

**STANDARDS AND ETHICS  
COMMITTEE**

**6 MARCH 2019**

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

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**MEMBERS' CODE OF CONDUCT COMPLAINTS – QUARTER 3 OF  
2018/19**

**Reason for Report**

1. To provide the Committee with an update on complaints made during Quarter 3 of 2018/19 (the period running from 1<sup>st</sup> October 2018 to 31<sup>st</sup> December 2018) against Members of Cardiff Council or any of Cardiff's Community Councils, alleging a breach of the Members' Code of Conduct.

**Background**

2. The Committee receives regular 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 2018/19 were reported to the Committee's last meeting, on 5<sup>th</sup> December 2018.

## Issues

5. In Quarter 3, six complaints alleging a breach of the Members' Code of Conduct were reported to the Monitoring Officer covering the period running from 1st October 2018 to 31st December 2018.
6. The table below shows the type of complaints received in Quarter 3 of this year and provides comparative figures for the previous 4 quarters.

	Q3 Oct, Nov, Dec 2017	Q4 Jan, Feb, Mar 2018	Q1 Apr, May, Jun 2018	Q2 Jul, Aug Sept 2018	Q3 Oct, Nov, Dec 2018
Total	1	2	1	2	<b>6</b>
Member on Member	0	0	0	2	<b>3</b>
Public on Member	1	1	1	0	<b>0</b>
Officer on Member	0	1	0	0	<b>3</b>
Community Councillors	1	0	0	0	<b>0</b>

7. Four out of the six complaints received during Quarter 3 related to one Member's activities in connection with a particular organisation:
  - (i) Two of these complaints were made by officers and submitted directly to the Ombudsman. The complaints alleged that the Member's activities breached a number of duties imposed under the Code of Conduct, including a failure to show respect and consideration for others, breach of equal opportunities, compromising the impartiality of Council staff, conduct which could reasonably be regarded as bringing the office of Member and or the Authority into disrepute, and improper use of the Member's position and Council resources. The Ombudsman decided not to investigate the complaints because he considered that the Member's activities amounted to a legitimate expression of views, protected as freedom of expression under the Human

Rights Act 1998; and therefore an investigation was not appropriate. The Ombudsman also found that the use of Council resources was unlikely to constitute a breach of the Code, or if it did, it was unlikely to warrant a sanction.

- (ii) The other two complaints were resolved informally by the Monitoring Officer. One was submitted by an officer and resolved by way of an explanation offered by the Member. The officer agreed no further action was necessary. The other complaint was submitted by a Member and alleged misuse of Council resources. This complaint was resolved by the Member offering an immediate apology and repayment of printing costs.

8. Details of the other two complaints received in Quarter 3 are as follows:

- (i) A complaint received from a member of the public alleging that a Member had been using a mobile telephone whilst driving, thereby committing a criminal offence. The complainant considered this to be a breach of the Member's duty to uphold the law; and to not bring the office of Member into disrepute. The complainant decided to refer the complaint to the Ombudsman. The Ombudsman found there was insufficient evidence of a breach of the Code.
- (ii) A complaint received from a Member regarding another Member's social media comments. The Monitoring Officer found that the comments were factual and based on information in the public domain; and therefore did not constitute a breach of the Code.

9. The single complaint received in Quarter 1 (made by a member of the public alleging intimidating and bullying behaviour by a Member) is still open. The Ombudsman's decision is awaited.

### **Legal Implications**

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

### **Financial Implications**

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

### **Recommendation**

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

**Davina Fiore**

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

26 February 2019

Background papers

Standards and Ethics Committee report 'Member Code of Conduct Complaints, Quarters 1 & 2 of 2018/19', 5<sup>th</sup> December 2018.