

COUNCIL:

24 NOVEMBER 2022

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

**AMENDMENT OF THE MEMBERS' CODE OF CONDUCT - USE OF COUNCIL IT
EQUIPMENT FOR POLITICAL GROUP MEETINGS**

Reason for this Report

1. To enable the Council to consider the Standards and Ethics Committee's recommended amendments to the Members' Code of Conduct in relation to the use of Council IT equipment for remote / hybrid political group meetings.

Background

2. The conduct of elected Members is governed by the statutory Members' Code of Conduct adopted by each local authority in Wales under Part 3 of the Local Government Act 2000. The Code of Conduct must incorporate mandatory provisions of the statutory model code of conduct (issued under s.50 Local Government Act 2000, the Local Authorities (Model Code of Conduct)(Wales) Order 2008), and may include other provisions which are consistent with the model code.
3. In considering their duties under the Code of Conduct, Members must have regard to the statutory guidance issued by the Public Services Ombudsman for Wales (under section 68 of the Local Government Act 2000).
4. The Standards and Ethics Committee has responsibility 'To advise the Council on the effective implementation of the Code..' and 'To recommend to Council and the Cabinet any additional guidance on issues of probity' (under its approved terms of reference, paragraphs (c) and (h)).
5. At the Standards and Ethics Committee's last meeting, held on 25th October 2022, the Committee considered a request made by party group whips for consideration to be given to permitting the use of Council IT equipment for Members to hold or join party group meetings, which may be held remotely or on a multi-location (hybrid) basis.

Issues

6. The rules on Members' use of Council resources are set out in the Members' Code of Conduct, paragraph 7(b), which provides that Councillors must not 'use, or authorise others to use, the resources of your authority—
- (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes.'
7. Statutory guidance issued by the Ombudsman [General : 27 FINAL Investigation Report Template s21 casework support only \(ombudsman.wales\)](#) provides the following guidance on this duty (emphasis added):

‘2.55 You must only use or authorise the use of the resources of the authority in accordance with its requirements and the law. These sub-paragraphs also apply at all times. **Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from officers), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.**

2.56 You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code. If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.

2.57 You must make sure you use the authority's resources for proper purposes only. These sub-paragraphs apply at all times. It is not appropriate to use, or authorise others to use, the resources for private or political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any guidance issued by your authority, for example, your authority's Information Security Policy.

2.58 You should never use authority resources for purely political purposes, including designing and distributing party political material produced for publicity purposes. **However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business, for example, holding meetings of your political group.** In this case, you must be aware of the limitations placed upon such use for these purposes. Members should also have regard to the fact that periods leading up to local government elections are particularly sensitive in this regard. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code. **Some authorities will permit members to use authority-supplied IT equipment such as laptops for ancillary use. Provided that such usage is in line with the authority's requirements, there would not be a breach,** but sending mass emails as part of an election campaign, for example, would not be appropriate.

2.59 Where, however, there is no policy or the policy is silent you may not use these resources for any political or private purposes.'

8. Members will note that, whilst Council IT equipment may not be used for purely political purposes, the Council may authorise Members to use Council resources and facilities for political purposes *in connection with the authority's business*, such as holding political group meetings.
9. The Standards and Ethics Committee noted that it is established custom and practice in Cardiff for all political groups to be permitted to use Council meeting rooms for their group meetings, on the basis that Members' discussions at their political group meetings relate predominantly to Council business.
10. The Committee agreed that the same approach should apply equally to Council IT equipment, for the same reasons, that is, because discussions at political group meetings relate predominantly to Council business and it is therefore not inappropriate to allow Council IT equipment to be used to hold or join those meetings.
11. Members noted that facilitating remote attendance at group meetings is also consistent with the Council's general approach to its formal decision making meetings, as set out in the Multi-Location Meetings Policy.
12. The Council's IT Security Policy, which applies to all elected Members and employees of the Council, includes the following:

(i) 'Acceptable Use of IT Facilities', paragraph 7.7, which includes:

'The council's IT facilities are provided for business purposes. Any use of the council's IT facilities for non-business or unauthorised purposes may be regarded as improper use of the facilities.' and

(ii) 'General Acceptable Use', paragraph 7.18:

IT systems must not be used for any of the following purposes:

- intentionally or recklessly accessing or transmitting computer Malware and similar software;
- intentionally or recklessly accessing or transmitting information about, or software designed for, breaching security controls or creating computer Malware;
- intentionally or recklessly accessing or transmitting material which is obscene, sexually explicit, pornographic, racist, defamatory, hateful, incites or depicts violence, or describes techniques for criminal or terrorist acts or otherwise represents values which are contrary to council policy and values (except where this is strictly and necessarily required by the job, for example within the social services or consumer protection arenas, where employees are sometimes required to research into illegal activities. An excuse of personal or private research would not be acceptable);
- knowingly doing anything which is illegal under the law as it applies in England and Wales or the law of any other relevant country;
- personal business for financial/commercial gain;
- any activities which could cause congestion and disruption of networks and systems.

13. The Standards and Ethics Committee therefore agreed to recommend that express authorisation should be given for Members to use Council IT equipment to hold or join remote / hybrid political group meetings. However, in order to ensure compliance with the Code of Conduct and in the interests of clarity and transparency, the Committee recommended that the authorisation should be subject to an agreed code of practice (or protocol) setting out any appropriate process, conditions and limitations, and incorporated within the Constitution.
14. Accordingly, it is recommended that the Members' Code of Conduct, paragraph 7(b)(v) should be amended as follows:
 - 7 You must not—
 - (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
 - (b) use, or authorise others to use, the resources of your authority—
 - (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes, except in accordance with the Council's approved protocol in relation to political group meetings held for the purpose of discussing Council business (Annex 2); or
 - (vi) improperly for private purposes.
15. In line with the Standards and Ethics Committee's recommendation, a draft Protocol (code of practice) has been developed, in consultation with the Council's Head of IT, the Head of Democratic Services, the Chair of the Standards and Ethics Committee and party group whips. The draft Protocol is appended as **Appendix A** and is to be annexed to the Members' Code of Conduct, within Part 5 of the Constitution.
16. Members should note that the draft Protocol (**Appendix A**) includes, amongst other points, the following conditions and limitations:
 - a) Democratic services and technical IT support will not be available for group meetings;
 - b) no new equipment can be purchased specifically to facilitate group meetings, eg. to support hybrid meetings; and
 - c) group meetings will need to dovetail with, rather than being prioritised over, Council business, and Council business meetings will have priority for the use of the rooms and IT equipment.

Legal Implications

17. The recommended amendments to the Members' Code of Conduct and the draft protocol which is to be annexed to the Code in relation to the use of Council IT equipment for political group meetings will require the approval of full Council.
18. If any amendments are made to the Members' Code of Conduct, the Council is required (under section 51(6) of the Local Government Act 2000), 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. The newspaper notice must be published in any newspaper published by the Council as well as in at least one other newspaper circulating in the Council's area.
19. Other relevant legal provisions are referred to in the body of the report.

Financial Implications

20. There are no direct financial implications arising from this report, with it stated in the report that no new equipment can be purchased specifically to facilitate group meetings. The Democratic Services Reserve is the identified source of funding for Member IT requirements for 2022/23, in which all IT equipment costs are to be contained.

RECOMMENDATION

The Council is recommended to:

1. approve the amendment of the Members' Code of Conduct, as set out in paragraph 14 of this report;
2. approve the draft Protocol for the Use of Council Hybrid Meetings IT Equipment for Political Group Meetings, appended as **Appendix A**;
3. Instruct the Director of Governance and Legal Services and Monitoring Officer to update the Constitution accordingly, and issue the requisite notifications in relation to the amendment of the Members' Code of Conduct, as set out in paragraph 18 of the report; and
4. Delegate authority to the Director of Governance and Legal Services, in consultation with the Chair of the Standards and Ethics Committee and party Group Whips, to make any minor amendments to the Protocol (**Appendix A**), in order to ensure its effective operation.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

16 November 2022

Appendices

Appendix A Protocol for the Use of Council Hybrid Meetings IT Equipment for Political Group Meetings (draft)

Background papers

Standards and Ethics Committee report ‘Members’ Use of Council IT Equipment for Political Group Meetings’, 25 October 2022

Guidance from the Public Services Ombudsman for Wales, ‘The Code of Conduct for members of local authorities in Wales: [General : 27 FINAL Investigation Report Template s21 casework support only \(ombudsman.wales\)](#)’

IT Security Policy:

[https://cityofcardiffcouncil.sharepoint.com/sites/ict/Documents/Forms/AllItems.aspx?id=/sites/ict/Documents/IT Security Policy.pdf&parent=/sites/ict/Documents](https://cityofcardiffcouncil.sharepoint.com/sites/ict/Documents/Forms/AllItems.aspx?id=/sites/ict/Documents/IT%20Security%20Policy.pdf&parent=/sites/ict/Documents)