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**REPORT OF THE DEPUTY MONITORING OFFICER**

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**SENIOR OFFICERS' PERSONAL INTERESTS DECLARATIONS**

**APPENDIX B TO THIS REPORT IS EXEMPT FROM PUBLICATION PURSUANT TO THE LOCAL GOVERNMENT ACT 1972, SCHEDULE 12A, PART 4, PARAGRAPH 12**

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**Reason for this Report**

1. To enable the Committee 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.

**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 (“the Policy”), **Appendix A**, 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. At its meeting in March 2019, the Committee reviewed the Council's rules and resolved to recommend publication of a Register of Senior Officers' Outside Business Interests with effect from April 2019. This recommendation has been implemented. The information can be found on the Council's Register page of its Website: <https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/registers/Pages/default.aspx>

6. Members also decided to give further consideration to the disclosure requirements for Senior Officers. A further report was considered by the Committee on 11<sup>th</sup> December 2019. The Committee decided to make no changes to the current disclosure requirements for Senior Officers' Personal Interests, on employment law and data protection grounds. However, it requested that the information contained in the Senior Officers' Personal Interests Declaration Forms (save for information relating to a Senior Officer's Trade Union membership status and home address) should be brought to the Committee annually for them to review, and agreed that the Deputy Monitoring Officer should consult on this proposal with the staff concerned.
7. In September 2020, following consultation with the Senior Management Team, the Committee received a further report on this issue and agreed to annually review Senior Officers' Personal Interests Declaration Forms (save for information relating to a Senior Officer's Trade Union membership status and home address, which would be redacted).

## Issues

8. 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.
9. The Council's Policy on Officers' Personal Interests and Secondary Employment ('the Policy', **Appendix A**) aims to provide rules and guidance to help protect the Council and its staff from criticism, misunderstanding and allegations of impropriety; and to ensure that any conflicts of interest are managed effectively and transparently.
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. They are required to disclose any:
  - a) Outside business interests – this requirement is imposed in employment contracts and, in accordance with the Information Commissioner's Office model Publication Scheme and the recommendations of the Standards and Ethics Committee (please see paragraph 5 above), a register of such interests is published on the Council's website;
  - b) Conflicts of interest between their personal interests and duties to the Council – this duty is imposed in the statutory Employees Code of Conduct (paragraph 8);
  - c) Financial interests in a Council contract (existing or proposed) – this is a statutory requirement imposed by section 117 of the Local Government Act 1972; and
  - d) Details of any company or body owned or controlled by the Senior Officer or their spouse or partner or any of their children or dependents (this is an audit requirement) in relation to 'related party' disclosures for the Council's

Statement of Accounts, imposed by the CIPFA Code of Practice and section 21(2) of the Local Government Act 2003.

11. Senior Officers' Personal Interests Declaration Forms are held by the Monitoring Officer and officers are asked to update their declarations annually. The Senior Officers' Personal Interests Declarations for 2021 are attached as **Appendix B (Exempt from publication)**.
12. Members may wish to note that a new online system is being developed for recording officers' personal interests and secondary employment, in keeping with the Council's principle of digitalisation of processes, and recommendations made by Internal Audit following a review of this area. This digitalisation of the current paper based process will improve the efficiency and effectiveness of the existing administrative arrangements for recording declarations of interests and make compliance information available for managers. The new system will apply to all Council officers, including Senior Officers, although the declaration form and process for Senior Officers will reflect the additional disclosure requirements which apply to those officers under the Council's Policy. The digital system requires no change to the current Policy. The trade unions have been consulted and have raised no concerns. The new digital system is intended to be rolled out across the Council in the Autumn.

### **Legal Implications**

13. As the Monitoring Officer is one of the Council's Senior Officers, she has a conflict of interest in this matter, so this report and the legal advice have been provided by the Deputy Monitoring Officer.
14. The information contained within Senior Officers' Personal Interests Declaration Forms is 'exempt information' as defined by Paragraph 12 of Schedule 12A, Part 4 of the Local Government Act 1972, ie. 'information relating to a particular individual.' Information relating to individuals is exempt from publication, if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Statute requires a register of Members' personal interests to be published online (the Local Government Act 2000, section 81), but there is no similar requirement for officers. Given that the Council's Policy already provides for the oversight of Senior Officer's interests by the Monitoring Officer, who has a statutory duty to uphold high standards of conduct, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The Deputy Monitoring Officer therefore advises that the public should be excluded when this information is brought to Committee.
15. Data Protection laws (the General Data Protection Regulation 2016, 'GDPR', and Data Protection Act 2018) control the use of personal information (any information about living identifiable individuals). Information about officers' home addresses and membership of other organisations is 'personal data' – meaning it may only be processed for specified purposes, if there is a lawful basis for the Council to do so. Trade union membership is classed as 'special category'

personal data under Data Protection laws, meaning that there are more stringent restrictions on processing such information.

16. Where there is a statutory requirement for officers to disclose certain personal interests (eg. interests in Council contracts and 'related party disclosures' required under audit rules), the legal obligation provides the GDPR lawful basis for the Council's processing of this information. GDPR also allows the Council to process certain personal information about its staff (home address, next of kin, bank details etc) in order to discharge its employment rights and duties under its contracts of employment. However, this information may not be used for other purposes unless the Council can demonstrate it has a lawful basis to do so.
17. The information set out in the Senior Officers' Personal Interests Declarations (**Appendix B**) is being reported to the Committee, with the consent of Senior Officers, for the Committee to satisfy itself in relation to the effectiveness of the Council's rules on the registration and declaration of financial and non-financial interests (paragraph 8(1) of the Employees' Code of Conduct) and to discharge the Committee's responsibilities under its approved terms of reference. This information must not be disclosed to third parties or used for any other purpose.
18. Other relevant legal provisions 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 note the information contained within the Senior Officers' Personal Interests Declarations attached as **Appendix B** and make any comments, as appropriate.

**James Williams**

**Operational Manager, Litigation & Deputy Monitoring Officer**

1<sup>st</sup> July 2021

### **Appendices**

Appendix A Officers' Personal Interests and Secondary Employment Policy

Appendix B Senior Officers Personal Interests Declaration Forms 2021 (this Appendix is exempt from publication pursuant to the Local Government Act 1972m schedule 12A, Part 4, Paragraph 12)

## **Background Papers**

Standards and Ethics Committee report 'Officers' Personal Interests and Secondary Employment Policy', March 2019

Standards and Ethics Committee reports 'Senior Officers' Personal Interests, December 2019 and September 2020