrimination that affects elected Members of the Council? **Rank according to importance.**

- Early Intervention and Prevention** - Tackling and challenging unhelpful attitudes and behaviours that, over time, can manifest in or perpetuate incidents of bullying, harassment and misconduct. Support opportunities to address tensions and conflicts at an early stage, before the formal complaint procedure is needed.

- Education and Signposting** - Having clear and consistent guidance that is well promoted. Educate Members on what bullying, harassment and misconduct looks like in tangible terms, and provide opportunities for members to seek confidential advice.

- Impartial and Timely Procedures** - Enable individual to raise a complaint confidentially

- Appropriate and Transparent Outcomes** – Ensure both parties are fully briefed on the outcomes of the investigation. Provide aftercare for those involved, to deal with the potential ‘fall-out’ of investigations, including the impact this might have on people’s wellbeing

- Build the Evidence Base** - Use data to monitor system and track how many cases are raised, actually resolved and resulted in a tangible outcome. Use evidence to inform and monitor procedural changes to ensure they are having the intended impact.

STANDARDS AND ETHICS COMMITTEE: 14TH FEBRUARY 2023

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

LOCAL RESOLUTION PROTOCOL AND PROCEDURE**Reason for this Report**

1. To enable the Committee to review the Local Resolution Protocol and Procedure and consider potential amendments.

Background

2. In May 2013, Cardiff Council adopted a Local Resolution Protocol, upon the recommendations of the Standards and Ethics Committee, to deal with relatively low-level 'member on member' complaints.
3. The Local Resolution Protocol was developed in response to representations made by the Ombudsman advising Councils to establish local resolution procedures to reduce the number of complaints referred to the Ombudsman relating to 'low-level' behavioural issues between Members, which typically arise in what may be regarded as the "cut and thrust" of normal Council debates and local politics. In the Ombudsman's guidance on the Members' Code of Conduct (paragraphs 1.17 and 1.18), the Ombudsman states that "In my view such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that my resources are devoted to the investigation of serious complaints. The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation."
4. The Standards and Ethics Committee reviewed the Local Resolution Protocol at its meeting on 22nd March 2017 and recommended certain updates, which were subsequently approved by full Council in November 2017.

Issues

5. The Local Resolution Protocol aims to seek the early resolution of 'low level, Member on Member' conduct complaints (often about an alleged failure to show respect and consideration) and avoid the unnecessary escalation of situations which may damage personal relationships within the Council and

the Council's reputation. The Local Resolution Protocol approved by Council in November 2017, is attached as **Appendix A**.

6. The Protocol provides a 2-stage process:
 - (i) Informal Resolution - Firstly, the Monitoring Officer must consider whether the complaint may be resolved informally; and
 - (ii) Hearing Panel – if the complaint cannot be resolved informally, the complainant may ask the Monitoring Officer to refer the matter to the Hearing Panel (a sub-committee of the Standards and Ethics Committee).
7. The Protocol provides that the Hearing Panel shall adopt and make available a procedure under which it shall carry out hearings. The Standards and Ethics Committee adopted a procedure to govern its local resolution hearings in 2013, the Local Resolution Hearings Procedure. The Procedure was revised and updated in March 2016. The Procedure is attached as **Appendix B**.
8. The informal resolution process is found to be working well. A significant proportion of complaints are resolved by the Monitoring Officer through discussion with the Members concerned, and complainants are often satisfied with an apology or other action, such as deletion of a comment on social media.
9. In cases where matters cannot be resolved informally, however, a referral to the Hearings Panel may be required. The Protocol (paragraph 3.4) states:

'If the matter cannot be resolved by mutual resolution, the person bringing the complaint may ask the Monitoring Officer to refer the matter to the Standards & Ethics Member Hearing Sub-Committee (Hearing Panel).'
10. However, the Local Resolution Hearings Procedure goes further and states that in such cases (or in cases where the Monitoring Officer considers informal resolution to be inappropriate), *'the Monitoring Officer will make arrangements to convene a meeting of the Hearings Panel and to refer that matter to it.'* (Procedure paragraph 2.5).
11. Members of the Committee will be aware, from recent cases, of the significant resource involved in arranging a hearing by the Hearing Panel, in terms of obtaining all relevant evidence from the parties; preparation of reports and administrative arrangements for the hearing; Members, officers' and witnesses' time in attending and administering the hearing; and arrangements for preparing and issuing the decision of the Panel. It has been observed that the amount of work involved in arranging a hearing may sometimes be seen as disproportionate to the seriousness of the complaint, particularly when the conduct complained about may not meet the threshold for the Panel to find a breach of the Code. It is for these reasons that the Public Services Ombudsman for Wales does not automatically investigate all complaints made to her, but applies a test to consider whether the complaint should proceed to investigation and then a hearing.
12. The Committee may wish to note that the Ombudsman adopts a 2 stage test in deciding whether to investigate complaints made to the Ombudsman:

Firstly, to consider whether there is direct evidence that a breach of the Code has occurred; and secondly to consider whether an investigation or referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. If the Ombudsman decides not to investigate a complaint, the complainant is given the opportunity (within 20 working days) to ask for a review of the Ombudsman's decision, although they will not re-open a complaint solely because the complainant disagrees with their decision.

13. The Committee is recommended to consider amending the Local Resolution Protocol and Procedure to provide that the Monitoring Officer shall not refer a complaint to the Hearings Panel unless s/he is satisfied that there is direct evidence of a breach of the Code and that it is in the public interest to do so, with the proviso that any decision to not refer an unresolved complaint to the Hearings Panel must be made with the agreement of the Chair of the Standards and Ethics Committee (or the Vice-Chair in the absence of the Chair). This proviso is intended to introduce an element of independence into any decision to not refer a complaint to the Hearings Panel, as the Council does not have another appropriate senior officer to review the decision of the Monitoring Officer. It is suggested that the recommended change, if agreed, should take effect upon approval, including to any complaints which have already been made.
14. The Committee is invited to consider and provide comments on any other aspects of the Local Resolution Protocol and Procedure which it may wish to change.

Legal Implications

15. Amendments to the Local Resolution Protocol require the approval of full Council, save that the Monitoring Officer, in consultation with the Standards and Ethics Committee Chair, may make any minor amendments as may be required from time to time (under the delegated authority granted by Council in November 2017).
16. The Committee may agree any amendments to the Local Resolution Hearings Procedure, as long as the Procedure remains consistent with the Local Resolution Protocol and the principles of natural justice.
17. Other relevant legal implications are set out in the body of the report.

Financial Implications

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

RECOMMENDATION

The Committee is recommended to:

1. Provide comments on any proposed changes to the Local Resolution Protocol (**Appendix A**) and or the Local Resolution Hearings Procedure (**Appendix B**); and
2. Authorise the Monitoring Officer, in consultation with the Standards and Ethics Committee Chairperson, to make any agreed substantive amendments to the Local Resolution Protocol (**Appendix A**), and report the same to Council for approval; and
3. Authorise the Monitoring Officer, in consultation with the Standards and Ethics Committee Chairperson, to make any agreed amendments to the Local Resolution Hearings Procedure (**Appendix B**).

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

4 February 2023

Appendices

Appendix A Local Resolution Protocol (approved by Council in November 2017)

Appendix B Local Resolution Hearings Procedure (approved by Standards and Ethics Committee in March 2016)

Background Papers

[Council report, 'Local Resolution Protocol', 30th November 2017](#), and [minutes thereof](#)
[Standards & Ethics Committee report 'Hearings Panel Procedure', 22nd March 2016](#), and [minutes thereof](#)

**CARDIFF COUNCIL
Local Resolution Protocol**

1. Introduction

- 1.1. This Protocol has been adopted in response to the Ombudsman's view that "low-level, Member-on-Member" complaints relating to breaches of the Code should be dealt with at a local level. The aim of this Protocol is to seek the resolution of matters at an early stage so as to avoid unnecessary escalation of the situation which may damage personal relationships within the Council and the Council's reputation.
- 1.2. This Protocol seeks to define the types of "low-level" complaints which are suitable for local resolution and sets out the procedure to be adopted in response to them.
- 1.3. It is important to note that this protocol does not preclude anyone from referring any complaint to the Ombudsman if they so wish. However Members should note that the Ombudsman has made clear that, in normal circumstances, it is expected that in the first instance Members should exhaust the procedures set out in this Local Protocol before referring low-level complaints to the Ombudsman.

2. What type of complaints fall within the remit of the Protocol?

The Monitoring Officer will use the following criteria to decide whether a complaint falls within the remit of this Protocol:

Within the remit of this Protocol:

- a. The complaint is made by a Member (or Co-Opted Member) of the Council and relates to a breach of the Code by a fellow Member OR
- b. The complaint is made by an Officer of the Council and relates to a breach of the Code by a Member or Co-Opted Member of Cardiff Council

AND

- c. The complaint is "low-level" in nature. Whether or not a complaint is "low-level" in nature will be dependant on the individual circumstances of a complaint.

The Ombudsman has indicated that "*typically these complaints will be about alleged failures to show respect and consideration for others as required by*

paragraph 4(b) of the Code or the duty to not make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code”.

AND

- d. The complaint does not relate to repeated occurrences of similar conduct that has already been dealt with under this Protocol or by the Ombudsman. In the event that the complaint relates to such a “repeated offence” it is likely that it will be appropriate to refer the matter to the Ombudsman directly.

Outside the remit of this Protocol:

- Complaints made by members of the public, although if the Monitoring Officer considers it to be appropriate, s/he may with the agreement of the member of the public, deal informally with the complaint, while informing them of their right to complain to the Ombudsman.

If you are unsure whether a matter you wish to complain about is “low-level” or within the remit of this Protocol, then you may wish to discuss this with the Monitoring Officer (who may consult with the Ombudsman’s office) to obtain guidance.

3. Procedure

- 3.1. In the event of a Member or Officer seeking to make a complaint that may fall within the definition of a “low-level” complaint, they should first raise the matter with the Monitoring Officer (or their deputy or other appointed officer who may assume the role of the Monitoring officer under this Protocol). The purpose of doing so is to determine whether the matter should be dealt with under this Protocol or whether the matter should be referred directly to the Ombudsman.
- 3.2. If it is decided that the matter should be dealt with under this Protocol, the following procedure shall be followed.
- 3.3. Firstly, the Monitoring Officer will consider whether the matter may be able to be resolved by mutual resolution. If so, then the Monitoring Officer will make any appropriate arrangements with the aim of seeking an informal resolution of the matter. In doing so the Monitoring Officer may:
 - i Arrange to meet with the individuals concerned, either together or separately;

- ii require the attendance of any Group Leader, Member or Officer as they determine may be beneficial to resolving the complaint; and
 - iii adopt such arrangements (such as “breaking out” of any joint meeting to meet with the individuals concerned privately or adjourning the meeting to ask individuals to reflect on their position) as they deem beneficial in an attempt to resolve the complaint.
- 3.4. If the matter cannot be resolved by mutual resolution, the person bringing the complaint may ask the Monitoring Officer to refer the matter to the Standards & Ethics Member Hearing Sub-Committee (**Hearing Panel**).

4. Standards & Ethics Hearing Panel Proceedings

- 4.1. The Hearing Panel shall adopt and make available upon request a procedure under which it shall carry out hearings. If a matter is brought before the Hearing Panel then the Hearing Panel shall hold a hearing to determine the matter in accordance with its hearing procedure.
- 4.2. The sanctions available to the Hearing Panel should it find that there has been a breach of the Code shall be:
- a. A statement that the complaint has substance, but no further action is required.
 - b. Referral of the member for training on a particular topic.
 - c. A private or public written warning. If public, that warning shall be announced and circulated at the next meeting of Council.
 - d. Censure of the Member at the next meeting of Council.
 - e. Referral to the Ombudsman for investigation if the complaint is considered to be deserving of more serious sanctions than the Hearing Panel has the power to impose.
- 4.3. In making a decision on the sanctions to be imposed, the Hearing Panel may take into account (but is not limited to considering):
- a. The severity of the offence.
 - b. Impact on others and any reputational impact on the Council
 - c. The level of remorse the Member in question has shown and any apologies they have made.
 - d. Any other action taken by the Member to redress the complaint.
 - e. Whether there is an indication of the behaviour being repetitious or whether the Member has previously been found to have committed similar offences.

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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 in writing 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 the Complainant 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 advise the Respondent of the complaint and 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)

The steps required in paragraphs 3.1 and 3.2 are compulsory.

- 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 may 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. Alternatively 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.

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

REGISTRATION OF GIFTS AND HOSPITALITY RECEIVED BY MEMBERS**Reason for this Report**

1. To enable the Committee to:
 - (i) consider the gifts and hospitality received by Members, which have been registered in accordance with rules set under the Members' Code of Conduct; and to make any appropriate comments or recommendations in this regard; and
 - (ii) consider the suggestion that Welsh authorities should voluntarily harmonise their thresholds for registration in the interests of consistency across Wales and provide its views in this regard.

Background

2. The Standards and Ethics Committee's terms of reference include the following:
 - a) To monitor and scrutinise the ethical standards of the Authority, its Members, employees and any associated providers of the Authority's services.
 - b) To report to the Council on any matters of concern. To advise the Council on the content of its Ethical Code and to update the Code as appropriate.
 - c) 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.
3. The Members' Code of Conduct (paragraph 17), requires Members to register the receipt of any gifts, hospitality or other benefits where the value of the item or benefits exceeds a threshold determined by the Council from time to time.
4. The Council's threshold for registration of gifts and hospitality received by Members has been set, on the recommendations of this Committee (in October 2007), at £25 (in line with the threshold then applied to all local authorities in England by the Standards Board for England). The Committee last discussed Cardiff's threshold in December 2020 and agreed that the £25 threshold remained appropriate.

5. The Committee has requested regular reports on the registration of gifts and hospitality received by Members. At its meeting on 9th February 2022, the Committee considered gifts and hospitality registered during the period from 1st November 2020 to 31st December 2021.

Issues

6. The Register of Members' Gifts and Hospitality held by the Democratic Services on behalf of the Monitoring Officer shows the registrations during the period from 1st January 2022 to 31st December 2022 set out in **Appendix A**.
7. In accordance with the Committee's request, Civic Hospitality is shown separately; and the location of the hospitality and approximate value are included in the Register.
8. It will be noted that a number of register entries record the approximate value of the gift / hospitality as 'unknown', and several of these relate to tickets to public events where ticket prices will be available on websites. The Committee may wish to consider whether the Council's Guidance on Hospitality, Gifts and Other Benefits Received by Members ('the Guidance', attached as **Appendix B**) and or the Member Registration Form (Receipt of Hospitality, Gifts and Other Benefits), **Appendix B1**, should be amended to reiterate the importance of including an estimated value for all registrations made. The Committee may also wish to include this point in the next Member Briefing.

Threshold for Registration

9. The Independent Review of the Ethical Standards Framework in Wales, October 2021 - Framework (gov.wales), 'the Independent Review Report', noted that the Members' Code of Conduct does not specify a threshold for Members' declarations of gifts and hospitality, and that the threshold set by individual authorities across Wales varies from £21 to £100 (Independent Review Report paragraph 4.2.4). The Report recommended that the Code should be amended to specify a threshold in order to ensure consistency across Wales (Independent Review Report, paragraph 5.5.3).
10. The Welsh Government's written statement issued in October 2021 in response to the Independent Review Report (the Penn Review) stated that the Minister would 'be considering the recommendations to amend the Model Code of Conduct in the short term. Any legislative change will be subject to a technical consultation.' We understand that the Welsh Government will shortly publish a consultation paper on their response to the Penn review, and that this is unlikely to include proposed changes to legislation.
11. A suggestion has been put forward by the Standards Committee of another Welsh authority that Welsh authorities should consider voluntarily aligning their thresholds for consistency and thereby prefiguring, and rendering unnecessary, any legislative change by Welsh Government. Informal enquiries made through the Monitoring Officers in Wales Group have indicated that the proposed harmonization of thresholds is broadly supported, in principle, by other Welsh authorities, provided a specific threshold value is agreed by all.

12. Monitoring Officers have been asked to seek the views of their Standards Committees on whether they agree a standard threshold value should be voluntarily agreed by all Welsh authorities, and if so, what the threshold should be. The Monitoring Officers' Group will then consider whether there is a consensus on a standard threshold, which may be agreed, subject to formal approval by each Council.
13. In considering this matter, the Committee may wish to have regard to the information informally compiled about the thresholds currently adopted by other Welsh authorities, which is set out in **Appendix C**.
14. The Committee will note that the most common threshold value adopted by authorities across Wales is, like Cardiff, £25. Some authorities have lower limits, including a few authorities which require *all* gifts and hospitality to be registered, irrespective of value, and one authority has a higher limit for gifts only.
15. Members are invited to provide any relevant views and observations.

Legal Implications

16. The Members' Code of Conduct, paragraph 17 states that:

'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.'
17. As noted in paragraph 9 of the report, the Independent Review of the Ethical Standards Framework in Wales has recommended that the Model Code should be amended to specify a threshold in order to ensure consistency across Wales. This would require an amendment to be made to the Local Authorities (Model Code of Conduct)(Wales) Order 2008. No such legislation has been introduced to date, but it is possible that the Welsh Government may choose to legislate on this at some point in the future.
18. The current threshold, set by the Council in October 2007 on the recommendations of the Standards and Ethics Committee, is £25. This is reflected in the Council's Guidance on Hospitality, Gifts and Other Benefits received by Members (**Appendix B**).
19. The Guidance states that *'The threshold value will be reviewed by the Council as necessary and appropriate, in consultation with the Standards and Ethics Committee'* (paragraph 16).
20. Any proposed change to the threshold value for the registration of gifts and hospitality will require the approval of Council.

Financial Implications

21. There are no direct financial implications arising from this report. The appropriate consideration by Members of gifts and hospitality offered before acceptance, followed by clear recording and review arrangements, supports the principles of good governance.

RECOMMENDATION

The Committee is recommended to:

- (1) note the information supplied at **Appendix A** on the registration of hospitality, gifts and other benefits received by Members during the period from 1st January 2022 to 31st December 2022, and make any comments considered appropriate;
- (2) consider whether any amendments should be made to the Guidance on Hospitality, Gifts and Other Benefits Received by Members (**Appendix B**) and or the Member Registration Form (**Appendix B1**) to reiterate the importance of registering the approximate value of gifts / hospitality received; and if so, to authorise the Monitoring Officer to make the appropriate amendments and communicate these changes to Members; and
- (3) provide its agreed view on the suggestion that Welsh authorities should voluntarily agree to adopt a standard threshold, and if applicable, what the standard threshold should be; and ask the Monitoring Officer to report the Committee's views to the Monitoring Officers in Wales Group and report back to Committee on this matter, as appropriate, in due course.

Davina Fiore

Director of Governance & Legal Services and Monitoring Officer

3 February 2023

APPENDICES

Appendix A	Extract from the Register of Member's Hospitality, Gifts & Other Benefits for the period 1 st January 2022 to 31 st December 2022
Appendix B	Guidance on Hospitality, Gifts and Other Benefits Received by Members (with Members Registration Form)
Appendix B1	Member Registration Form (Receipt of Hospitality, Gifts and Other Benefits)
Appendix C	Members' Gifts and Hospitality Registration Thresholds in Other Welsh Authorities

Background papers

[Report to Standards & Ethics Committee, 'Registration of Gifts and Hospitality Received by Members, 9th February 2022 and minutes thereof](#)

[Independent Review of the Ethical Standards Framework in Wales \('the Independent Review Report', also referred to as 'the Penn report'\), October 2021](#)

[Council report, 'Registration of Gifts and Hospitality', 18 October 2007 and minutes thereof](#)

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ELECTED MEMBER REGISTER OF GIFTS & HOSPITALITY 1st January 2022 – 31st December 2022

Councillor	Date of Hospitality / Gift	Provider of Hospitality/Gift Name and address	Nature/Purpose of Hospitality/ Gift / Other Benefit	Venue/ Location of Event	Role or Capacity Hospitality / Gift Received	Approx. Value
LORD MAYOR						
Rod McKerlich	12.02.22	Welsh Rugby Union Principality Stadium, Westgate Street, Cardiff, CF10 1NS	Pre Match Lunch Wales v Scotland Match tickets Post Match Reception	Principality Stadium	Lord Mayor	£30 £85 £25
Rod McKerlich	20.02.22	Swansea Council Guildhall Swansea	Lord Mayor of Swansea Civic Service & Civic Reception	St Mary's Church & Swansea.com Stadium	Lord Mayor	£30
Rod McKerlich	02.03.22	HMS Cambria Cargo Road Cardiff Bay CF10 4LY	Light refreshments at the HMS Cambria Winter Divisions Awards Ceremony	HMS Cambria Cargo Road Cardiff Bay CF10 4LY	Lord Mayor	£25
Rod McKerlich	21.03.22	Cardiff County and the Vale of Glamorgan Music Service County Hall Atlantic Wharf Cardiff	Spring Primary Showcase Concert Tickets	St David's Hall	Lord Mayor	£30
Rod McKerlich	22.03.22	Cardiff County and the Vale of Glamorgan Music Service County Hall Atlantic Wharf	Spring High School Showcase Concert Tickets	St David's Hall	Lord Mayor	£30

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ELECTED MEMBER REGISTER OF GIFTS & HOSPITALITY 1st January 2022 – 31st December 2022

		Cardiff				
Rod McKerlich	26.03.22	Bangladesh Assn Machen Place Cardiff	Bangladesh Independence Day Event Refreshments	Cardiff Castle & Bangladesh Centre, Machen Place.	Lord Mayor	£25
Rod McKerlich	27.03.22	Bangladesh Assn Machen Place Cardiff	51 st Bangladesh Independence Day Cricket Match Wales Bangladeshi's V England Bangladeshi's & Light refreshments	Ocean Park Arena, Beignon Close, Ocean Way Cardiff	Lord Mayor	£25
Rod McKerlich	01.04.22	41 Club	Joint Presidents Banquet	City Hall	Lord Mayor	£40
Rod McKerlich	22.04.22	Welsh Guards Association	Bi-Annual Lunch	Angel Hotel	Lord Mayor	£30
Rod McKerlich	26.04.22	Cardiff Metropolitan University	Graduation Ceremonies - lunch	Wales Millennium Centre	Lord Mayor	£25
Rod McKerlich	27.04.22	Cardiff Metropolitan University	Graduation Ceremonies - lunch	Wales Millennium Centre	Lord Mayor	£25
Rod McKerlich	30.04.22	Cardiff Met Hockey Club	Annual Awards Dinner	Sophia Gardens Cricket Ground	Lord Mayor	£30
Rod McKerlich	02.05.22	HMS Cambria	Lunch in honour of 1 st Sea Lord	HMS Cambria, Cardiff Bay	Lord Mayor	£25
Graham Hinchey	28.05.22	Veterans of Falklands War	40 th Anniversary Dinner	Angel Hotel, Cardiff	Lord Mayor	£30
Graham Hinchey	07.07.22	South Wales Youth Police Trust	Launch and Dinner	City Hall	Lord Mayor	£40
Graham Hinchey	11.07.22	Cardiff Metropolitan University	Graduation Ceremony – Lunch	Wales Millennium Centre	Lord Mayor	£40

ELECTED MEMBER REGISTER OF GIFTS & HOSPITALITY 1st January 2022 – 31st December 2022

Graham Hinchey	18.07.22	Cardiff Metropolitan University	Graduation Ceremony – Lunch	Wales Millennium Centre	Lord Mayor	£25
Graham Hinchey	20.07.22	Cardiff Metropolitan University	Annual Dinner	National Museum of Wales	Lord Mayor	£25
Graham Hinchey	24.07.22	Consular Association in Wales	Afternoon Tea	St Fagans	Lord Mayor	£25
Graham Hinchey	28.07.22	Glamorgan Cricket Club	England vs South Africa Vitality IT20 (match and hospitality)	Sophia Gardens	Lord Mayor	£50
Graham Hinchey	14.08.22	Worshipful Livery Company of Wales	Garden Party hospitality	Insole Court	Lord Mayor	£25
Graham Hinchey	19.10.22	Cardiff Business Club	Dinner	Hilton Hotel	Lord Mayor	£40
Graham Hinchey	21.10.22	Wales Care Awards	Gala Dinner	City Hall	Lord Mayor	£40
Graham Hinchey	30.10.22	Greek Orthodox Church of St Nicholas	Lunch	Coal Exchange Hotel	Lord Mayor	£40
Graham Hinchey	05.11.22	Royal British Legion	RBL Wales Festival of Remembrance	St. David's Hall, Cardiff	Lord Mayor	£25
Graham Hinchey	11.11.22	United Services Mess	Annual Dinner	Angel Hotel	Lord Mayor	£40
Graham Hinchey	26.11.22	WRU	Wales v Australia	Principality Stadium	Lord Mayor	£85
ELECTED MEMBERS						
Sarah Merry	17.05.22	Sherman Theatre, Cardiff	Tickets (2) plus refreshments	Sherman Theatre	Ward Councillor	£50
Ash Lister	02.06.22	Glamorgan Cricket Club	Ticket to the T20 match and hospitality	Glamorgan Cricket Club, Cardiff	Cabinet Member	Unknown

ELECTED MEMBER REGISTER OF GIFTS & HOSPITALITY 1st January 2022 – 31st December 2022

Jennifer Burke-Davies	02.06.22	Glamorgan Cricket Club	Ticket to the T20 match and hospitality	Glamorgan Cricket Club, Cardiff	Cabinet Member	Unknown
Huw Thomas	05.06.22	Football Association for Wales	Hospitality and ticket (2) – FIFA World Cup Play-Off Final Cymru v Scotland/Ukraine	Cardiff City Stadium	Leader	Unknown
Dan Naughton	13.06.22	South Wales Fire & Rescue Authority	Water Container	-	Representative on Outside Body	Unknown
Julie Sangani	26.06.22	TAW Cricket Club	Wales Indian Cricket Tournament Ticket	Sophia Gardens, Cardiff	Cabinet Member	£50
Julie Sangani	03.07.22	TAW Cricket Club	Wales Indian Cricket Tournament Final Ticket	Sophia Gardens, Cardiff	Cabinet Member	£50
Peter Huw Jenkins	20.07.22	Glamorgan Cricket Club	England vs South Africa Vitality IT20 (match and hospitality)	Sophia Gardens	Ward Councillor	Unknown
Elizabeth Jane Henshaw	18.08.22	NoFit State Circus	Two tickets for the show	Nofit State Circus, Sophia Gardens, Cardiff	Ward Councillor	£34
Dilwar Ali	22.08.22	Glamorgan Cricket Club	Ticket – Welsh Fire -v- Southern Brave	Sophia Gardens, Cardiff	Ward Councillor	Unknown
Julie Sangani	24.08.22	Cricket Wales, Sophia Gardens, Cardiff, CF11 9XR	Cohesion Cup Final Ticket	Sophia Gardens, Cardiff	Cabinet Member	£50
Jen Burke-Davies	03.09.22	WWE Corp	Tickets (2) Clash at the Castle plus hospitality	Principality Stadium	Cabinet Member	Unknown
Ash Lister	23.09.22	Deryn, Cambrian Buildings, Mount Stuart Square	Ticket to Cowbridge Pride Gala Dinner	Bear Hotel Cowbridge	Ward Councillor	£60
Julie Sangani	24.09.22	Ethnic Minority Women in Welsh Healthcare	Conference and dinner	Mercure Hotel	Cabinet Member	£50
Sarah Merry	18.10.22	Sherman Theatre, Cardiff	Tickets (2)	Sherman Theatre	Deputy Leader	Unknown

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GUIDANCE ON HOSPITALITY, GIFTS AND OTHER BENEFITS RECEIVED BY MEMBERS FROM EXTERNAL ORGANISATIONS, BUSINESSES OR INDIVIDUALS

Introduction

1. This guidance is issued in accordance with the statutory Code of Conduct for Members and applies to Elected Members and Co-opted Members of Cardiff Council. It sets out the threshold or minimum value level determined by the Council under the Code, which is **£25**.
2. **All hospitality, gifts and other benefits received by Elected Members and Co-opted Members, which are estimated to exceed this value, must be notified to, and registered by, the Council's Monitoring Officer via Democratic Services.**

Definitions

3.

Term	Definition
Hospitality received	Any entertainment beyond the offer of non-alcoholic drinks and light refreshments, which would reasonably be regarded as normal social congress, offered to Members in an official capacity or in the course of, or arising from, their official duties as Members. Hospitality received can include (but not exclusively) meals, travel opportunities, hotel accommodation, invitations to events, sport and theatre tickets.
Gift	Any tangible item given to Members in the course of, or arising from, their official duties and position held within the Council.
Other benefits	Any other benefit offered to Members in the course of, or arising from, their official duties and position held within the Council, not covered by the definitions listed above.

Statutory and Council Framework

4. Paragraph 7 of the Council's Code of Conduct for Members states that:

"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."

5. Paragraph 9(b) of the Council's Code of Conduct for Members also states that:

"You must...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."

6. Paragraph 17 (Registration of Gifts and Hospitality) of the Council's Code of Conduct for Members further states that:

"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 of the existence and nature of that gift, hospitality, material benefit or advantage."

Acceptance and Refusal

7. Whatever the value of the hospitality, gift or other benefit offered to a Member by an external organisation, business or individual, if its acceptance may place you under an improper obligation to the donor, or may reasonably appear to do so, it should always be refused.

8. It is not possible to describe all the situations where an improper obligation may arise. However, these are some examples of circumstances in which offers to Members are likely to be seen as suspect:

- The offer of hospitality, gifts or other benefits which do not appear to have any proper purpose connected with the Council (e.g. the offer of private holidays or the use of holiday accommodation; personal gifts of substantial value or other benefits offered to Members at substantially below the price they would normally be offered to the public);

- Hospitality, gifts or other benefits offered to Members who are closely involved, or who will participate, in decision making relating to an external organisation, business or individual seeking to do business with the Council and, for example, is involved in negotiating a contract; the sale or acquisition of a property; or has submitted a tender for a Council project;
- Regular and repeated hospitality, gifts or other benefits which are either offered or received from the same external organisation, business or individual;
- Hospitality, gifts or other benefits offered where a Member would be the sole guest on an essentially private occasion;
- Hospitality, gifts or other benefits offered for purely sporting or social occasions away from the Council's administrative area, where there would be no general expectation that the Council should be represented, nor any clear connection with Council business or functions.

It should be stressed that the above are examples only, and are not exhaustive. Each offer and its appropriateness should be considered on its merits and it will be necessary for Members to make a personal judgement as to whether it is appropriate to accept it.

8. Members must strike a balance between, on the one hand, taking an active part in the life of the community and ensuring that the Council is properly represented when it needs to be in a position to receive or impart information, and, on the other hand, the need to avoid the appearance of improper obligations.
9. In circumstances where it is necessary for the Council to be represented at events where hospitality is offered by an external organisation, business or individual, it is appropriate to accept unless there are circumstances which clearly suggest that an improper obligation may be seen to arise.
10. If, for example, the external organisation, business or individual offering hospitality is at a sensitive stage in contractual negotiations with the Council, it will not be appropriate for those who are directly or indirectly involved with those negotiations to accept hospitality. If the matter is a major project which affects many Council services, all invitations received during such negotiations should be refused.
11. If, however, the matter is relatively minor and confined to one service area or a small group of individual Members or employees, it may be appropriate for those Members not involved directly or unconnected with the matter to accept invitations, if it is believed that the event concerned is particularly relevant to Council business or functions.

12. The offer of hospitality from other public bodies or organisations (e.g. UK Government, National Assembly for Wales, Welsh Government, Local Health Boards and other Councils) will normally be appropriate for acceptance as the implication of improper obligation would rarely arise in those circumstances and such events are generally arranged for proper public purposes. However, those Members who are offered hospitality, gifts or other benefits by such organisations would still need to consider whether acceptance is appropriate and likely to further the Council's interests. In addition, if the organisation is involved in the process of negotiating a contract or other arrangement with the Council, careful consideration should be given before accepting any hospitality, gifts or other benefits.
13. There may be rare occasions when Members may be offered gifts in the form of bequests by local residents, as a result of their undertaking official duties. Such offers of bequests should be discouraged wherever possible in order to avoid Members being subject to any accusations of impropriety and undue influence or persuasion having been brought to bear on the testator. However, if a bequest is made then the acceptance of small bequests by Members, which represent only a minor proportion of the estate in each individual case, will generally be considered as acceptable.
14. Elected Members and Co-opted Members are not required to obtain authorisation before accepting hospitality, gifts or other benefits offered in connection with their official role. However, Elected Members and Co-opted Members will be responsible for any decision they take to accept any hospitality, gift or other benefit.

Registration

15. **Elected Members and Co-opted Members are required to register any hospitality, gifts or other benefits exceeding an estimated value of £25 for each occasion, item or payment.**
16. If there is any doubt about whether the item exceeds the threshold value, you are advised to register its receipt. However, for the avoidance of any doubt, items below the threshold values do not need to be registered by Members. The threshold value will be reviewed by the Council as necessary and appropriate, in consultation with the Standards and Ethics Committee.
17. Under the Members' Code of Conduct, Elected Members and Co-opted Members are required to make such registrations **within 28 days of receipt**. Members should use the applicable Member Registration Form ([4.C.039](#)), which must be completed and returned to the Democratic Services Manager for registration purposes. The register will be made available for public inspection.

RECEIPT OF HOSPITALITY, GIFTS & OTHER BENEFITS

MEMBER REGISTRATION FORM

All Elected Members and Co-opted Members must complete this form in order to register the receipt of any hospitality, gifts and other benefits **which have an estimated value of £25 or greater** for each relevant occasion, item or payment.

If there is any doubt about whether any hospitality, gift(s) and other benefit(s) received exceeds the £25 threshold value, Members are advised to register its receipt. However, for the avoidance of any doubt, items below the threshold value do not need to be registered. Members should also refer to the Council's guidance on Hospitality, Gifts & Other Benefits, which is issued in accordance with the Code of Conduct for Members.

DETAILS OF HOSPITALITY, GIFTS AND OTHER BENEFITS RECEIVED			
Name of Member:			
Name & Address of Organisation, Business or Individual who provided the Hospitality / Gift / Other Benefit:			
Nature & Purpose of Hospitality / Gift / Other Benefit:			
In what role or capacity did you receive the Hospitality / Gift / Other Benefit? <i>(e.g. Lord Mayor/Chairman, Deputy Lord Mayor/Vice Chairman, Leader, Deputy Leader, Cabinet Member, Ward Member, representative on outside body)</i>			
Gift/ Hospitality/Other Benefit Accepted?	*YES / NO (*please delete as appropriate)		
Date of Receipt:		Approximate Value:	£
Location / Venue: <i>(if applicable)</i>			

SIGNATURE:		DATE:	
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Please note that you must register any hospitality, gifts or other benefits with an estimated value of £25 or greater **within 28 days of receipt**.

When completed, this form must be sent to the Democratic Services Manager (Room 286A, County Hall) for registration purposes. Please note that the register will be made available for public inspection.

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**MEMBERS' GIFTS AND HOSPITALITY
THRESHOLDS SET BY OTHER LOCAL AUTHORITIES**

Authority	Current Threshold
Blaenau Gwent	£20
Bridgend	£25
Caerphilly	£25
Cardiff	£25
Carmarthenshire	£25
Denbighshire	£25
Gwynedd	£25
Merthyr	Everything must be registered
Mid and West Wales FRA	£25
Monmouthshire	No specific threshold
Neath Port Talbot	Everything must be registered
Pembrokeshire	£25
Pembrokeshire Coast	£25
Powys	£25
Rhondda Cynnon Taf	£25
South Wales FRA	£25
South Wales Police	Everything must be registered
Snowdonia Nat Park	£25
Swansea	£25
Torfaen	£25
Vale of Glamorgan	£50 for gifts and £25 for hospitality, (and all gifts and hospitality totalling over £100 from a single source within a year also to be registered)
Wrexham	£25
Ynys Mon	£20

30/01/2023

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

WHISTLEBLOWING REPORTS 2021-22

APPENDIX A IS EXEMPT FROM PUBLICATION PURSUANT TO THE LOCAL GOVERNMENT ACT 1972, SCHEDULE 12A, PART 4 PARAGRAPHS 13 & 14; AND APPENDIX B IS EXEMPT FROM PUBLICATION PURSUANT TO THE LOCAL GOVERNMENT ACT 1972, SCHEDULE 12A, PART 4 PARAGRAPH 14

Reason for this Report

1. To allow the Committee to consider reports made under the Policy during 2021-22 and any ethical issues arising.

Background

2. Whistleblowing is a phrase used to describe circumstances where a person believes that there is something so seriously wrong that he, or she, must disclose information in a manner which will draw attention to it in the public interest.
3. The Public Interest Disclosure Act 1998 ("PIDA") gives workers (including contractors' staff, certain agency staff, work experience trainees and homeworkers) certain protection if they make what are termed "qualified disclosures". A 'qualified disclosure' is made if the information disclosed relates to one of the following matters:
 - A criminal offence
 - A breach of a legal obligation
 - A miscarriage of justice
 - A danger to the health or safety of any person
 - Damage to the environment
 - Deliberate concealment of information about any of the above
4. The Whistleblowing Policy sets out the arrangements adopted by the Council aimed at ensuring that workers are able to raise concerns about danger, risk, malpractice or wrongdoing within the Council, in the public interest, 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.

5. 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).
6. The Whistleblowing Policy was substantively revised on the recommendations of this Committee, and approved by Cabinet in October 2014. Since then, a number of minor amendments have been made by the Monitoring Officer under her delegated authority, for example, to clarify the position of schools staff (Policy paragraph 2.5) and to update the Contacts List at the end of the Policy.
7. At its meeting on 6th October 2021, the Committee considered a report on whistleblowing reports made during 2020, with brief details of the concerns raised and outcome in each case.

Issues

8. In order to 'oversee and monitor the Council's Whistleblowing procedures and to consider ethical issues arising', the Committee is provided with an annual report on the number of whistleblowing reports notified to the Monitoring Officer under the Whistleblowing Policy, the type of concerns raised and the outcomes in each case. The number of whistleblowing reports recorded in 2021, along with comparative numbers for previous years, is set out below:

YEAR	NUMBER OF WHISTLEBLOWING REPORTS
2016	4
2017	3
2018	1
2019	6
2020	2
2021	3

9. In Cardiff, the number of whistleblowing reports has historically been reported to the Committee on the basis of a calendar year (as shown in the table above). However, for consistency with other Council reporting cycles, including annual audit arrangements and the Committee's annual report, it is proposed to change the reporting cycle henceforth to the financial year, starting 1st April and ending on 31st March.
10. To facilitate the transition to the new financial year reporting cycle, this report provides the Committee with information on whistleblowing reports made during the period running from 1st January 2021 until 31st March 2022, in which a total of 4 reports were made (3 being within the financial year 2021/22). Further information on the concerns raised and the outcomes in each case are set out in **Appendix A (Exempt from publication)**.

11. Comparative data on the number of whistleblowing reports recorded by other Welsh Local Authorities during 2021/22, which has been shared on a confidential basis, is set out in **Appendix B (Exempt from publication)**.
12. The Committee should note that a substantive review of the Policy is being carried out, taking account of recommendations made by Internal Audit following its review of the Council's whistleblowing arrangements, as well as other issues identified through operational experience. A draft revised Policy has been prepared for consideration by the Council's Senior Management team, and is scheduled to be reported to the Committee's next meeting. A training and communications plan will be reported to Committee for consideration along with the updated Policy.

Legal Implications

13. There are no direct legal implications arising from the recommendations of the report.

Financial Implications

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

RECOMMENDATIONS

The Committee is recommended to note the information set out in the report and **Appendix A** in respect of whistleblowing reports made under the Policy during the period running from 1st January 2021 to 31st March 2022, and make observations about any ethical issues arising, as considered appropriate.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

3 February 2023

Appendices

- Appendix A - Whistleblowing Reports 2021-22 **EXEMPT FROM PUBLICATION**
- Appendix B - Comparative data from other Welsh Local Authorities on Whistleblowing Notifications 2021/22 - **EXEMPT FROM PUBLICATION**

Background papers

Cabinet report, Whistleblowing Policy, 9 October 2014 [Revised Whistleblowing Policy \(143k\).pdf \(moderngov.co.uk\)](#)

Report of Monitoring Officer to the Standards & Ethics Committee - 'Whistleblowing Reports 2020', October 2021 [CARDIFF COUNTY COUNCIL \(moderngov.co.uk\)](#)

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

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**CARDIFF COUNCIL
CYNGOR CAERDYDD**

STANDARDS AND ETHICS COMMITTEE

14 FEBRUARY 2023

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

**PUBLIC SERVICES OMBUDSMAN FOR WALES – UPDATED CODE OF
CONDUCT GUIDANCE AND PROCESS; AND EQUALITY AND HUMAN RIGHTS
CASEBOOK 2022/23**

Reason for this Report

1. To allow the Committee to consider information provided by the Public Services Ombudsman in relation to:
 - (i) Updates to the Code of Conduct Guidance and process; and
 - (ii) The Equality and Human Rights Casebook 2022/23.

Background

2. The Ombudsman has three specific roles:
 - (i) To consider complaints about public services providers in Wales;
 - (ii) To consider complaints that members of local authorities have breached their Code of Conduct; and
 - (iii) To drive systemic improvement of public services.
3. The second aspect of the Ombudsman's role, in relation to complaints about Members breaching the Code of Conduct (point (ii) in the paragraph above) corresponds to the statutory remit of the Standards and Ethics Committee. However, the other aspects of the Ombudsman role fall outside the Committee's terms of reference.
4. The Ombudsman may investigate complaints that a Member has breached their authority's Code of Conduct. If the Ombudsman finds a complaint is justified and where it considers it to be in the public interest to do so, the Ombudsman may refer a complaint for determination by the relevant Standards Committee or to the Adjudication Panel for Wales.

Issues

Code of Conduct Guidance and Process

5. The Ombudsman has written to the Chairs of Standards Committees regarding their Code of Conduct complaints guidance and process. The Ombudsman's letter is attached as **Appendix A**.

6. The Committee will note that the Ombudsman indicates that their statutory guidance on the Members' Code of Conduct (with separate guidance for Members of Town and Community Councils) has been reviewed and updated. The updated Code of Conduct Guidance is attached as **Appendix B1** (for Members of Principal Authorities) and **Appendix B2** (for Members of Town and Community Councils).
7. The updated Code of Conduct guidance for Members of principal authorities includes reference to the new statutory duties on political group leaders and standards committees (at paragraphs 1.27 and 1.26 respectively) introduced under the Local Government and Elections (Wales) Act 2021.
8. The Ombudsman's letter to Chairs (**Appendix A**) also explains minor changes introduced in relation to their complaints notification process. The implications of this process change for Cardiff's arrangements for reporting complaints to the Standards & Ethics Committee are dealt with in the Complaints Update report under Agenda Item 9.

Equality and Human Rights Casebook 2022/23

9. The Ombudsman has also issued its fourth Equality and Human Rights Casebook 2022/23, which is attached as **Appendix C** for Members' information. It should be noted that it is only the limited information about complaints relating to Code of Conduct matters (for example, in the penultimate paragraph of the Foreword), which falls within the remit of the Standards and Ethics Committee.

Legal Implications

10. There are no direct legal implications arising from the report.

Financial Implications

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

Recommendations

The Committee is recommended to note the information set out in the report and its appendices; and provide any comments or observations, as appropriate.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

3 February 2023

APPENDICES

Appendix A Ombudsman's letter to Chairs of Standards Committees, November 2022


Appendix B1 [Ombudsman's Guidance on the Code of Conduct for Members of Local Authorities in Wales, October 2022](#)

Appendix B2 [Ombudsman's Guidance on the Code of Conduct for Members of Town and Community Councils in Wales, October 2022](#)


Appendix C Ombudsman's Equality and Human Rights Casebook 2022/23

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Ask for: Communications

 01656 641150

Date: 10 November 2022

 Communications
@ombudsman.wales

Our Code of Conduct complaints guidance and process

Dear Chairs

I took up my role as Public Services Ombudsman for Wales on 1 April 2022. Since then we have continued to promote high standards in public life to maintain trust and confidence in those who hold public office.

As political leaders and Standards Committees across Wales take forward their new duties to promote high standards of conduct under the Local Government & Elections (Wales) Act 2021, I have taken the opportunity to review my guidance for members. This will help my office support them in their work and help all members fully understand the requirements placed upon them when fulfilling their role.

To support the Standards Committees, we will be making some minor changes to our process. We will continue to share our decisions with Monitoring Officers, as required by legislation. However, we will now be sharing the complaint and our decision in a standalone decision notice to facilitate the Monitoring Officers in sharing complaint information with Standards Committees (when they consider it appropriate to do so).

Since June, we have been trialling a fresh approach to how we inform members about complaints made against them. Our practice had been that we informed the accused member, the Monitoring Officer, and the Clerk (if a Town/Community Council) of a complaint as soon as it was received. We now inform the relevant parties at the point when we either decline to investigate or decide to investigate the complaint. During the trial, we found that this approach sped up our process. It also helped to avoid unnecessary concern for members complained about, as they waited for a decision on whether the complaint should be investigated. Therefore, we will be continuing with this approach.

Whenever possible, I would like to see any concerns about a member's conduct to be resolved locally and at an early stage. This can calm situations down and prevent the need for further escalation and formal investigation by my office. The guidance and the changes we have made to our process will assist Standards Committees by keeping them informed of current issues, so they can take steps to address any potential concerns.

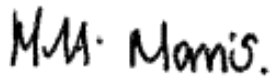
Ensuring Standards Committees are adequately informed will also support them to draw up training plans. I, and members of the public, expect all members to take

advantage of training which is available to them. I would also urge members to use any local arrangements for dealing with 'member versus member' complaints, which have proved very effective as a means of resolving many of these cases.

We should continue to work collaboratively to drive up standards in public life and to create a culture where members are respected for their selflessness, objectivity and respectful behaviour. If we do so, we can build public confidence in our democratic institutions and promote good governance for the benefit of the people in all of our communities. I, and my office, look forward to engaging with you all via the National Forum for Standards Committees.

Yours sincerely,

Michelle Morris

Handwritten signature of Michelle Morris in black ink.

Public Services Ombudsman

Cc. Monitoring Officer

Equality & Human Rights Casebook 2022/23

November 2022

We can provide a summary of this document in accessible formats, including Braille, large print and Easy Read. To request, please contact us:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel: 0300 790 0203

Email: communications@ombudsman.wales

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.

This document is also available in Welsh.



OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU
PUBLIC SERVICES OMBUDSMAN FOR WALES

Equality & Human Rights Casebook 2022/23

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- 9 About us
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- 12 Glossary
- 13 **The cases**
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- 29 Other public interest reports
- 35 Early Resolution
- 38 **Appendix: Some articles of the ECHR**

Foreword

This is our fourth Equality and Human Rights Casebook.

Much has changed since we first launched this publication in 2020, with the COVID-19 pandemic severely disrupting public service delivery in Wales, in the UK and around the world. However, our approach to equality and human rights issues that we see in our casework has remained unchanged.

We have always been clear that it is not our role to conclude that someone's human rights have been breached, or that they have been discriminated against. That is a matter for the Courts. However, we see in our casework every day that human rights and equality issues are often inseparable from people being treated unfairly and suffering injustice.

Therefore, if we see that someone's human rights or equality rights may have been engaged in the cases that we consider, we will state that clearly in our conclusions and make appropriate recommendations.

In 2021/22, we considered human rights and equality issues in 59 such cases. We hope that the selection presented in this casebook will help to continue to raise awareness of how we approach human rights and equality issues in our casework.

Many of the complaints that we considered in 2021/22 related to events that unfolded during the

COVID-19 pandemic and during the measures and restrictions introduced to protect public health. Several cases in this casebook relate directly to such issues. Continuing the theme introduced in our previous Equality and Human Rights Casebook, we present here 3 cases related to the application of the 'Do Not Attempt Cardiopulmonary Resuscitation (DNACPR)' procedure. We also include one case related to the rules around face-covering exemptions.

In addition, we include several cases in which we decided that the equality



duties of public service providers may have been engaged. The selection in this casebook focuses mainly on issues around offering reasonable adjustments to disabled people.

Although in most of the cases included in this casebook we upheld the elements of the complaint engaging human rights or equality issues, we also include several complaints that we did not uphold. We believe that this is important to better explain our approach to such cases, as well as to highlight correct administrative practice by the bodies investigated.

This publication focuses on our complaints about public services. However, I would like to take this opportunity to underline that we also embed attention to equality and human rights considerations in our other work.

Last year, we issued our first Own Initiative investigation report, 'Homelessness Reviewed', which raised important human rights and equality issues. The local authorities we investigated - Cardiff, Carmarthenshire and Wrexham - have worked hard to improve services to comply with our recommendations. That included actions to deliver equality and human rights training to homelessness staff and to make their homelessness services more accessible to service users. We continue to work with the 19 authorities that we did not investigate, monitoring progress and improvement throughout Wales to ensure improved services for those who are homeless or at risk of homelessness.

In addition, when we handle complaints about possible breaches of the Code

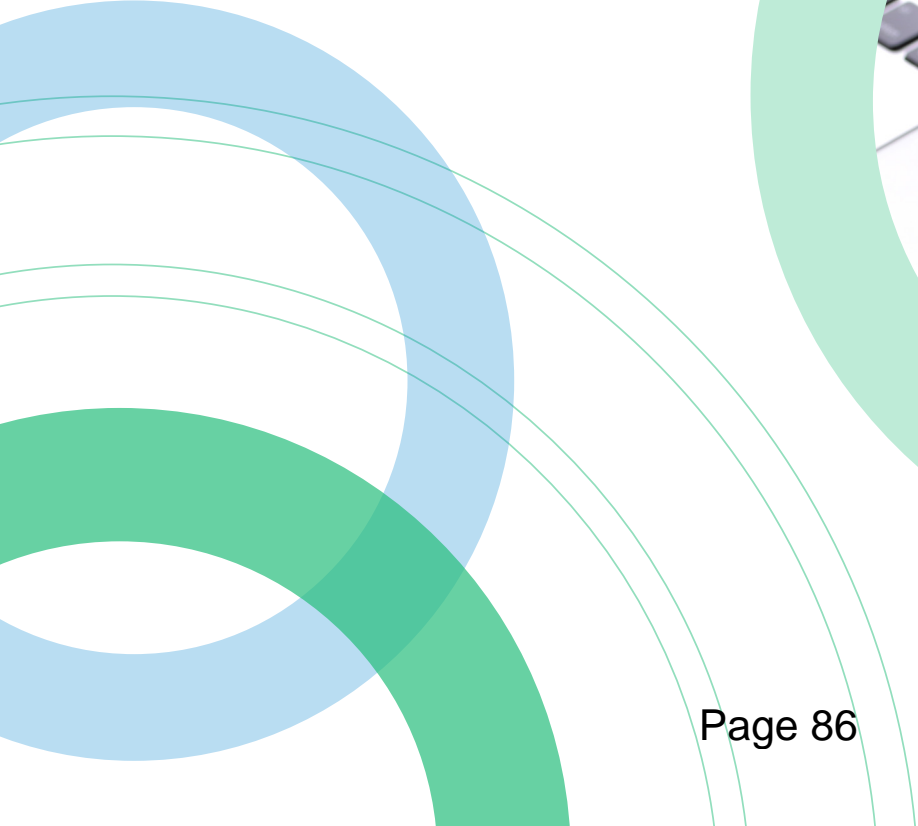
of Conduct we also look at equality issues. Under the Code, councillors must respect equality of opportunity for all people. During 2021/22, we investigated some cases where that part of the Code was breached. For example, in one such case the councillor breached the Code by making comments about another member's hearing impairment and deliberately making it difficult for that member to participate in Council meetings.

We know that there is an ongoing discussion at UK level about the future of the Human Rights Act 1998. We are clear that, regardless of the outcome of those discussions, we will continue to do all we can to promote and protect the human rights and equality rights of the people who use Welsh public services.

Michelle Morris
Public Services
Ombudsman for Wales

November 2022

Background



About us

We serve the people of Wales in 3 different ways.

Our first role is to handle complaints about maladministration, service failure, or failure to provide a service by most public service providers in Wales, such as:



Local
Government



NHS (including
GPs and
dentists)



Registered Social
Landlords



Welsh Government
and its sponsored
bodies

More information on our process for handling complaints about public bodies in Wales can be found [on our website](#) (also in [Easy Read](#)).

Our second role is to consider complaints that elected members of local authorities have breached their Code of Conduct, which set out the recognised principles of behaviour that members should follow in public life. In this role, we can consider complaints about:



County and
County Borough
Councils



Community
Councils



Fire Authorities



National Park
Authorities

More information on our process for handling complaints about a local authority member's conduct can be found [on our website](#) (also in [Easy Read](#)).

Our third role is to drive systemic improvement of public services. Traditionally, we have done this mainly by publicising our findings, for example in public interest and thematic reports, annual letters to bodies in our jurisdiction and casebooks. However, in 2019 we were given new powers to drive systemic improvement. We can now undertake investigations on our own initiative, even when we have not received a complaint. We can also set complaints standards for public bodies in Wales and monitor their performance in complaint handling.

Equality and human rights frameworks

We are committed to the statutory principles and duties under the equality and human rights UK legislation and international frameworks. In looking at our complaints, we consider:

- the equality duties under the Equality Act 2010
- the Articles of the European Convention on Human Rights (ECHR) as enshrined in law by the Human Rights Act 1998 (HRA)
- the FREDA principles (Fairness, Respect, Equality, Dignity and Autonomy) – core values which underpin human rights.

Equality duties

The Equality Act 2010 introduced a **public sector equality duty** (the 'general duty'), replacing the separate duties on race, disability and gender equality.

Under the general duty we must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

The general duty covers the following protected characteristics:

- age
- disability
- sex
- sexual orientation
- gender reassignment
- race (including ethnic or national origin, colour or nationality)
- religion or belief (including lack of belief)
- pregnancy and maternity
- marriage and civil partnership (but only in respect of the requirement to have due regard to the need to eliminate discrimination).

Public bodies in Wales also have **specific duties** to help them in their performance of the general duty.

Under the Equality Act, service providers must provide **reasonable adjustments** to disabled people.

The cases included in this casebook relate predominantly to the protected characteristic of disability and provision of reasonable adjustments.

Providing reasonable adjustments means that organisations must take positive steps to remove the barriers people face because of their disability.



Human rights

The Human Rights Act 1998 incorporates into domestic UK law the rights and freedoms as set out in the ECHR.

Some are **absolute** rights, meaning that the citizen should be free to enjoy them, and the state can never interfere with that. There are some **limited** rights, meaning they might be interfered with in certain circumstances (such as times

of war or emergency). Finally, others are **qualified** rights, meaning that the state can legally interfere with them in certain situations – for example, to protect the rights of other citizens.

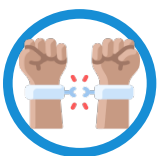
The most common rights featured in the complaints considered by our office are the following:



Article 2 - The right to life



Article 8 - The right to respect for private and family life, home and correspondence



Article 3 - The right to be free from torture or cruel, inhuman or degrading treatment or punishment



Article 9 - The right to freedom of thought, conscience and religion



Article 5 - The right to liberty and security



Article 10 - The right to freedom of expression



Article 6 - The right to a fair hearing



Article 14 - The prohibition of discrimination

The cases included in this casebook engaged predominantly **Articles 2, 8 and 14**. We include more details about the scope of these articles **[in the Appendix](#)**.

Glossary

When we consider a complaint and find that something has gone wrong with public services, we can intervene at assessment stage or at investigation stage.

When we intervene at assessment stage, we call that an **Early Resolution**. This means we can make recommendations to public service providers faster, without conducting a full investigation.

If we need to conduct a full investigation and we find that something has gone wrong, we usually prepare a report or decision letter which explains our findings. Sometimes, we decide to issue a **'public interest' report**. We do this for example when:

- there are wider lessons from our investigation for other bodies
- what went wrong was very significant
- the problem that we found may be affecting many people, not just the person who complained to us, or
- we had pointed out the problem to the body in the past, but the body did not address it.

Otherwise, we usually publish the findings of our investigation as a **'non-public interest' report**.

The cases

In this section, we present some of the relevant cases that we closed during 2021/22. For this casebook, we have simplified and adjusted case summaries to make them more accessible and better explain the equality or human rights implications of the complaint. However, formal summaries of these cases can be found on our website [here](#).

Cases about Do Not Attempt Cardiopulmonary Resuscitation (DNACPR)

A Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) decision means that if your heart or breathing stops, the healthcare team will not try to restart them. The decision should weigh up the potential benefits of resuscitation with the risk of harm to the individual patient. During the COVID-19 pandemic, the Welsh Government and the NHS placed restrictions on hospital visiting by patients' families and on funeral arrangements and social gatherings. They also amended the DNACPR policy and the guidance on the completion of death certificates. Most of these temporary provisions expired in March 2022.



202006132

Betsi Cadwaladr University Health Board

Non-public interest report



Mrs A complained about care and treatment that her late husband, Mr A, received following his admission to hospital in April 2020. Mr A, who was 81 and had several underlying health conditions, was admitted with a sudden difficulty in breathing and shortness of breath.

Mrs A complained that the Health Board did not seek informed consent (from Mr A or her) before it put in place a DNACPR form. She also said that Mr A was not given correct levels of supplemental oxygen to help with his breathing.

In addition, Mrs A complained that the Health Board incorrectly certified that the cause of death included COVID-19 pneumonia, even though Mr A had tested negative. Mrs A argued that because the Health Board stated that her husband had COVID-19, she was not allowed to be with him when he died or view his body in the chapel of rest.

Finally, Mrs A said that undertakers were not able to prepare the body and so Mr A did not have the funeral he deserved. She was later told that his belongings had been disposed of on the day he died because of the infection risk and they were not returned to the family.

What we found

We did not uphold some aspects of Mrs A's complaint. For example, we did not see evidence that the clinical decisions taken during Mr A's care were inappropriate. We were also clear that a DNACPR decision is a clinical one, and the views of Mr A and his family would not determine how it was enacted.

However, we were concerned about how the medical staff communicated with Mr and Mrs A and how they documented their decisions. Because of the poor communication and record of the decisions when enacting the DNACPR procedure, Mr A's death was more distressing for his family.

In addition, because of poor communication, Mrs A was not aware of the extent of Mr A's decline and had not expected that her visit was the last time she would likely see her husband. The Health Board did not communicate clearly what would happen to Mr A's belongings, which further contributed to Mrs A's distress.



What our Investigation Officer said

Because of contrary evidence and poor record keeping around the DNACPR decision, we could not be sure that Mr A and his family knew that a DNACPR procedure had been enacted or were involved in the decision-making process.

If the communication and record keeping were better, the family would have had much needed assurance that the clinicians considered Mr A's wishes. In our view, the situation engaged **Article 8** of the Human Rights Act, which requires the Health Board to ensure that patients can express their wishes about what care and treatment they want to receive.

What we recommended

In addition to an apology and financial redress to Mrs A, the Health Board agreed to share our report with the relevant staff, to make sure that the communication and record keeping failings that we identified would not be repeated.

202004779

Betsi Cadwaladr University Health Board
and a GP Surgery managed by the Health Board
Non-public interest report



Mrs B complained about the dosage of pain medication prescribed by the GP Surgery for her late father, Mr C, and about how this medication was managed. Mrs B also complained about the management and care that Mr C received when admitted to hospital with suspected bowel obstruction (“SBO”). In addition, she said that the Health Board did not communicate well enough with her and did not handle her complaint as it should have.

What we found

We did not uphold the parts of Mrs B’s complaint relating to the GP Surgery.

However, we found that there were clinical failings that affected Mr C’s management and care in hospital. Although a specialised scan showed that Mr C had SBO, the clinician that treated him did not identify the condition. Mr C’s condition deteriorated shortly after the scan and he suffered a cardiac arrest. He underwent 2 cycles of cardiopulmonary resuscitation (“CPR”). When the Health Board contacted Mrs B, she said that Mr C would not want to be resuscitated, but disputed saying that he “should be let go” (as noted in the clinical records). Clinical staff stopped CPR after 12 minutes and Mr C died.

We found clinical communication failings as well as failings in the DNACPR process. The Health Board should have asked Mr C about DNACPR procedure when he was admitted. Because it did not do so, it had to contact Mrs B as Mr C was undergoing CPR. We also found that CPR was not performed for the length of time specified in official guidance and that the decision to stop it was not informed by clinical considerations.

Overall, we decided that the clinical failings in Mr C’s management and care amounted to an injustice to his family, who must live with the uncertainty that the outcome could have been different.

We also found that the way the Health Board handled Mrs B’s complaint was not as effective or robust as it should have been. This meant that Mrs B and the family had to continue to relive the distressing events surrounding Mr C’s death to obtain answers.



What our Investigation Officer said

Mr C had a right to give his views about whether CPR should be attempted. By failing to ask for his views when he could have expressed them, the Health Board placed an unfair burden on Mrs B.

This, and the manner of Mr C's death continues to haunt the family. The communication failings had also added to the ongoing and significant distress. For those reasons, we decided that the human rights of Mr C and the family (in particular, **Article 8**) had been engaged in this case.

What we recommended

In addition to an apology and financial redress to Mrs B for the complaint handling failings, we recommended that the Health Board engaged with Mrs B, on behalf of the family, to help them access financial compensation.

202101577

Cwm Taf Morgannwg University Health Board

Non-public interest report



Health

Mrs D complained about the care and treatment that her late husband (Mr D), received during his admission to hospital. Mrs D said that a DNACPR form was inappropriately placed on her husband's records against her wishes and without her permission.

She also complained that the decision to stop active treatment and move to end-of-life care after 3 days of admission was inappropriate and premature.

She said that Mr D was intentionally given morphine to overdose him and hasten his death. Mrs D also said that the Health Board did not sufficiently consider her views on these decisions.

Finally, Mrs D complained that Mr D was not discharged from hospital to allow him the opportunity to die peacefully in his care home. She said the Health Board's Bereavement Team did not contact her until several months after Mr D's death.

What we found

We found that the Health Board made the decision about DNACPR correctly. We also found that the decision to change to end-of-life care was reasonable, as Mr D's condition had deteriorated even though he had been receiving appropriate treatment.

The medications prescribed, including morphine, were appropriate and the Health Board communicated with Mrs D as it should have.

We also found that it would not have been possible for Mr D to have been discharged back to his care home because of how quickly he had deteriorated and the context of the COVID-19 pandemic. As a result, we did not uphold these complaints.

However, we upheld Mrs D's complaint relating to the Bereavement Team. The Health Board accepted that the bereavement support service set up during the pandemic should have contacted Mrs D far sooner.



What our Investigation Officer said

Mrs D said that the Health Board ignored Mr D's right to life (**Article 2**) because it decided to stop active treatment and, in her view, administered an intentional overdose of morphine.

However, Article 2 places an obligation on the Health Board to provide life-saving treatment except in specific circumstances, such as where treatment is considered futile, or it is in the best interests of the patient not to provide it. The decision to stop active treatment was reasonable and we saw no evidence that morphine was prescribed to hasten Mr D's death.

What we recommended

The Health Board explained that the bereavement support service could not meet its usual timeframe of contacting family members because of staffing issues. It gave us information about the proportion of cases in which it was now meeting the relevant timescales. As the Health Board had already apologised to Mrs D and explained the reasons for the delay, we did not recommend further actions.

Other non-public interest reports

202003442

Cwm Taf Morgannwg University Health Board

Non-public interest report



Mr A complained that the Health Board did not provide appropriate care and treatment to his late father, Mr B, after he suffered a stroke at home and was admitted to the Stroke Unit. Mr B had severe dementia and died in hospital several days after admission.

What we found

We found that, after admitting Mr B, the Health Board did not use the information from his family about his needs. It also did not complete robust tests to check his mental abilities. This would have helped the Health Board's staff to identify Mr B's needs relating to his dementia and make reasonable adjustments for him.

Mr B fell during his stay in hospital, and we found that the Health Board staff had not supervised him as they should have before he suffered that fall. We also found that the Health Board did not complete Mr B's observations as required on the day that he died.

We found that the Health Board's failings affected Mr B's dignity and safety. They also caused Mr A distress due to the uncertainty about whether Mr B's fall could have been avoided or his death prevented.



What our Investigation Officer said

We concluded that the Health Board had not paid due regard to the protection that Mr B, as a person living with dementia, was afforded by the **Equality Act 2010**. This was an injustice to him.

What we recommended

In addition to an apology and financial redress to Mr A for distress and uncertainty, we recommended that the Health Board should review and discuss Mr B's care with relevant clinical staff. We also recommended that it should provide equality related training for the care of patients with a cognitive impairment.

202000712

Cardiff and Vale University Health Board

Non-public interest report



Health

Mr D complained about the care and treatment that his late mother, Mrs C, received from the Health Board during 3 admissions to hospital over 3 months. Mr D said that during Mrs C's third admission the Health Board did not give her appropriate nursing care and did not promptly let her family know about her terminal cancer diagnosis.

What we found

We found that Mrs C's core nursing care plans were not adjusted to meet Mrs C's individual needs for personal hygiene, pressure relief and hydration. Because of that, the Health Board did not fully meet Mrs C's care needs and its nursing interventions were not always appropriate. We decided that this affected Mrs C's comfort and dignity.

We also found that the Health Board's medical staff were wrong to delay the planning of Mrs C's end-of-life care and to not tell her family about Mrs C's diagnosis, until she was in the last few days of her life. If that delay had not happened, it would have been possible for the Health Board to put in place the right support for Mrs C and her family when they needed it.



What our Investigation Officer said

Mr D told us that he felt "robbed" of the time that he would have shared with his mother had he understood her diagnosis and its implications sooner. Mrs C also became too unwell to express her wishes about where she would like to be cared for and to die. Mrs C and her family should have had the time to come to terms with her prognosis and to prepare for her death with end-of-life care support. We decided that this was a significant injustice to Mrs C and her grieving family and that it engaged Mrs C's **human rights** as an individual and her **family's rights** as part of wider family life.

What we recommended

In addition to an apology and financial redress to Mr D and his wider family for the distress it caused, we recommended that the Health Board shared the findings of our investigation with relevant staff for reflective learning.

201907544

Powys County Council
Non-public interest report



**Social
Services**

Mr and Mrs A complained on behalf of their son, B, that the Council failed to safeguard and promote his welfare as a looked after child ("LAC"). They were also unhappy about how the Council handled their complaint.

A looked after child ("LAC") is a child who is in the care of their local authority.



What we found

We found that the Council did not follow the correct administrative process when it managed the funding of B's special educational provision.

We also found that the Council's decision to manage B under the statutory procedures for LAC was based on a wrong interpretation of the definition of "looked after".

The Council had also assumed that it had Mr and Mrs A's consent for B to be looked after without properly explaining their parental rights to them.

Finally, the Council's own investigation report noted how the Council failed to keep Mr and Mrs A informed of arrangements for B, including informing them as a priority when B had been admitted to hospital following a suicide attempt.

This lack of transparency and administrative failings caused an avoidable breakdown in the relationship between Mr and Mrs A and the Council. We also found numerous failings around how the Council handled Mr and Mrs A's complaint.



What our Investigation Officer said

The lack of transparency and administrative failings engaged Mr and Mrs A's human rights under **Article 6** and **Article 8**.

The Council had not assessed B's needs and so it could not show that it had regard to the human rights implications of the arrangements it made for him. Moreover, the Council did not recognise B's concerns when they were brought to its attention by B's parents. In this, it denied him any meaningful participation in the complaints process.

By failing to keep Mr and Mrs A appropriately informed of arrangements for B, the Council did not act fairly and in line with a human rights-based approach to the provision of children's social care.

What we recommended

We made several recommendations, including organisational learning, staff training and process reviews, in relation to record keeping, complaint handling and rights-based considerations in social work practice.

202005028 and 202104393

Betsi Cadwaladr University Health Board
and Flintshire County Council

Non-public interest report



Health

Continuing Health Care (CHC) is a package of care for adults which is arranged and funded solely by the NHS. Who is eligible for this package is decided through assessment.



Mr C complained that the Health Board and the Council did not tell him in a timely manner about a dispute within the Health Board about Continuing Health Care (CHC) funding, which he expected to cover the cost of care home fees of his wife, Mrs C.

Mr C was also unhappy with the Council's role in his wife's discharge planning from hospital and the funding of her care at the care home.

Finally, Mr C was unhappy about how both bodies handled and responded to his complaint.

What we found

We upheld Mr C's complaints. We found that failings in the processes by the Health Board and the Council contributed to Mrs C having an outstanding social care debt of almost £20,000.

In terms of Mrs C's discharge planning and funding, the Council should have ensured that it informed Mr C of the financial implications of chargeable social care costs. It should also have discussed with Mr C, prior to Mrs C's discharge, the need to complete a financial assessment that would have helped him to reduce the cost.



What our Investigation Officer said

The ongoing stress impacted considerably on Mr C. The impact was exacerbated by uncertainty regarding Mrs C's living arrangements and past threats of eviction from her care home.

The quality of time that Mr C devoted towards caring for and supporting his wife had been compromised by dealing with the enormity of the accumulated debt.

As a result, we found that Mr and Mrs C's **Article 8** right to respect for private and family life, home and correspondence, had been engaged at a fundamental level.

What we recommended

In addition to an apology and a redress payment to Mr C in recognition of the distress and inconvenience caused to him, our recommendations also addressed the care home fees incurred by Mrs C, with the net effect of there being no outstanding fees for the relevant period.

202003764

Gwynedd Council

Non-public interest report



Housing

Ms A complained about how the Council managed her housing application and about its decision to offer her 2 properties which were unsuitable despite being aware of her partner's (Mr B's) ill health.

Ms A also complained that the Council's new Allocations Policy (a framework where people in most need of housing are prioritised) was discriminatory. That was because of one of the reasons why people could be prioritised - local connection - was based on a parent, sibling or child relationship and not other family unit types. Ms A said, that this meant that her needs were not prioritised as they should have been. Ms A also said that because of poor communication and other failings by the Council's Housing staff, she missed out on being shortlisted for properties.

What we found

We upheld many aspects of Ms A's complaints about the Council's administrative failings. We also found evidence that the communication by the Council was poor. However, we did not uphold Ms A's complaint that the Council's Allocations Policy was discriminatory.



What our Investigation Officer said

It was not unlawful for a council to set local connection as a reason to give priority to an applicant. 'Local connection' is not a protected characteristic under the **Equality Act 2010**.

Ms A and Mr B said that they were discriminated against because of Mr B's mental health and that there was a delay in them being allocated a property. However, we were satisfied from the evidence that Mr B's medical conditions were recognised and these were appropriately reflected in their housing application.

What we recommended

We made several recommendations to the Council about its administrative and communication processes.

202004278

Wales & West Housing Association
Non-public interest report



Mr Y complained that the Association did not appropriately investigate his complaints of Anti-Social Behaviour (“ASB”) against his neighbour, another tenant of the Association.

Anti-Social Behaviour (“ASB”) means acting in a way that causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household as the perpetrator.



What we found

We found shortcomings in how the Association handled Mr Y’s complaints about ASB. The Association communicated poorly and did not keep Mr Y informed about what actions it was taking in response to his complaints. These shortcomings were contrary to the requirements of its ASB Policy.

We also found that the Association had no ASB Procedure explaining how it would deal with occurrences of ASB. That was contrary to legislative requirements and caused an injustice to Mr Y as there was no ASB procedure for officers to follow in dealing with his complaint.

We also found, that although Mr Y informed the Association that he had some mental health issues, the Association did not update his records or ask him what his needs were, and whether he required reasonable adjustments. These shortcomings amounted to maladministration which caused Mr Y an injustice.



What our Investigation Officer said

Under the **Equality Act 2010**, public sector organisations are required to make reasonable adjustments for disabled people.

This can mean changing policies and procedures or providing staff training to ensure that services work for those with protected characteristics.

These duties were relevant in this case because Mr Y informed the Association of his mental health issues and of the impact that the occurrences of ASB had on him.

What we recommended

In addition to an apology and some financial redress, the Association agreed to prepare and publish an ASB procedure. It also agreed that that procedure would include references to the Equality Act 2010 requirements and the duty to provide reasonable adjustments.

In addition, the Association agreed to review its ASB Policy to ensure that it complied with the requirements under the Equality Act 2010. It also agreed arrange training on those requirements and the ASB policy and procedure for its staff.

Public interest reports

202006310

Cwm Taf Morgannwg University Health Board (“the First Health Board”) and Swansea Bay University Health Board (“the Second Health Board”)

Public interest report



Miss C complained about care and treatment provided to her cousin Ms F, by the First Health Board and the Second Health Board.

Miss C was concerned that the Health Boards missed opportunities to identify and treat the appendicitis that caused Ms F’s ruptured appendix.

What we found

We did not uphold the complaint against the Second Health Board, because we decided that it was unlikely that Ms F had appendicitis during the time she was under its care.

However, we decided that the First Health Board failed to suspect appendicitis and admit Ms F to hospital on 2 occasions. It also failed to prescribe antibiotics and arrange appropriate and timely investigations.

After being examined for the first time, Ms F was sent home and told to return for a review and further investigations. When she returned to be examined again, a scan ruled out gallstones as a potential diagnosis. Nevertheless, Ms F was not admitted to hospital to be examined further.

Ms F did not return for further review and she died at home.

On the balance of probabilities, we decided that if the First Health Board had provided appropriate care, it would have identified and treated Ms F’s appendicitis, and her death would have been avoided.



What our Investigation Officer said

We do not make the finding of avoidable death lightly. Moreover, it is likely that Ms F's final days at home would have been severely blighted by the pain and suffering caused by her undiagnosed appendicitis and infection. The discovery of her body within the family home must have been extremely traumatic for her family.

We decided that the circumstances of this complaint may have engaged the rights of Ms F and her family to respect for their private and family life under **Article 8**.

What we recommended

We recommended that the Health Board apologise fully to Ms F's family for its failings. We also recommended that it assisted the family in receiving financial compensation from the Health Board.

Finally, we recommended that our report was shared with relevant staff for wider learning and that the Health Board reviewed its practices and procedures in the Ambulatory Emergency Surgical Unit and ambulatory settings.

20200661 and 202001667

Betsi Cadwaladr University Health Board
and Denbighshire County Council
Public interest report



Mr D complained about his late mother's (Mrs M's) care at 2 hospitals.

Mrs M had bowel surgery (to initially deal with a cancer tumour). She then suffered with persistent nausea, abdominal pain, gastric issues, and consequent weight loss. Mr D said clinicians repeatedly talked about 'anorexia', making Mrs M feel it was her fault and that she needed to try to eat more and yet, when she did, she ended up in worse pain. By the time Mrs M's problems were correctly diagnosed, she was assessed as being too frail (in part from her extreme weight loss) to undergo surgery. Mrs M died the following day.

Mr D also complained that the Council did not offer Mrs M adequate home care support when she was first discharged, which he said impacted on her dignity. Mr D said that the Council assessed Mrs M as being able to climb the stairs to access the toilet – although she was unable to do so. As a result, Mrs M had to use a commode downstairs. Mr D said this caused Mrs M distress. He said the home care service had not been able to meet Mrs M's needs and there had been a 3-day gap in its provision. Due to a break down in this service, Mrs M was readmitted to hospital.

What we found

We found that clinicians did not notice that Mrs M had developed an ischemic bowel (a condition resulting from a reduced blood supply to the intestines). Neither did they identify other clinical signs for her nausea and extreme weight loss.

We could not be certain that Mrs M's death was preventable. However, we decided that because of the failures in Mrs M's care, the Health Board lost an opportunity to consider surgery before Mrs M became too clinically unwell to undergo it.

We also upheld Mr D's complaint about Mrs M's discharge and home care package, including about Mrs M's mobility assessment.



What our Investigation Officer said

Collectively (as well as individually), these failings impacted on Mrs M's **human rights in terms of dignity and quality of life**. There was also an impact on the wider **family's rights** in terms of their witnessing her debilitating decline.

We are always conscious that we cannot conclude that someone's human rights have been breached. However, the serious events here meant that we had to question whether proper regard was given to Mrs M's human rights in this case.

What we recommended

We made several recommendations. In addition to an apology and financial redress, we recommended that the relevant clinicians reflect on our report and undergo relevant training.

We also recommended that our report was shared with the Health Board and Council's Equalities Officers, to facilitate training to relevant staff involved in Mrs M's care on the principles of human rights in the delivery of care and services.

202005937

Cardiff Council

Public interest report



**Waste
Collection**

Assisted Lift service helps residents who are unable to present waste for collection themselves due to disability, some medical conditions or pregnancy.



Equality Impact Assessment (“EIA”) is a way of considering equality duties when planning and providing services.

The Council had committed to providing an Assisted Lift waste collection service to Mrs D, Mrs F and Miss P because these residents were disabled and could not present waste for collection themselves. However, they all complained that Cardiff Council’s Assisted Lift Service had failed to meet their needs as vulnerable residents on a consistent basis. They also complained that the Council did not respond adequately to their reports and complaints about problems with the Assisted Lift Service.

What we found

We found that the Council did not provide a reliable Assisted Lift Service to the residents, with repeated missed waste collections over a long time. This amounted to serious service failures because some of the Council’s most vulnerable residents were denied reliable access to an essential service that should be available to all. The residents, 2 of whom were in their 90s, should not have had to suffer such inconvenience for such a long time.

We also stated our view that, by providing the Assisted Lift service so inconsistently to its disabled residents, the Council’s actions may have engaged the complainants’ rights to reasonable adjustments under the Equality Act 2010.

In addition, we found that the Council’s EIA did not adequately assess the impact of the Assisted Lift policy. That was because the assessment did not consider relevant operational evidence or engage with disabled or pregnant services users, or their advocates as required by specific equality duties in Wales.

We also upheld the complaints about the Council's complaint handling. Despite receiving repeated formal complaints and hundreds of calls from the complainants, the Council failed to properly acknowledge or act on their concerns and communicated with them poorly. We found that this caused the complainants avoidable distress over a long time, which amounted to a considerable injustice.

We found systemic problems with the Assisted Lift Service and were very concerned that the Council had not addressed those problems and that other vulnerable residents might also be affected.



What our Investigation Officer said

We found that this case may have engaged both human rights and equality duties. The way the Council provided the Assisted Lift Service (and failed to address the problems with it) meant that the residents had to endure accumulating waste, raising health and safety concerns and impacting their enjoyment of their homes. This may have engaged **Article 8**. It was likely that **Article 14** was also engaged, given the impact of the service failures on disabled residents.

Finally, in this case the duty to provide **reasonable adjustments** to disabled people was not enacted as it should have, and the impact on different equality groups among the residents was also not measured as it should have been.

What we recommended

We recommended that the Council should take several actions to put right the injustices experienced by the complainants, quickly improve the Assisted Lift Service for the benefit of all residents who used it, and show that it complied with its duties under the Equality Act.

The Council agreed to urgently update its EIA, to consider how it could minimise the need for complainants to report problems and make it easier for them to complain and speak to a supervisor promptly. It also agreed that the updated EIA should include plans for ongoing review of performance of the Assisted Lift Service, considering feedback from residents' reports and complaints.

Early Resolution

202201561

A GP practice

in the area of Cwm Taf Morgannwg University Health Board

Early Resolution



COVID-19

Mr A is autistic and complained that his GP Practice insisted he wear a face covering (mask) before he would be seen. That was despite Mr A saying that he was exempt from mask wearing because he was autistic. Mr A said that this had caused him anxiety and distress and meant that he did not receive his medication.

When Mr A complained to the GP Practice, it told him that mask exemptions did not apply to GP premises as they were a “high-risk healthcare setting”. It said that it would make an allowance for those with “facial deformity unable to wear a mask” (this did not apply to Mr A).

What we found

Mr A’s records confirmed that he had received his medication. However, we were concerned that the approach of the GP Practice did not comply with the regulations and guidance issued by the Welsh Government.

It was still mandatory in Wales to wear face coverings in health-care settings at the time of the events complaint about. However, guidance issued to GP practices indicated that mask exemptions could apply in health-care settings – whether for a mental or physical health reason.



What our Investigation Officer said

The GP Practice appeared to be acting contrary to Welsh Government guidance on mask exemptions. It seemed to take a restrictive approach without regard to either the guidance or the **Equality Act 2010**.

Autism is covered by that Act, and so Mr A had a reasonable excuse if he felt unable to wear a mask.

What we recommended

We resolved the case early, without the need for a formal investigation. The GP Practice agreed to apologise to Mr A for not acknowledging that he was exempt and for the distress this caused.

It also agreed to remind all its staff about the Welsh Government's guidance on exemptions - including that autistic people, and others whose conditions are not visible, may still be exempt.

202202881

Rhondda Cynon Taf County Borough Council

Early Resolution



**Adult Social
Care**

Ms C complained that the Council refused to tell her about the health and whereabouts of her late partner, Mr D and did not inform her about his death until several months after he died. She also complained that the Council did not arrange for the administration of his estate, leaving her to attend to matters.

What we found

We found that it was not unreasonable in this case for the Council to withhold information about Mr D from Ms C in the weeks leading up to his death. However, after Mr D died, the Council showed a lack of urgency in establishing that information about his death could be passed to Ms C. This resulted in a 5 month delay in telling Ms C that Mr D had died, which was likely to have caused her avoidable additional distress.

We were also concerned that the Council should have provided appropriate advice and support to Ms C in relation to the settlement of Mr D's estate following his death, in as far as it affected her. Because it did not do that, Ms C was left to resolve matters on her own without support, which cost her avoidable time and trouble.



What our Investigation Officer said

Ms C's desire to receive information about her partner could have engaged her right to a private and family life under **Article 8**. We decided that in this case it was not unreasonable for the Council to withhold information prior to Mr D's death. However, the lack of urgency to find out if Ms C could be told about her partner's death could have engaged Article 8.

What we recommended

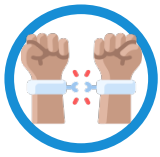
We resolved this complaint early, without resorting to a formal investigation. In addition to an apology and offering financial redress, the Council agreed to contact Ms C to offer her appropriate support and advice with any ongoing concerns relating to Mr D's estate.

Appendix: Some articles of the ECHR



Article 2 - The right to life - **an absolute right**

This includes the protection of life by public authorities. Article 2 can be relevant to consider where there is an allegation of avoidable death, provision of life saving treatment or delays in treatment. It places both positive (to do something) or negative (not to do something) obligations on public bodies.



Article 3 - The right to be free from torture or cruel, inhuman or degrading treatment or punishment - **an absolute right**

Torture has been defined as intentionally inflicting severe pain or suffering on someone. Inhuman treatment causes physical or mental suffering, so could be seen as cruel or barbaric but need not be intentional. Degrading treatment is extremely humiliating or undignified and, again, need not be intentional. To satisfy Article 3 the treatment would likely need to apply for hours at a stretch and can include neglect of duties, use of restraint, treatment against a person's wishes. Courts have set a high threshold for Article 3, but such considerations can often be viewed through Article 8 (right to respect for private and family life) as the impact on the individual is crucial.



Article 5 - The right to liberty and security - **a limited right**

This can apply when someone is detained in some way – i.e. re not free to leave. Consideration is given to the context and law – e.g. a person may lawfully be deprived of their liberty following a conviction and sentence by the courts. In mental health or care home settings we would consider the procedural safeguards put in place before any detention takes place – such as due process under the Deprivation of Liberty Safeguards.



Article 6 - The right to a fair hearing - **an absolute right**

The right to a fair trial relates to decisions about civil rights or in dealing with a criminal charge. Public bodies should meet this requirement too in their complaints handling processes in terms of procedural fairness. Has the public authority provided a reasoned decision, so someone knows the basis for it in order to decide whether to challenge it further (by any appeals process)? Does the composition of a decision body/panel ensure fairness and impartiality? A right to a public trial can be restricted if exclusion of the public is necessary to protect certain interests and/or if there is a right to progress to a court of tribunal that complies with that requirement.



Article 8 - The right to respect for private and family life, home and correspondence - **a qualified right**

This article is heavily linked to the FREDA principles of dignity, respect and autonomy. It can include sexual orientation/gender issues, the right to access information held about a person or the right to independent living and to make choices. There is a right to enjoy one's home without it being affected by noise or pollution and to enjoy living as a family, where possible. It can overlap considerably with the rights set out in Article 3 in matters of dignity.



Article 9 - The right to freedom of thought, conscience and religion - **an absolute (& limited) right**

While the right to hold a religious belief is absolute there are instances when the right to manifest it may be interfered with, so that aspect is a limited right – e.g. a pupil wishing to wear a traditional faith form of dress would be manifesting one's religion. However, if the school has a strict uniform code then it could insist that the pupil wear the uniform (thus interfering with the manifestation of their religion). They can still, nonetheless, hold their religious beliefs. There is a right to have children educated in accordance with religious beliefs albeit no duty on authorities to provide separate religious schools on demand. Healthcare bodies should protect an individual's right to manifest religious beliefs where it is practical to meet all the requirements.



Article 10 - The right to freedom of expression - **a qualified right**

Everyone has a right to hold opinions and express views even if sometimes they are unpopular. Interferences with them may be necessary in the interest of public safety, or to prevent the disclosure of information received in confidence



Article 14 - The prohibition of discrimination - **can only be used with other rights**

Heavily linked with the Equality Act, this right is not free standing and so can only be used if linked to one of the other human rights Articles.

Public Services Ombudsman for Wales

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

**MEMBERS' CODE OF CONDUCT COMPLAINTS UPDATE – QUARTER 3 OF
2022/23**

Reason for Report

1. To provide the Committee with an update on complaints made against Members of Cardiff Council or any of Cardiff's Community Councils alleging a breach of the Members' Code of Conduct, in particular, complaints notified to the Monitoring Officer during Quarter 3 of 2022/23 (the period running from 1st October 2022 to 31st December 2022).

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 Quarters 1 and 2 of 2022/23 were reported to the Committee meeting on 25th October 2022.

Issues

5. During Quarter 3 of 2022/23, covering the period running from 1st October 2022 to 31st December 2022, a total of 2 complaints alleging a breach of the Members' Code of Conduct were notified to the Monitoring Officer. Both complaints were notified to the Monitoring Officer by the Ombudsman. Brief details of the complaints are as follows:
 - (a) A member of the public submitted a complaint to the Ombudsman in September 2020 alleging that their local Councillor had failed to respond to correspondence and to support them with their concerns. The Ombudsman's decision letter, issued in October 2022, confirmed that the Ombudsman had decided not to investigate the complaint, because the matters alleged did not constitute a breach of the Code. The decision letter explained the Ombudsman's view that:

'It is a matter for the Member to determine which causes to support and they are elected to make those decisions. Whether the Member has acted for the benefit of the community is something which will be determined at the ballot box at the next election. It is not the Ombudsman's role to interfere with the will of the electorate and Cllr X is the person elected by the constituency to represent it.'
 - (b) Another member of the public complained that their local Councillor had failed to support them with their concerns, lied to residents at a public meeting held in September 2022, was unfit to perform their duties as Member and had used a religious slur and made other comments, which were considered to be unacceptable behaviour for an elected Member. The Ombudsman decided not to investigate, because the alleged failure to support the constituent's concerns could not constitute a breach of the Code, as the complaint related either to the decisions of the Council as a whole and or to political matters on which the Councillor was entitled to form their own views. The Ombudsman further decided that, whilst the remaining parts of the complaint may amount to a breach of the Code, an investigation would not be in the public interest, because the comments were not 'sufficiently offensive, intimidating or insulting to amount to bullying behaviour', nor 'so inflammatory, violent or shocking that they could amount to a breach of the Code'. However, the Ombudsman did not condone the comments made and indicated that the

Councillor would be reminded of their duty to always show respect and consideration for others.

Change in the Ombudsman's Notification Procedures

6. The Ombudsman's office has confirmed that their notification procedures have changed; and that they only now notify all parties when a decision has been made on whether the matter will be investigated. The new approach is said to have a number of benefits:

'It reduces pressure on the Monitoring Officers who are often contacted by members as soon as a complaint is made about them (seeking advice and support), it also reduces the concern for Members who were previously worrying about a complaint (some even went so far as to engage legal support), which may never be taken further than assessment, and it has reduced the number of counter complaints, which would also not meet the test for investigation. The process is also more in keeping with the legislation which requires that the Monitoring Officer be provided with a reason for decision.'

7. As the Committee will be aware, the established practice in Cardiff is for the Monitoring Officer to report complaints to the Standards and Ethics Committee quarterly, on the basis of the date upon which the complaints are received. This allows the Committee to see linked complaints, have oversight of any increase or decrease in the number of complaints overall, or of a particular type and any emerging patterns and concerns. This approach has been reviewed in light of the change in the Ombudsman's notification procedures.
8. Going forwards, it is suggested that the Committee continues to receive a quarterly complaints update report from the Monitoring Officer, but notes the different basis for reporting of complaints dealt with by the Ombudsman, as follows:
 - (a) Local Resolution Protocol - Complaints submitted to the Monitoring Officer under the Local Resolution Protocol, which will continue to be reported on the basis of the *date on which the complaint is made*, allowing comparisons to be made with the number of complaints received in previous quarters and any emerging patterns or concerns; and
 - (b) Ombudsman – Complaints notified to the Monitoring Officer by the Ombudsman, which will be reported to Committee on the basis of the *date upon which they are notified to the Monitoring Officer*, with the details of the complaint including information about the date/s of the incident/s complained about and the date of when the complaint was submitted to the Ombudsman, if this information is provided.
9. The table below illustrates the new reporting format which is to take effect from Quarter 3 of 2022/23:

Complaints Process

	Q3 Oct – Dec 2021	Q4 Jan – Mar 2022	Q1 Apr – Jun 2022	Q2 Jul – Sept 2022	Q3 Oct – Dec 2022
Local Resolution	1	1	0	1	0
Ombudsman*	3	2	2	1	2
Total	4	3	2	2	2

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

Type of Complaint

Member on Member	1	1	0	0	0
Public on Member	2	1	2	2	2
Officer on Member	0	0	0	0	0
Community Councillors	1	1	0	0	0
Total	4	3	2	2	2

Update on Complaints reported previously

Quarter 2 of 2021/22

10. The complaints submitted during Quarter 2 of 2021/22 included a number of complaints which were subject to ongoing discussions under the local resolution protocol. An update on those complaints is provided below:
 - i. Two Members complained about allegedly inaccurate information contained in a political group leaflet. These complaints were raised with the leader of the group concerned, who was asked whether the inaccuracies were accepted and if so, whether they would be corrected and an apology offered on behalf of the group. Agreement on a resolution has not been reached and so consideration needs to be given to a referral to the Standards Committee Hearings Sub-Committee.
 - ii. A Member (Cllr A) complained about comments made about them by another Member (Cllr B) during a meeting with other Members and Council officers. The complainant (Cllr A) considered the comments to be an unacceptable racist slur on the complainant. In response, the Member (Cllr B) said that the offending comment was made following allegations made by the complainant (Cllr A) against them, which attacked their personal integrity. The Member (Cllr B) also made a counter-complaint against the complainant (Cllr A), alleging that the complainant (Cllr A) had made discriminatory comments about them

(Cllr B) during the same meeting. In response to the Monitoring Officer's attempts to informally resolve this matter, the first Member complained of (Cllr B) offered an apology to the complainant (Cllr A) for any upset caused by their comments. The other member (Cllr A) has been asked to apologise but to date has not done so. Cllr A's complaint may need to be referred to the Standards Committee Hearings Sub Committee.

- iii. The counter-complaint (made by Cllr B), referred to in paragraph (ii) above, which was recorded as a separate complaint. As verbally reported to Committee at its last meeting, Cllr B has withdrawn this complaint.
 - iv. A Member (the same Cllr A referred to in sub-paragraph (ii) above), complained about misleading information, misrepresenting what the complainant had said at a meeting with Members and Officers, being published on social media by another Member (the same Cllr B referred to in sub-paragraph (ii) above). To date it has not been possible to resolve this complaint by informal resolution. Consideration may need to be given to a referral to the Standards Committee Hearings Sub Committee.
 - v. A Member complained that another Member had posted untrue and misleading information about the complainant on social media. It has not been possible to resolve this under the local resolution procedure. Consideration needs to be given to a referral to the Standards Committee Hearing Sub Committee.
11. Members may wish to note that three of the complaints above (referred to in paragraph 9 (ii), (iii), and (iv)) all relate to the same meeting attended by Members and Officers, and involve the same two Members.

Quarter 3 of 2021/22

12. One of the complaints reported to the last Committee meeting related to a complaint by a Community Councillor about material posted on social media by another Community Councillor and conduct associated with this. The complaint was submitted to the Ombudsman, whose decision was awaited. The Ombudsman decided, following an investigation, that there was no evidence of a breach of the Code. The Community Councillor complainant has requested a review of the Ombudsman's decision and the outcome of that review request is awaited.

Code of Conduct Training

13. The Committee is invited to note that the Monitoring Officer has delivered a number of repeat training sessions on the Code of Conduct, both in person and remotely, as part of the Member Induction Programme 2022. To date, 9 sessions have been delivered, attended by 74 out of the 79 Cardiff Councillors (94% of all Cardiff Councillors). Out of the 5 Councillors who have not yet completed this mandatory training, 3 have attended a Code of Conduct training session previously (but not since May 2022). All 5 Cllrs have again been requested to make arrangements to receive this training in

the near future. One of the 5 Councillors has arranged to attend a repeat training session (online), which has been scheduled for 14th March 2023, and the other 4 Councillors have also been invited to this session. The relevant group Whips are aware of the names of the Members and the need for them to attend up to date training on the Code.

14. At the Council meeting in January 2023, when the Chair presented the Committee's Annual Report 2021/22, there was a question about what action could be taken by the Committee to enforce attendance at this mandatory training and the Chair agreed that the Committee would consider this. It should be noted that when a conduct complaint is received by the Ombudsman, the first question asked of the Monitoring Officer is the date when the Member attended Code of Conduct training, which reinforces the importance of Members' attendance.
15. The Monitoring Officer's staff do follow up with individual Members who have yet to attend the mandatory Code of Conduct training; and Group Whips and Leaders are also informed of any Members from their group who have not yet attended. The Committee will also recall that the new Group Leaders' Report proforma (approved at the last Committee meeting), which is due to be completed prior to, and discussed at, the May 2023 Standards and Ethics Committee meeting, includes data on attendance at mandatory training sessions and asks Group Leaders what action they have taken to address any non- attendance at mandatory training sessions by any of their Group members. The Committee is invited to consider if there is any other action it wishes to take in this regard. For example, the Committee Chair could write to the individuals and their Group Leaders to request that the training takes place.

Legal Implications

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

Financial Implications

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

Recommendation

The Committee is recommended to note the contents of the report and to indicate if they wish any further action to be taken in relation to non-attendance at the mandatory Code of Conduct training.

Davina Fiore

Director of Governance and Legal Services, and Monitoring Officer

7 February 2023

Background papers

- [Standards and Ethics Committee report, 'Member Code of Conduct Complaints Update – Quarters 1 and 2 of 2022/23, 25th October 2022](#)
- Monitoring Officer's Code of Conduct Complaints Records and Correspondence
- Democratic Services, Members' Training Records
- [Report to Council, Standards & Ethics Committee's Annual Report 2021/22, January 2023](#)
- [Standards and Ethics Committee report, 'Group Leaders' Duties in Relation to Standards of Conduct', 25th October 2022](#)

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

CARDIFF UNDERTAKING**Reason for this Report**

1. To enable Members to review the purpose and status of the Cardiff Undertaking, and a recommended amendment if the Undertaking is to be retained.

Background

2. The ethical framework for the conduct of Members is set under Part 3 of the Local Government Act 2000. Under powers granted in the Act, the National Assembly for Wales has made an order specifying principles governing the conduct of Members ('the Principles of Conduct' SI 2001/2276); and issued a model code regarding the conduct expected of Members, reflecting the Principles of Conduct.
3. The model statutory code has been adopted by Cardiff Council (with permitted variations to clarify duties in relation to Members' use of social media, and use of Council IT equipment for political group meetings) and is enshrined, as the Members' Code of Conduct, within the Council's Constitution and available on the Council's website. Members must comply with the duties set out in the Members' Code of Conduct. Sanctions may be imposed on any Member found to be in breach of the Code.
4. The Cardiff Undertaking was adopted by the Council in 2004, on the recommendations of a Corporate Governance Commission (a team of public and private sector leaders appointed by the Council to review the Council's corporate governance arrangements). It provides an opportunity for Members to publicly commit to using their term of office to work for the Council, the City and its citizens, and to commit to the standards of conduct expected by the Council; and has been amended from time to time.
5. At its meeting on 30th September 2020 the Committee agreed various amendments to the Cardiff Undertaking (to include reference to complying with the Protocol on the Role of Members in Safeguarding Vulnerable Children and Adults, to address recommendations made by Internal Audit in relation to the principles of stewardship and leadership, and other minor drafting

improvements), which were subsequently approved by full Council in November 2020.

Issues

6. The Cardiff Undertaking is appended as **Appendix A** to this report.

7. The Constitution, Article 2.4 provides that:

Each Councillor will, at each Annual Council meeting, give the Cardiff Undertaking to publicly demonstrate their commitment with all other Councillors to upholding the highest standards of conduct and to serving the interests of the Council, Cardiff, its citizens and those to whom the Council owes a duty.

[This is reflected in the Council Meeting Procedure Rules, Rule 2(b)(vi).]

As the Cardiff Undertaking has been duly adopted by full Council, it may be regarded as binding upon all Council members, but there are no prescribed mechanisms for its enforcement; and individual Members cannot be compelled to give the Undertaking.

8. Members must, however, comply with the Members' Code of Conduct, **Appendix B** to this report, and sanctions may be imposed on any Member found to be in breach of the Code.

9. The Committee may also wish to note that all elected Members are required by law to sign a Declaration of Acceptance of Office at the start of their term of office, which includes an undertaking to comply with the Members' Code of Conduct. Members' declarations are published on their individual webpage of the Council's website.

10. The Cardiff Undertaking and the Members' Code of Conduct are included within Part 5 of the Constitution and together constitute the Council's Ethical Code.

11. A breach of the commitments set out in the Cardiff Undertaking may well constitute a breach of the Members' Code of Conduct, which may be investigated and determined under the statutory arrangements for dealing with a breach of the Code of Conduct. However, the Cardiff Undertaking is not enforceable in its own right.

12. At the Annual General Meeting of the Council held following the local elections in 2022, two members declined to give the Cardiff Undertaking. As there is no means of requiring them to give the Undertaking, this has initiated a discussion about whether the Undertaking actually adds anything above and beyond the undertaking to comply with the Code of Conduct given in Members statutory acceptance of office.

13. The Committee is therefore invited to reconsider the utility of the Cardiff Undertaking having regard to the above. The Monitoring Officer's view is that given the Code of Conduct is enforceable and the Cardiff Undertaking is not (unless a breach of it also constitutes a breach of the Members Code of

Conduct), that the Cardiff Undertaking does not add anything beyond the Code of Conduct and therefore is not necessary.

14. However, if the Committee considers that the Cardiff Undertaking should be retained, it is asked to consider the amendment of paragraph 4 of the Undertaking, to reflect the fact that Councillors may also have legal duties to other bodies, for example, to outside bodies to which they may be appointed by the Council. The recommended amendment is as follows:

4. Give priority to the interests of the Council, Cardiff and of the people of Cardiff, when acting as a Cardiff Councillor, subject to any other overriding legal duties.

Legal Implications

15. The Standards and Ethics Committee's terms of reference include:

'To advise the Council on the content of its Ethical Code and to update the Code as appropriate' [Terms of Reference, paragraph (b)].

16. Any change in relation to the Cardiff Undertaking may be recommended by the Standards and Ethics Committee to full Council for approval

17. Changes to the Cardiff Undertaking may also require consequential changes to the Constitution, Article 2.4 and the Council Meeting Procedure Rules, referenced in paragraph 7 of the report. Changes to the Constitution also require the approval of full Council.

18. Other relevant legal implications are set out in the body of the report.

Financial Implications

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

Recommendations

The Committee is recommended to:

1. Consider whether or not the Cardiff Undertaking should be retained;
2. If the Undertaking is to be retained, to agree the amendment of paragraph 4 of the Undertaking, as set out in paragraph 14 of this report; and
3. Authorise the Monitoring Officer to report the Committee's recommendations on this matter, along with any consequential changes to the Constitution, to full Council for approval.

DAVINA FIORE
DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER

3 February 2023

APPENDICES

Appendix A [Cardiff Undertaking](#)

Appendix B [Members' Code of Conduct](#)

Background papers

[Cardiff Undertaking, report to Council, November 2020](#)

[Cardiff Undertaking, report to Standards and Ethics Committee, September 2020](#)



STANDARDS AND ETHICS COMMITTEE:

14 FEBRUARY 2023

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

OBSERVATION OF MEETINGS

Reason for this Report

1. To allow the Committee to consider the feedback provided by Committee members following observation of meetings of the Council and Community Councils.

Background

2. The Committee has agreed that observation of Council, Committee and Community Council meetings is helpful for members, in particular the Independent Members of the Committee, to gain experience of the Council and Committee processes, and to provide opportunities for first hand feedback to the Committee of any issues relating to standards and conduct.
3. The Committee has approved a feedback proforma for use by the Members of the Committee when observing meetings. Members have been asked to complete a form for each meeting they attend and submit it for consideration at the next appropriate Committee meeting.
4. At its last meeting on 25th October 2022, the Committee considered feedback provided in respect of observation of the September 2022 Council meeting.

Issues

5. Meeting observation feedback has been received in respect of the Council meeting held on 27th October 2022. The completed observation form is appended as **Appendix A**.
6. Members will be pleased to note that the feedback in relation to the management of the meeting and clarity of decision making is positive, and that no conduct or standards and ethics issues were noted.
7. However, certain issues are raised in relation to the ability to hear proceedings and the availability of papers. This feedback has been shared with the Head of Democratic Services, who has responded to confirm the following:

- (i) The technical equipment for hybrid meetings is relatively new and certain teething issues have been encountered, which have since been addressed, partly by all meeting participants developing familiarity with using the new system, and partly through upgrades to the system designed to prevent their recurrence. During the October 2022 Council meeting, technical issues occurred during the meeting which required the remote part of the meeting to be restarted during the break, which meant that the remote attendees needed to re-join the meeting after the systems were rebooted. Resolving these issues took slightly longer than expected, causing a longer break than advised by the Lord Mayor. The restart of the remote part of the meeting also created a delay with the re-activation of the webcast. However, the webcast was back online as quickly as possible and upgrades made since to the system should prevent a recurrence of this problem.
- (ii) Circulation of exempted documents is undertaken within the Modern.gov system when the agenda is published. Access is provided to users who have registered their device with Democratic Services. Authorised users can then view the exempted reports on the Modern.gov app or intranet without the need for circulation by email. However, as it transpired during the meeting that some Members had not seen the exempted documents, they were circulated again via email and the item was moved to later in the meeting, to ensure all councillors had the opportunity to look at them before voting on the matter.

8. The feedback has also been shared with the Lord Mayor, as Chair of Council.

9. Details of all forthcoming Council, Committee and Cabinet meetings are listed in the calendar of meetings, which is regularly circulated to Standards and Ethics Committee members and is published on the Council's website, here:

[Monthly meetings calendar - February 2023 : Cardiff Council \(moderngov.co.uk\)](https://www.moderngov.co.uk/2023/02/01/monthly-meetings-calendar-february-2023-cardiff-council)

Independent members, and in particular, newly appointed members, are encouraged to observe a full Council meeting and a Committee meeting.

10. Details of forthcoming Community Council meetings are published on the respective Councils' websites. Members are similarly encouraged to observe a Community Council meeting. Members are advised to contact the Clerk to confirm the meeting is going ahead and to check arrangements for attending. Community Council website links and Clerks contact details are accessible here:

[Community councils contact details : Cardiff Council \(moderngov.co.uk\)](https://www.moderngov.co.uk/2023/02/01/community-councils-contact-details-cardiff-council)

Legal Implications

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

Financial Implications

12. There are no direct financial implications arising from this report. Any relevant payments and allowances associated with observing meetings would be payable in accordance with the rates set by the Independent Remuneration Panel for Wales, and met from the allocated budget.

RECOMMENDATION

The Committee is recommended to:

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

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

7 February 2023

Appendix

Appendix A Meeting Observation Feedback Form for full Council meeting held on 27th October 2022 (DM)

Background papers

[Standards and Ethics Committee report, 'Observation of Meetings', 25th October 2022](#)

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STANDARDS AND ETHICS COMMITTEE

FEEDBACK ON OBSERVATIONS OF COUNCIL & COMMITTEE MEETINGS

Meeting:	Full Council Meeting
Date:	27 th October 2022

Please provide feedback on the following:

<u>Topic</u>	<u>Comments</u>
Room Layout:	Council Chamber with EasyConf Connect application in place to support remote participation.
Name plates/identification of Committee; Witnesses and Officers:	Name plates in place for those attending in person. Remote participants/observers via both the EasyConf application and the Webcast link on the Council website.
Ability to hear proceedings:	<p>Despite the Chair giving clear reminders, microphones were not always turned on before individuals started speaking.</p> <p>At 19:00 the scheduled 15 minute break commenced but it was 30 minutes before I was able to re-join the meeting via both Webcast and the EasyConf app.</p> <p style="padding-left: 40px;">-Via Webcast: The screen displayed a message that said the meeting would restart shortly. However, the Webcast did not resume the broadcast until circa 19:30.</p> <p style="padding-left: 40px;">-Via EasyConf app: This did not restart automatically. An email with a fresh link to re-join was received at 19:31 and I was able to re-join at this point.</p> <p>On re-joining it was clear that the meeting had restarted some time before and therefore remote attendees would have missed up to 15 minutes of the proceedings. This can be seen on the Webcast recording of the meeting at the 2:28:32 point where the Chair announces the 15 minute break. Immediately afterwards, when the recording restarts, Cllr Chris Weaver is already speaking on Agenda item 7.</p>
Agenda and Reports availability:	The vast majority of papers were available in good time but some papers were late, which included two confidential appendices had to be circulated by email during the meeting.
Management of Meeting:	Very good
Clarity of decision making:	Generally good.

Possible Code of Conduct/Standards and Ethics Issues:
None noted.

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I agree that my feedback can be shared with the Council and/or the Community Council (if applicable).

Name:	David Mills
Date:	27 th October 2022



STANDARDS AND ETHICS COMMITTEE:

14 February 2023

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

WORK PROGRAMME 2022 - 23

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 2022/23

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 draft Work Programme for 2022/23 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 under the Local Government Act 2000 (section 54) 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.*

(2A) A standards committee of a county council or county borough council in Wales also has the specific functions of—

*(a) monitoring compliance by leaders of political groups on the council with their duties under section 52A(1), and
(b) advising, training or arranging to train leaders of political groups on the council about matters relating to those duties.*

6. The Committee has the same general and specific statutory functions (set out under section 54(1) and (2) above) 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 the report. The work programme would need to be delivered with the resources available within the allocated budget.

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
6 February 2023

Appendix

Appendix A

Work Programme 2022 – 23

Background Papers

[Standards & Ethics Committee report, Work Programme 2022/23 – October 2022](#)

STANDARDS AND ETHICS COMMITTEE – WORK PROGRAMME – 2022/23

APPENDIX A

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	STATUS	REPORT TO COMMITTEE
(1) Gifts and Hospitality	To monitor and review the acceptance of gifts and hospitality by Members (annually).	Monitoring Officer	Medium	Scheduled	ON AGENDA
(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	Autumn 2023
(4) 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 received
(5) Whistleblowing Policy	(1) To monitor reports made under the whistleblowing policy and consider any ethical issues arising; and (2) To review the Whistleblowing Policy to ensure it remains fit for purpose.	Monitoring Officer	Medium	Scheduled	(1) ON AGENDA (2) May 2023

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY	STATUS	REPORT TO COMMITTEE
(6) Officers Personal Interests	To receive a report on Senior Officers Personal Interests Declarations (annually)	Monitoring Officer / HR	Medium	Scheduled	Summer / Autumn 2023
(7) Meeting with Group Leaders and Whips	To facilitate ongoing engagement with representatives from all political groups; to consider group leaders' new duties in relation to Members' conduct and relevant training	Elected Members	Medium	Scheduled	May 2023 & Winter 2023/24
(8) Annual Report 2022/23	Prepare Annual Report 2020/21	Committee Chair/ Monitoring Officer	Medium	Scheduled	Autumn 2023
(9) Local Resolution Protocol	To review the Local Resolution Protocol and procedure	Monitoring Officer	Medium	Scheduled	ON AGENDA
(10) Cardiff Undertaking	To review the Undertaking, its purpose and status	Monitoring Officer	Medium	Scheduled	ON AGENDA
(11) Members' Use of Council IT for Political Group Meetings	To receive an information report on the adoption and implementation of the new Protocol recommended by the Committee	Monitoring Officer	Medium	Scheduled	Autumn 2023
(12) Welsh Government Response to the Independent Review of the Ethical Standards Framework	To consider the Welsh Government's response to the Independent Review Report and provide a response	Monitoring Officer	Medium	Scheduled	May 2023