

**STANDARDS AND ETHICS
COMMITTEE**

30th SEPTEMBER 2020

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

**MEMBERS' CODE OF CONDUCT COMPLAINTS – QUARTERS 3 & 4 OF
2019/20; AND QUARTER 1 OF 2020/21**

Reason for Report

1. To provide the Committee with an update on complaints made during Quarters 3 & 4 of 2019/20 and Quarter 1 of 2020/21 (the period running from 1st October 2019 to 30th June 2020) 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 quarterly reports from the Monitoring Officer on complaints, made against Members of Cardiff Council and Community Councils within its area, alleging a breach of the Members' Code of Conduct. (There are six Community Councils in Cardiff: Lisvane; Old St. Mellons; Pentyrch; Radyr and Morganstown; St. Fagans; and Tongwynlais.) These reports provide information to assist the Committee to discharge its functions, in particular:
 - i. To monitor and scrutinise the ethical standards of the Authority, its Members, employees and any associated providers of the Authority's services, and to report to the Council on any matters of concern;
 - ii. To advise the Council on the effective implementation of the Code including such matters as the training of Members and employees on the Code's application; and
 - iii. To undertake those functions in relation to community councils situated in the area of the Council and members of those community councils which are required by law',

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

3. The Committee considers the number of complaints made and any themes or patterns emerging, but does not consider the specific details of each individual case, unless the complaint is formally referred to the Committee for a decision.
4. Complaints received during Quarter 4 of 2018/19 and Quarters 1 & 2 of 2019/20 were reported to the Committee meeting on 11th December 2019.

Issues

5. During Quarters 3 & 4 of 2019/20 and Quarter 1 of 2020/21, covering the period running from 1st October 2019 to 30th June 2020, a total of four complaints alleging a breach of the Members' Code of Conduct were reported to the Monitoring Officer.
6. The table below shows the type of complaints received during this period and includes comparative figures for the previous four quarters.

| | Q1 Apr, May, Jun 2019 | Q2 Jul, Aug, Sept 2019 | Q3 Oct, Nov, Dec 2019 | Q4 Jan, Feb, Mar 2020 | Q1 Apr, May, Jun 2020 |
|-----------------------|--------------------------------|---------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Member on Member | 1 | 4 | 0 | 0 | 1 |
| Public on Member | 2 | 0 | 1 | 1 | 1 |
| Officer on Member | 0 | 0 | 0 | 0 | 0 |
| Community Councillors | 0 | 0 | 0 | 0 | 0 |
| Total | 3 | 4 | 1 | 1 | 2 |

7. The single complaint received during Quarter 3 of 2019/20 was submitted by a member of the public and alleged that a Member had made unsubstantiated comments about that individual to the public, which besmirched their character within the local community. It was alleged that this constituted a breach of various duties in the Code of Conduct, including the duty to treat others with respect and consideration; not to use bullying behaviour; to have regard to equal opportunities; and not to use the position of Member improperly. It was also alleged that the Member had misused Welsh Assembly resources and had breached Data Protection laws. The Monitoring Officer responded to the complainant by explaining the scope of the Members' Code of Conduct (which applies to Members when they act, or give the impression they are acting, in the role of a Councillor, except for certain

limited parts of the Code which apply at all times, namely, the duty to not bring the office of Councillor or the Council into disrepute, or to use their position improperly to obtain an advantage/disadvantage for themselves or others). The complainant was advised, in relation to the complaints raised, of the respective remits of the Public Services Ombudsman for Wales, the Standards Commissioner for Wales and the Information Commissioner, and advised to refer the complaints to those bodies, as appropriate.

8. During Quarter 4 of 2019/20, the single complaint made was submitted by a member of the public and alleged that comments made by a Member on a public Facebook page were aggressive and inappropriate. The complaint was considered by the Ombudsman who decided not to investigate because there was insufficient evidence of a breach of the Code.
9. During Quarter 1 of 2020/21, two complaints were made. One complaint was made by a Member about material posted on Facebook by another Member, which were alleged to be offensive. This complaint was resolved informally by the Monitoring Officer, who spoke with the Member concerned who agreed to remove the offending material. The second complaint was made by a member of the public and alleged that comments made by a Member on Twitter were offensive towards Welsh language speakers and breached statutory duties under the Welsh Language Act. The Ombudsman decided that it would not be in the public interest to investigate this complaint, because 'it is not the purpose of the Code to inhibit freedom of speech or the robust expression of different opinions even where the substance of those comments may be controversial. It is my view that Councillor X's comments fall within this category and for that reason, it would not be proportionate for the Ombudsman to investigate.'

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

21st September 2020

Background papers

Standards and Ethics Committee report 'Member Code of Conduct Complaints, Quarter 4 of 2018/19 and Quarters 1 and 2 of 2019/20', 11th December 2019