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

OFFICERS' PERSONAL INTERESTS

Reason for this Report

1. To enable the Committee to review the Council's arrangements for managing officers' personal interests.

Background

2. All Council employees are obliged, under the Employees' Code of Conduct, to ensure that their private interests do not conflict with their public duties, and to comply with the Council's rules on the registration and declaration of financial and non-financial interests (paragraph 8(1) of the Code).
3. The Standards and Ethics Committee has responsibility to advise the Council on this issue, pursuant to paragraph (c) of its approved terms of reference:

“(c) To advise the Council on the effective implementation of [its Ethical] Code including such matters as the training of Members and employees on the Code's application.”
4. The Council's policy on Officers' Personal Interests and Secondary Employment, adopted in February 2015, says the Monitoring Officer is responsible for reviewing the policy, in consultation with the Standards and Ethics Committee, to ensure it is effective.
5. Members of the Committee have expressed an interest in reviewing the Council's arrangements particularly to ensure that senior officers' personal interests are managed transparently.

Issues

6. The Council should not interfere unnecessarily with the private lives of its staff, but it needs to have effective arrangements in place to ensure Council staff carry out their duties in a fair and unbiased way, without being influenced by their own personal interests.

7. The Council's Policy on Officers' Personal Interests and Secondary Employment aims to provide rules and guidance to help protect the Council and its staff from criticism, misunderstanding and any allegations of impropriety; and to ensure that any conflicts of interest are managed transparently. The Policy is appended as **Appendix A** to this report.
8. The Policy sets out the obligations imposed on staff by law; explains the types of situations where a conflict of interest will arise; outlines the respective responsibilities of staff and managers; and provides a procedure for the disclosure and management of personal interests and secondary employment.
9. Members will note that the Policy applies to all Council staff, which includes employees, agency workers, interim staff etc, on the basis that the same principles of fairness, propriety and impartiality apply irrespective of employment status, and the Council has a responsibility to ensure its business is conducted properly and in accordance with principles of good governance.

Senior Officers

10. Under the Policy, senior officers (defined as Chief Officers, Assistant Directors and above, in keeping with the definition of Chief Officers under the Localism Act 2011 and reflected in the Council's Pay Policy) are subject to additional disclosure requirements in the interests of transparency and accountability. Senior Officers are required to complete a Declaration Form giving details of any outside business interests, any companies or bodies owned or controlled by their spouse, partner or children (this is an audit requirement for the Council's Annual Statement of Accounts), and any other potential conflicts of interest. This information is held by the Monitoring Officer. Senior Officers are responsible for keeping their declared interests up to date, and annual reminders are also issued by Financial Services officers in preparation for the Council's Statement of Accounts.
11. Under the Freedom of Information Act 2000, every public authority must have a Publication Scheme, setting out the types of information it will proactively publish in the interests of openness and transparency. The model Publication Scheme issued by the Information Commissioner's Office, which has been adopted by Cardiff Council, says we should publish senior officers' business interests.
12. The Senior Officers' Personal Interests Declaration Form notes that information about outside business interests is likely to be made available to the public, as part of the Council's commitment to transparency and accountability. The Council's employment lawyer has advised that there is no legal consultation requirement but officers should be informed out of courtesy and invited to raise any concerns. This issue has been discussed with the Council's Senior Management Team and officers were fully supportive of publication.
13. The Committee is invited to recommend publication of Senior Officers' Outside Business Interests on the Council's website with effect from 1st April 2019. The records for 2019/20 held currently are appended at **Appendix B**.
14. However, it is recommended that exemption should be available for 'sensitive information' in the same way as is available to Elected Members under the

Members' Code of Conduct. Under the Members' Code of Conduct, sensitive information is defined as 'information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation'. If the Monitoring Officer agrees that information is sensitive information, it does not need to be published, but is instead recorded and held by the Monitoring Officer. It is recommended that the same provision should apply to publication of senior officers' business interests.

All Other Officers (Operational Managers and below)

15. All other officers (ie. Operational Managers and below) are required to disclose to their manager any personal interest which actually or potentially conflicts with their duties to the Council (and all secondary employment). The manager must then determine, in consultation with the staff member, whether an actual conflict exists, and if so, how that conflict should be managed (which includes the re-allocation of duties, if possible). There is also an appeals procedure for any staff member who is dissatisfied with how their case has been determined. Records of any conflicts of interest and secondary employment are held within each service area, and service areas are responsible for keeping these records up to date.
16. The Council's Audit and Human Resources teams have been consulted and have confirmed that they have no concerns with the current policy or its operation.
17. The Committee is invited to consider and comment on any other changes to the Policy. Members should note that the Monitoring Officer is authorised to make minor amendments to ensure the effectiveness of the Policy (paragraph 33(ii) of the Policy; and Cabinet decision February 2015, Minute 122.2), but any substantive changes will require further consultation with staff and Trade Unions and then a report to Cabinet for approval.

Legal Implications

18. The relevant legal provisions are set out in the body of the report and in paragraphs 9 to 15 (inclusive) of the Policy appended as **Appendix A**.

Financial Implications

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

RECOMMENDATION

The Committee is recommended to:

1. Agree to recommend the publication of Senior Officers' outside business interests on the Council's website, with the exception of 'sensitive information' agreed as such by the Monitoring Officer in line with paragraph 13 of the report, with effect from 1st April 2019;

2. Consider and provide comments on any other suggested amendments to the Officers' Personal Interests and Secondary Employment Policy; and
3. Note that minor amendments to the Policy may be agreed by the Monitoring Officer, but any substantive amendments will require consultation with staff and Trade Unions, and approval by Cabinet.

Davina Fiore

Director of Governance and Legal Services & Monitoring Officer

27 February 2019

Appendices

Appendix A Officers' Personal Interests and Secondary Employment Policy

<http://vmweb22.cardiff.gov.uk/cis/documentuploads/01354/072460/28224/Officers%20Personal%20Interests%20and%20Secondary%20Employment%20Policy%20-%20May%202017.pdf>

Appendix B Register of Senior Officers' Outside Business Interests 2019/20

Background Papers

Standards and Ethics Committee report 'Officers' Personal Interests and Secondary Employment Policy', 21 October 2014

Cabinet report 'Officers' Personal Interests and Secondary Employment Policy', 19 February 2015