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

**MEMBERS' CODE OF CONDUCT COMPLAINTS UPDATE – QUARTERS 1
& 2 OF 2022/23**

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 Quarters 1 and 2 of 2022/23 (the period running from 1st April 2022 to 30th September 2022).

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 2021/22 were reported to the Committee meeting on 22nd June 2022.

Issues

Complaints received during Quarters 1 and 2 of 2022/23

5. During Quarters 1 and 2 of 2022/23, covering the period running from 1st April 2022 to 30th September 2022, a total of 4 complaints alleging a breach of the Members' Code of Conduct were reported to the Monitoring Officer (2 during Quarter 1; and 2 during Quarter 2).
6. The table below shows the figures for this period alongside comparative figures for the previous four quarters.

	Q1 Apr – Jun 2021	Q2 Jul – Sept 2021	Q3 Oct – Dec 2021	Q4 Jan – Mar 2022	Q1 Apr – Jun 2022	Q2 Jul – Sept 2022
Member on Member	1	6	1	1	0	0
Public on Member	4	2	0	1	2	2
Officer on Member	0	0	0	0	0	0
Community Councillors	0	0	3	1	0	0
Total	5	8	4	3	2	3

7. Brief details of the complaints submitted are as follows:

Quarter 1 of 2022/23

- (i) A member of the public complained that a Member had continued to hold advice surgeries during the pre-election period. The complaint was submitted to the Ombudsman who decided not to investigate the matter, because there was no evidence of a breach of the Code of Conduct. The Ombudsman confirmed that *'During the pre-election period, Councillors standing for election can arrange to speak to constituents as long as their activities are not funded nor arranged by the Council.'*
- (ii) A member of the public complained that a Member had, during the election campaign, removed mail from their letterbox. The Ombudsman decided not to investigate the complaint, indicating that concerns related to the election and the campaigning period are

primarily a matter for the Electoral Commission and or the Police; and that he did not consider the Code of Conduct to be engaged in this case.

Quarter 2 of 2022/23

- (i) A member of the public complained about a social media comment made by a Member, which was considered to be inflammatory and insulting. The Monitoring Officer resolved this complaint informally by raising this with the Member, who then deleted the offending comment.
- (ii) A member of the public complained that a Member had made malicious attacks on their name and integrity, specifically in relation to (i) alleged events which took place in 2017; and (ii) social media comments made during the election period in 2022. The Ombudsman decided not to investigate the complaint.

In relation to the events alleged to have taken place in 2017, the Ombudsman found that, in view of the length of time which had elapsed since then, it was not in the public interest to investigate this aspect of the complaint.

In relation to the social media comments made during the election period, the Ombudsman noted that *'It is not the purpose of the Code of Conduct to inhibit free speech and the robust expression of political differences. Councillors have a wide freedom of expression both in a personal and professional capacity.. [meaning that they] can say things which may be shocking or offensive to some people.'*

Also, that *'Case law on the application of the Code of Conduct for members in Wales has established that for a breach of the "disrepute" provision to be found, a member's conduct must impact upon their Council's reputation and/or the role of elected member and go beyond affecting their personal reputation.'*

And *'Whilst I fully appreciate that you may have been personally offended by the content of the report, I do not consider on the evidence provided that it was offensive, intimidating or insulting to such a degree as to bring the office of member or the Council into disrepute.'*

- 8. The Committee will note that this reporting period includes the local government election period, and that the number of complaints received remained relatively low. All four complaints have been resolved with no finding of a breach of the Code.

Update on Complaints reported previously

Quarter 2 of 2021/22

9. The complaints submitted during Quarter 2 of 2021/22 included a number of complaints which were subject to ongoing discussions under the local resolution protocol. Efforts to resolve these complaints informally were temporarily suspended during the pre-election period. 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. Agreement on a resolution has not been reached and so consideration needs to be given to a referral to the Standards Committee Hearings Sub-Committee.
 - ii. A Member (Cllr A) complained about comments made about them by another Member (Cllr B) during a meeting with other Members and Council officers. The complainant (Cllr A) considered the comments to be an unacceptable racist slur on the complainant. In response, the Member (Cllr B) said that the offending comment was made following allegations made by the complainant (Cllr A) against them, which attacked their personal integrity. The Member (Cllr B) also made a counter-complaint against the complainant (Cllr A), alleging that the complainant (Cllr A) had made discriminatory comments about them (Cllr B) during the same meeting. In response to the Monitoring Officer's attempts to informally resolve this matter, the first Member complained of (Cllr B) offered an apology to the complainant (Cllr A) for any upset caused by their comments. The other member (Cllr A) has been asked to apologise but to date has not done so. Cllr A's complaint may need to be referred to the Standards Committee Hearings Sub Committee.
 - iii. The counter-complaint (made by Cllr B), referred to in paragraph (ii) above, which has been recorded as a separate complaint. Cllr B has indicated this complaint is being withdrawn, but written confirmation is awaited.
 - iv. A Member (the same Cllr A referred to in sub-paragraph (ii) above), complained about misleading information, misrepresenting what the complainant had said at a meeting with Members and Officers, being published on social media by another Member (the same Cllr B referred to in sub-paragraph (ii) above). To date it has not been possible to resolve this complaint by informal resolution.

Consideration may need to be given to a referral to the Standards Committee Hearings Sub Committee.

- v. A Member complained that another Member had posted untrue and misleading information about the complainant on social media. It has not been possible to resolve this under the local resolution procedure. Consideration needs to be given to a referral to the Standards Committee Hearing Sub Committee.
10. Members may wish to note that three of the complaints above (referred to in paragraph 9 (ii), (iii), and (iv)) all relate to the same meeting attended by Members and Officers, and involve the same two Members.

Quarter 3 of 2021/22

11. One of the complaints reported to the last Committee meeting related to a complaint by a Community Councillor 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 the complaint would be investigated. The Ombudsman's decision on this complaint is still awaited.

Code of Conduct Training

12. The Committee is invited to note that the Monitoring Officer has delivered a number of training sessions on the Code of Conduct, both in person and remotely, as part of the Member Induction Programme 2022. To date, 8 sessions have been delivered, attended by 72 out of the 79 Cardiff Councillors (91.14% of all Cardiff Councillors). A further session, which Members may attend remotely, is scheduled for Friday 21st October and further 'mop up' sessions will be made available, on an individual basis if necessary, to seek to ensure that all Members complete this mandatory training.

Legal Implications

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

Financial Implications

14. 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

17th October 2022

Background papers Standards and Ethics Committee report 'Member Code of Conduct Complaints Update – Quarter 4 of 2021/22, 22nd June 2022