

COUNCIL:

29 SEPTEMBER 2022

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

**APPOINTMENT OF COMMUNITY COUNCIL MEMBER TO THE STANDARDS
& ETHICS COMMITTEE**

Reason for this Report

1. To report the recommendation of the Standards & Ethics Committee Appointments Panel of 28 September 2022 for the appointment to the Community Council Member vacancy on the Standards & Ethics Committee.

Background

2. The membership of the Standards and Ethics Committee and process for making appointments to the Committee is governed by the Standards Committees (Wales) Regulations 2001 (as amended) ("the Regulations") and the Council's Constitution.
3. The Constitution provides that the Standards & Ethics Committee shall have five Independent Members, three County Councillors and one Community Council Member – Constitution Article 9.2(a).
4. Under the Regulations and the Council's Constitution, the Standards and Ethics Committee must have one Community Council Member, who can be appointed for up to 2 consecutive terms. A Cardiff County Councillor who is also a Community Councillor in Cardiff may not be appointed as the Standards and Ethics Committee's community council member (under Regulation 11).
5. Community Councillor Stuart Thomas, a member of Pentyrch Community Council, served on the Standards and Ethics Committee from his appointment in 2017 until the Local Government Elections in May 2022. Community Councillor Thomas has confirmed that he does not wish to be re-appointed for a further term of office; and a vacancy has therefore arisen.
6. The Standards and Ethics Committee considered a report on this matter at its meeting on 22nd June 2022 and, in accordance with the requirements of the Regulations, approved the process to recruit and make an appointment to fill the Community Council Member vacancy, including:

- (a) consultation with the Clerks of the six community councils in Cardiff and also One Voice Wales, the Community Councils umbrella organisation in Wales, to inform them of the vacancy and invite nominations and expressions of interest;
- (b) the establishment of an Appointments Panel, consisting of the Independent Chair of the Standards and Ethics Committee and two Independent Members, to shortlist and interview candidates and make a recommendation on appointment to full Council for approval; and
- (c) a recommendation that Council should, in addition to the Community Council member recommended for appointment to the Committee, also appoint a substitute Community Council member to sit on any Hearings Panel which may be convened to determine a complaint about a community councillor (on referral from the Ombudsman) in any case in which the community council member may have a conflict of interests (for example, if the complaint involves a community councillor from their own council).

Issues

- 7. Three nominations and expressions of interest in the Community Council member vacancy on the Standards and Ethics Committee were received by the closing date (10th June 2022).
- 8. The Appointments Panel established by the Standards and Ethics Committee met on the 13 July 2022 to carry out the shortlisting process; and met again on 28 September 2022 to interview two candidates. The recommendations of the Appointments Panel in relation to the appointment of a Community Council member of the Standards and Ethics Committee are set out on the Amendment Sheet.

Substitute Community Council member

- 9. The appointment of a substitute is intended to ensure there is appropriate community council representation on any Hearings Panel considering a complaint about a community councillor. The Standards and Ethics Committee noted that the substitute community council member would need to be from a different community council to the appointed member in order to minimise the risk of both community councillors having a conflict of interests in the same case.
- 10. Although the Regulations make no explicit provision for the appointment of a substitute community council member of the Standards and Ethics Committee, caselaw indicates that the appointment of substitute committee members is generally permissible (The Queen on the Application of Doug Carnegie (On Behalf of the Oaks Action Group) v London Borough of Ealing v Action Regeneration Group Limited, 2014; and The Queen (on the application of Peter Higham) v Cornwall Council v A J Venning, Clean Earth Energy Wind Investments Ltd, 2015).

11. The Constitution currently makes no provision for a substitute community council member. It is therefore recommended that the Constitution (Article 9, The Standards and Ethics Committee) be amended as shown in **Appendix A**:

Term of Office

12. The Regulations and the Constitution provide that the community council member's term of office shall end on the date of the next ordinary local government elections; but may be extended on reappointment for one further consecutive term, following consultation with the community councils and One Voice Wales. It is suggested that this provision should apply equally to the Substitute Community Council member.

Legal Implications

13. The recommended appointments and the Constitution amendments require the approval of full Council.
14. Other relevant legal implications are contained within the body of the report.

Financial Implications

15. There are no financial implications directly arising from the report. Member remuneration is to be paid in accordance with the rates through the Members' Schedule of Remuneration and contained within the allocated budget.

RECOMMENDATION

The Council is requested to approve:

1. The appointment/s recommended by the Standards & Ethics Committee Appointment Panel, as set out on the Amendment Sheet, in relation to the position of:
 - (i) Community Council Member on the Standards & Ethics Committee, and
 - (ii) Substitute Community Council member of the Standards and Ethics Committee (if applicable); and
2. The amendments to the Constitution, Article 9, Standards and Ethics Committee, in relation to a Substitute Community Council member, which are shown in **Appendix A**.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

23 September 2022

APPENDICES

Appendix A - Constitution, Article 9, Standards and Ethics Committee
– draft amendments

Background Paper:

[Committee Membership – vacancy for Community Council Member, Standards & Ethics Committee, 22nd June 2022](#)