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

**MEMBERS' CODE OF CONDUCT COMPLAINTS UPDATE – QUARTER 3 OF
2021/22**

Reason for Report

1. To provide the Committee with an update on complaints made against Members of Cardiff Council or any of Cardiff's Community Councils alleging a breach of the Members' Code of Conduct, in particular, complaints received during Quarter 3 of 2021/22 (the period running from 1st October 2021 to 31st December 2021).

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 2 of 2021/22 were reported to the Committee meeting on 6th October 2021.

Issues

Complaints received during Quarter 3 of 2021/22

5. During Quarter 3 of 2021/22, covering the period running from 1st October 2021 to 31st December 2021, a total of 4 complaints alleging a breach of the Members' Code of Conduct were reported to the Monitoring Officer.
6. The table below shows the figures for this period alongside comparative figures for the previous four quarters.

	Q3 Oct - Dec 2020	Q4 Jan – Mar 2021	Q1 Apr – Jun 2021	Q2 Jul – Sept 2021	Q3 Oct – Dec 2021
Member on Member	0	1	1	6	1
Public on Member	9	1	4	2	0
Officer on Member	0	0	0	0	0
Community Councillors	0	0	0	0	3
Total	9	2	5	8	4

7. Brief details of the four complaints submitted during Quarter 3 of 2021/22 are as follows:
 - (i) A Member complained about material posted on Twitter by another Member. The complaint was resolved by local resolution after the Member confirmed that the Tweet had been removed.
 - (ii) A Community Councillor complained about material posted on social media by another Community Councillor and conduct associated with this. The complaint was submitted to the Ombudsman, who has confirmed that he will investigate the complaint. The Ombudsman's decision is awaited.
 - (iii) A member of the public submitted a complaint against a Community Councillor alleging that they had used their position and the resources of the authority improperly. The complaint was submitted to the Ombudsman. The Ombudsman has decided not to investigate this complaint.

- (iv) The same member of the public (referred to in sub-paragraph (iii) above) submitted a second complaint against another Community Councillor on virtually identical terms, alleging that they had used their position and the resources of the authority improperly. The complaint was submitted to the Ombudsman. The Ombudsman has decided not to investigate the complaint.
8. The Committee will note that two out of the four complaints made during Quarter 3 were made by the same individual and relate to the same issue. Three out of the four complaints were submitted to the Ombudsman, who decided not to investigate two of these complaints. The Ombudsman has confirmed that he is investigating one complaint and details of that complaint must be treated confidentially at this stage.

Update on Complaints reported previously

Quarter 4 of 2020/21

9. At the Committee meeting in July 2021, the Code of Conduct Complaints report included information about a complaint made during Quarter 4 of 2020/21, which was submitted by a Member on behalf of all members of their political group, alleging that another Member had delivered election leaflets in breach of Covid restrictions in effect at that time. The complaints were referred to the Ombudsman and legal proceedings were also instigated in relation to this matter. Following a hearing held at Cardiff Magistrates Court on 21st October 2021, the case was dismissed due to errors in the prosecution case. The Ombudsman has now decided to investigate the complaint and his decision is awaited.

Quarter 1 of 2021/22

10. The Code of Conduct Complaints report considered at the July 2021 Committee meeting included information about a complaint made during Quarter 1 of 2021/22 by a Member complaining about the responses given by another Member to their questions within email correspondence seeking information in relation to a resident's concerns. It was alleged that the Member had made personal attacks on them, which failed to show respect and consideration and constituted bullying behaviour. The Monitoring Officer's attempt to resolve the complaint informally was unsuccessful; and at the complainant's request, this complaint was referred to the Hearings Panel for determination under the Local Resolution Protocol. The complainant subsequently added details of further similar complaints, relating to responses given to questions during meetings of full Council.
11. After determination of preliminary hearing matters, a Hearings Panel was duly convened and a hearing was held on 12th January 2022, in accordance with the Local Resolution Hearings Procedure. The Panel found no breach of the Code of Conduct, but made a recommendation that the Member concerned 'should ensure that he addresses specific and legitimate service area queries within his Cabinet portfolio, or where this is not possible, to

cooperate in ensuring such queries are addressed, for example, by referring these on to an appropriate officer of the Council'. The Panel's written decision was issued on 20th January 2022 [HearingsPanelDecision.docx.pdf \(moderngov.co.uk\)](#) and, in accordance with the provisions of the Hearings Procedure, is to be published on the Council's website for a period of 21 days.

Quarter 2 of 2021/22

12. The complaints submitted during Quarter 2 of 2021/22, reported to the last Committee meeting, in October 2021, included a number of complaints which were subject to ongoing discussions under the local resolution protocol or awaiting determination by the Ombudsman. An update on those complaints is provided below:
 - i. Two Members complained about allegedly inaccurate information contained in a political group leaflet. These complaints were raised with the leader of the group concerned, who was asked whether the inaccuracies were accepted and if so, whether they would be corrected and an apology offered on behalf of the group. Informal resolution discussions are still ongoing.
 - ii. A Member complained about comments made about them by another Member during a meeting with other Members and Council officers. The complainant considered the comments to be an unacceptable racist slur on the complainant. In response, the Member said that the offending comment was made following allegations made by the complainant against them, which attacked their personal integrity. The Member also made a counter-complaint against the complainant, alleging that the complainant had made discriminatory comments about them during the same meeting. In response to the Monitoring Officer's attempts to informally resolve this matter, the first Member complained of offered an apology to the complainant for any upset caused by their comments. Discussions are still ongoing.
 - iii. The counter-complaint referred to in paragraph (ii) above, which has been recorded as a separate complaint. The Monitoring Officer is still engaged in ongoing discussions to seek an informal resolution.
 - iv. A Member complained about misleading information, misrepresenting what the complainant had said at a meeting with Members and Officers, being published on social media. The Monitoring Officer is still engaged in ongoing discussions to seek an informal resolution.
 - v. A Member complained that another Member had posted untrue and misleading information about the complainant on social media. The Monitoring Officer is still engaged in ongoing discussions to seek an informal resolution.

- vi. A member of the public complained about comments made by a Member on social media, alleging that they breached the Member's duty to treat everyone equally, without discrimination. The Ombudsman decided not to investigate this complaint.
 - vii. Another member of the public complained about comments made by a Member on social media, alleging that they breached the Member's duty to treat everyone equally, without discrimination. The Ombudsman decided not to investigate this complaint.
13. Members may wish to note that three of the complaints above (referred to in paragraphs 9 (ii), (iii), and (iv)) all relate to the same meeting attended by Members and Officers, and involve the same two Members. The two complaints from members of the public (paragraphs 9(vi) and (vii)) both concerned the same Member and the same issue.

Legal Implications

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

Financial Implications

15. 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

3rd February 2022

Background papers

Standards and Ethics Committee reports 'Member Code of Conduct Complaints - Update, October 2021 and July 2021