

COUNCIL

21st OCTOBER 2021

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

SOCIAL MEDIA CODES

Reason for this Report

1. To enable the Council to consider draft social media codes for (i) Elected Members and (ii) Partner organisations, developed in accordance with the Motion carried at the Council meeting in March 2021 ('the Social Media Codes').

Background

2. At the full Council meeting in March 2021, the following Motion was carried:

'This Council recognises:

- That Councillors have a duty to promote kind and honest discourse both on and off line.
- That discussion, debate and scrutiny are vital to a democracy but must be carried out without abuse.
- That robust debate is a crucial part of the scrutiny process and should not be discouraged.
- That social media is an increasingly aggressive space where abuse is common place.
- That misinformation is often the trigger for such abusive behaviour.
- That anonymous accounts with no trail of accountability are often the worst culprits.
- That public figures are often the target for abusive behaviour and that it inevitably has a significant detrimental impact on their wellbeing.

Proposes to:

- Introduce a code of principles for social media use, that has an emphasis on promoting accurate discourse and encourages councillors to not write or share posts that contain obvious inaccuracies or aggression against colleagues.
- Develop a Code of Practice for groups and organisations which the Council works with, which sets similar high expectations of respectful and honest engagements, and which asks them to conduct themselves in a transparent manner rather than operating anonymous account.'

3. The Standards and Ethics Committee has noted that social media comments continue to feature frequently in Member conduct complaints and at its meetings in July and October 2021, the Committee considered the proposed introduction of Social Media Codes.

Issues

4. The proposed introduction of Social Media Codes (a Members' Code of Principles on Social Media Use; and a Partner Organisations' Code of Practice on Social Media), in line with the Council's resolution in March 2021, has been discussed with all Members during the Members' Code of Conduct refresher sessions run by the Monitoring Officer earlier in the summer. Members' comments from these sessions were then reflected in the draft Social Media Codes.
5. The draft Social Media Codes have been circulated to all Members and discussed with group leaders and whips. Various amendments have been made to reflect points raised by Members, specifically:
 - (i) 'Accountability' (point 7 of the draft Code) - – in recognition of the fact that it may not always be possible for Members to fully read long threads / feeds of comments made via their platforms, the principle that Members are responsible for monitoring and editing third party comments made via their platforms has been amended to clarify that Members are expected to make all *reasonable* efforts to do so, which means that context should be taken into account in considering what is reasonable in this regard;
 - (ii) 'Informed' (point 8 of the draft Code) – similarly to point (i) above, in recognition of the fact that it may not always be possible for Members to fully read long threads / feeds of comments, the principle that Members should not 'like' or share anything they have not fully read and understood has been amended to clarify that Members are expected to make all *reasonable* efforts to do so, which means that context should be taken into account in considering what is reasonable in this regard; and
 - (iii) 'Transparency' (point 9 of the draft Code) – the principle that Members should openly identify themselves and refrain from anonymous comments or the use of 'sock puppet accounts' (false online identities created for the purposes of deception) has been strengthened to state that Members should not use false accounts (not just 'sock puppet accounts'). It has also been clarified that this principle does not prevent Members from posting comments on community pages, as long as the Member is openly identifiable.
6. The draft Partner Organisations' Code of Practice on Social Media has also been shared with partner organisations (including Cardiff's Public Service Board, comprised of the city's public service leaders, and also the Cardiff Civic Society), and amended to reflect feedback received, specifically, to insert a point about partnership working, to say that partner organisations should, where reasonably practicable, seek to agree the content of statements or announcements about partnership projects before making them.

7. The Standards and Ethics Committee considered the revised draft Social Media Codes at its meeting on 6th October 2021 and agreed a number of further amendments, which the Monitoring Officer was asked to make, in consultation with the Standards and Ethics Committee Chairperson, specifically:
 - (i) In relation to the Members' Social Media Code of Principles:
 - (a) To state that Members are responsible for ensuring that any personal assistant they may engage also understands the duty to comply with the Code of Principles (under the Accountability principle, point 7); and
 - (b) To clarify that Members are expected to comply with the Code of Principles for the duration of their term of office as a Cardiff Councillor (under Status of the Code and Consequences of Breach); and
 - (ii) In relation to the Partner Organisations' Social Media Code of Practice, to make clear that the Council is fully committed to adhering to the principles itself.
8. The Committee resolved to recommend the revised draft Social Media Codes (subject to the amendments referred to in the paragraph above) to full Council for approval and adoption. The recommended Members' Code of Principles on Social Media Use (draft) is attached as **Appendix A**; and the recommended Partner Organisations' Code of Practice on Social Media (draft) is attached as **Appendix B**.
9. Council will note that the Members' Social Media Code of Principles (**Appendix A**) reflects the standards of conduct required of elected Members by law (the principles of conduct and the model Code of Conduct set under Part 3 of the Local Government Act 2000), as applied to Members' use of social media. As such, any breach of its principles may be found to be a breach of the Members' Code of Conduct, which is enforceable under the statutory standards regime.
10. In Cardiff, the Members' Code of Conduct consists of the mandatory provisions of the statutory model code of conduct. However, under section 51(4) of the Local Government Act 2000, the Council may decide to include other provisions which are consistent with the model code.
11. In order to clarify the standards of conduct expected of Members using social media, the Standards and Ethics Committee has recommended that the Members' Social Media Code of Principles should be incorporated within the Members' Code of Conduct. A marked up copy of the Members' Code of Conduct is attached as **Appendix C**, showing the recommended amendments (insertion of a new paragraph 4.1).
12. The Partner Organisations' Code of Practice will not be legally enforceable, although organisations which deal with the Council frequently may be asked to sign up to it. The purpose of the Partner Organisations' Code of Practice is to clarify the Council's expectations. It is recommended that the Partner Organisations' Code of Practice should be published on the Council's website to make partners aware of it. However, Members should note that if a partner organisation does not comply with this Code, this will not, in itself, give the Council the right to refuse to engage with them. Legal remedies are unlikely to be available, so legal advice should be sought in any particular case.

Legal Implications

13. The adoption of the Social Media Codes, and any amendment to the Members' Code of Conduct, require the approval of Council. The Standards and Ethics Committee is responsible for making any recommendations to Council in this regard.
14. If any amendments are made to the Members' Code of Conduct, the Council is required, as soon as reasonably practicable, to publish a newspaper notice informing the public that the Code of Conduct has been revised and is available for inspection, make copies of the revised Code of Conduct available for public inspection and send a copy to the Public Services Ombudsman for Wales (section 51(6) of the Local Government Act 2000).
15. Other relevant legal provisions are referred to in the body of the report.

Financial Implications

16. There are no financial implications arising from the recommendations of the report.

RECOMMENDATION

Council is recommended to:

1. Approve and adopt: (i) the draft Members' Code of Principles on Social Media Use (**Appendix A**); and (ii) the draft Partner Organisations' Code of Practice on Social Media (**Appendix B**);
2. Agree that the Members' Code of Conduct should be amended as shown in **Appendix C**, to incorporate the approved Members' Code of Principles on Social Media Use (**Appendix A**); the Monitoring Officer be authorised to issue the required public notice and send notification to the Public Services Ombudsman for Wales; and the Constitution updated accordingly; and
3. Agree that the Partner Organisations Code of Practice on Social Media (**Appendix B**) should be published on the Council's website.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

14 October 2021

APPENDICES

Appendix A draft Members' Code of Principles on Social Media Use

Appendix B draft Partner Organisations' Code of Practice on Social Media
Appendix C Members' Code of Conduct, draft amendments

Background papers

Standards and Ethics Committee reports 'Social Media Codes', 7th July 2021 and 6th October 2021
Council, March 2021, Notice of Motion 2