

STANDARDS & ETHICS COMMITTEE

22 MARCH 2017

Present: Independent Members: Richard Tebboth (Chair),
Hollie Edwards-Davies, James Downe and Hugh Thomas
Councillors Cowan, Phillips

Community Councillor John Hughes

23 : APOLOGIES FOR ABSENCE

No apologies for absence were received.

It was noted that there was one Councillor vacancy on the Committee following the resignation of Councillor Margaret Jones.

The Chairperson wished to put on record the Committee's thanks for the important contributions Councillor Jones had made on the Committee and wish her well for the future.

Community Councillor John Hughes sought confirmation that it was his last year as a representative on the Committee. The Director of Governance and Legal Services confirmed that Community Councillor Hughes' term of office would expire after the May elections and could not be further extended. She advised that she would write to Community Councils at the end of the current administration seeking their nominations.

The Director of Governance and Legal Services was asked if a Clerk to a Community Council could sit on the Standards & Ethics Committee, to which she advised that this was not permitted under the Regulations.

The Chairperson thanked Community Councillor John Hughes for his contribution to the Committee adding that he had been a long serving, forthcoming, and effective voice for the Community Councils.

24 : DECLARATIONS OF INTEREST

No declarations of interest were received.

25 : MINUTES

The minutes of the meeting held on 30 November 2016 were agreed as a correct record and signed by the Chairperson.

Committee members noted that in relation to the Community Council Charter, the minutes had stated that the Monitoring Officer would consider this issue further with planning colleagues and seek to find a solution to the ongoing issues. The Director of Governance and Legal Services provided an update stating that she had been unable to take this forward so far. There had been further discussions with the Director of City Operations.

Committee members were asked if they would like the Community Council Charter to be brought back to a future Committee Meeting, noting that planning obligations under S106

were not a Standards and Ethics issue and no more could be done on that part of the Charter.

The Community Council representative suggested that the issue of S106 was not present in the rest of Wales; and that Cardiff was different and unique with so many new homes being built. The discussion with the Director of City Operations had concluded that S106 discussions were part of a statutory planning process during which Community Councils are consulted and they express their views. If further consultation is required then the Local Authority has a process for consultation with Ward Councillors, some of whom sit on Community Councils and views can be fed in that way.

The Director of Governance and Legal Services advised that Community Councils should speak directly to the Planning Directorate or the new Chair of Planning of the new Administration to seek to resolve their concerns.

26 : ADJUDICATION PANEL FOR WALES - NOTICE OF DECISION

This report informed Members of the Committee of the recent decision of the Adjudication Panel for Wales (APW) in relation to a formal complaint to the Ombudsman for Wales against Councillor McEvoy. The hearing had been over two days. A report would be submitted to Full Council to notify Members of the Notice of Decision and the sanction imposed.

The Committee expressed its concern at the length of time taken to determine this matter (which related to an incident in July 2015); and noted that the Monitoring Officer had made this point to the Ombudsman's office.

It was noted that a press article indicated that the Councillor concerned intended to appeal against the decision, and that the Committee should take care not to publicly comment in a way that may prejudice any appeal.

A Member queried why the previous Notice of Decision relating to Councillor McEvoy had been taken down from the Website and was advised that the Council had followed the timescales applicable to the Ombudsman's decisions, and had published the notice for 21 days. The Director of Governance and Legal agreed to look into the timescales.

RESOLVED – That the findings of the Adjudication Panel for Wales in relation to this case be noted.

27 : MEMBERS' CODE OF CONDUCT COMPLAINTS - QUARTER 3, 2016/17

Members were advised that this report was for information purposes only. The Director of Governance and Legal services advised that there had been no real changes; there had been slightly more complaints received recently but this was to be expected due to it being the election period.

RESOLVED – That the contents of the report be noted.

28 : LOCAL RESOLUTION PROTOCOL

The Committee was provided with an overview of the report and noted that the Ombudsman had made representations 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 latest guidance on the Members' Code of Conduct, 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."

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.

The Local Resolution Protocol adopted in May 2013 requires review to ensure it remains up to date and fit for purpose.

The report asked the Committee to consider whether the Protocol should be extended to low level complaints made by officers about the conduct of a Member. Such complaints are generally dealt with informally by the Monitoring Officer. However, the extension of the Local Resolution Protocol to officers would make Hearing Panel proceedings available where necessary, and may similarly help to avoid unnecessary escalation of the situation and damage to personal relationships within the Council and the Council's reputation. The Committee was advised that some other authorities do already extend their local resolution process to officers.

The Local Resolution Protocol requires the Monitoring Officer to meet with the complainant and complainer together, the Director advised that in some case this may not be appropriate, and they should meet separately. Small amendments would give the Monitoring Officer more discretion.

The Committee during discussion considered that these changes were overdue and was advised that any changes would need to be agreed by Full Council then articulated to Officers. The Committee was content to agree the extension of the Protocol to officers, provided that Senior Management Team had been consulted and were comfortable with it.

The Monitoring Officer also suggested that the Protocol could be made available to deal with low level complaints made by members of the public, if all were in agreement, and on the basis that the individual would always have the right to refer a matter to the Ombudsman if they wished.

RESOLVED – That

1. the recommended amendments to the Local Resolution Protocol shown in Appendix A to the report were agreed, subject to approval by full Council;
2. subject to approval by Council, the Protocol be made available to cover:
 - low level complaints made by officers or members of the public about the conduct of a Member; and
 - low level Member on Member complaints involving Community Councillors;

the proposed amendments to the Local Resolution Protocol be recommended to full Council for approval (with delegated authority for the Monitoring Officer, in consultation with the Standards and Ethics Committee Chairperson, to make any minor amendments to the Protocol as may be required from time to time).

29 : WHISTLEBLOWING UPDATE

The Chairperson asked if it was considered that the Policy was working effectively. The Director of Governance and Legal services stated that it was, but that there were some concerns that staff were using the policy whilst already in dispute with management.

Members noted that there had been a workshop on Whistleblowing at the Standards and Ethics Conference last year, after which a report had been produced and published. Dr Downe noted that when the policy had been relaunched, he had been impressed with how it had been communicated. The number of reporting's had initially increased as a result of the new policy, however the numbers have decreased again, so it could be an opportunity to look at how to improve the communication of the Policy further.

The Director of Governance and Legal Services advised that SMT and management briefings were planned and an information leaflet was being produced.

RESOLVED – That the information provided be noted.

30 : MEMBER EXIT SURVEY 2017

This report asked the Committee to receive and consider the findings of the Member Exit Survey undertaken in February 2017 that fall within the remit of the Committee and agree an action plan.

The Committee was reminded that the Member Exit Survey had been available electronically and in hard copy from 15 to 24 February 2017, and an opportunity was provided to those who needed support to complete the survey with the assistance of one of the Committee and Members Services team.

The Exit Survey was open to all Members who have held the Office of Councillor since May 2012. A total 46 responses were received by the closing date.

Appendix A to the report provided the overview data for generic questions 1 – 4 and provided details on the responses to Questions 14 – 21 which specifically related to the remit of the Committee. The free text data was provided in themes in order to anonymise responses. The Committee were invited to consider potential actions arising from the data.

The Chairperson had been keen to see adequate questions in relation to bullying and discriminatory behaviour as those are the issues that generally come before Standards and Ethics Committee; and was pleased to see there had been a good number of responses to those questions. In addition the Chairperson had offered to meet any Member who wanted to talk about bullying or discriminatory behaviour, but had only had 1 response to date.

The Director of Governance and Legal Services explained that the Democratic Services Committee had suggested a re-run of the survey at the end of the calendar year to capture

the perceptions of the newly elected Councillors and note any changes; and that the Standards and Ethics Committee would also have the opportunity to review this.

The Committee considered that the responses to questions 14-16 showed a reasonable problem with a third of respondents feeling that they had experienced bullying. The Committee was pleased to note that the confidential counselling service offered to employees had been extended to Elected Members; this would be communicated clearly as part of the Induction Programme.

The Monitoring Officer advised that these issues had been discussed with group leaders and whips, reiterating the responsibilities of groups in this regard. Discussions had been constructive and the Monitoring Officer considered that the situation had improved.

The Committee discussed penalties and sanctions and it was considered that these needed to be fully explained as part of the induction process; Members needed to be aware of media coverage and sensitive or individual personal information not being discussed in public meetings. The Chairperson noted that Members are not employees, they are answerable to the electors and have a code of conduct to follow, but they are deprived of some of the protection that employees have; making it essential that when unacceptable behaviour comes to light, it is dealt with formally and in a timely manner.

In relation to increasing the involvement of the back benchers in decision making, Committee members asked how this could be done within the Council structure. Officers advised that there were opportunities available, such as the vacancies on scrutiny and regulatory Committees. There had been a recommendation from Constitution Committee that Scrutiny Task and Finish Groups be opened up to all Members.

In conclusion, the Committee discussed what else Standards and Ethics Committee could do when they receive allegations of bullying and raising the profile of the Committee. It was noted that Group Leaders are periodically invited to Committee, a regular Member Briefings and Annual Reports are produced, Standards and Ethics Committee members attend Full Council meetings and complete a formal feedback form and any incidents witnessed at meetings are followed up. The Chairperson reiterated that the Committee should remain proactive whilst keeping its independence and distance.

RESOLVED - That:

- i. in collaboration with Democratic Services Committee the Member Survey be re-issued around the end of the calendar year;

the extension of the confidential Counselling service to Elected Members was welcomed.

31 : MEMBER INDUCTION 2017

The Committee received the Member Induction Programme 2017. The programme had been planned to ensure Essential Training sessions were completed early in the new administration and that the service-based sessions followed. The Induction day would involve a welcome from the Chief Executive, Chair of Standards & Ethics Committee and a 'Market hall' with Service information; Welsh Language; All Wales Academy; ICT and Scrutiny.

Members would be issued with starter packs and a Members Handbook and Members IT would be offered on Induction day with an improved process to get newly elected members up and running as quickly as possible.

Committee members considered it appropriate that the Chair of Standards and Ethics provide an introduction to new Members following the Chief Executive's address at the induction sessions.

Committee Members sought and received assurance from the Monitoring Officer that there would be clear references to bullying and discriminatory behaviour in the Code of Conduct training sessions.

The Committee was advised that a report was going to Full Council in March, from the Constitution Committee, on an important change to the Cardiff Undertaking, to include the requirement for all Members to attend Essential Training sessions. Acceptance of Office forms would be signed with the Monitoring Officer on the Monday after the election, the Code of Conduct would be referenced then too.

With reference to Standards and Ethics Hearing Panels, it was suggested that training was required for new Members and that refresher training could be provided in advance of any hearing panel dates.

RESOLVED – That the Member Induction Programme for new and returning Members from May 2017 was endorsed.

32 : OBSERVATIONS OF COUNCIL AND COMMITTEE MEETINGS

Community Councillor John Hughes provided his observations from attending a planning site visit.

Members were advised that they were able to attend part of Full Council meetings if they could not attend the full meeting; it was considered important to have a presence from Standards and Ethics Committee members.

Committee members provided their observations of a full Council meeting, stating that the duration of meetings was very lengthy which made it difficult for Members to stay focussed for the whole meeting – particularly Members who may have specific health conditions. There was also a concern that political parties retired to separate group's rooms in the break.

The Director of Governance and Legal Services advised that new Members would be surveyed before setting meeting dates and times.

Members discussed the Standards and Ethics Committee meeting schedule recognising that in view of the local elections there may not be an opportunity for a meeting until September 2017. The Annual report would be drafted and circulated to all Members so that it could be signed off at the September meeting. Members confirmed their preferred meeting day was Wednesdays.

The Chairperson thanked the elected Members for their contribution to the Standards and Ethics Committee over the last Municipal year and wished them all the very best in the future.