

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

CARDIFF UNDERTAKING

Reason for this Report

1. To enable Members to review the purpose and status of the Cardiff Undertaking, and a recommended amendment if the Undertaking is to be retained.

Background

2. The ethical framework for the conduct of Members is set under Part 3 of the Local Government Act 2000. Under powers granted in the Act, the National Assembly for Wales has made an order specifying principles governing the conduct of Members ('the Principles of Conduct' SI 2001/2276); and issued a model code regarding the conduct expected of Members, reflecting the Principles of Conduct.
3. The model statutory code has been adopted by Cardiff Council (with permitted variations to clarify duties in relation to Members' use of social media, and use of Council IT equipment for political group meetings) and is enshrined, as the Members' Code of Conduct, within the Council's Constitution and available on the Council's website. Members must comply with the duties set out in the Members 'Code of Conduct. Sanctions may be imposed on any Member found to be in breach of the Code.
4. The Cardiff Undertaking was adopted by the Council in 2004, on the recommendations of a Corporate Governance Commission (a team of public and private sector leaders appointed by the Council to review the Council's corporate governance arrangements). It provides an opportunity for Members to publicly commit to using their term of office to work for the Council, the City and its citizens, and to commit to the standards of conduct expected by the Council; and has been amended from time to time.
5. At its meeting on 30th September 2020 the Committee agreed various amendments to the Cardiff Undertaking (to include reference to complying with the Protocol on the Role of Members in Safeguarding Vulnerable Children and Adults, to address recommendations made by Internal Audit in relation to the principles of stewardship and leadership, and other minor drafting

improvements), which were subsequently approved by full Council in November 2020.

Issues

6. The Cardiff Undertaking is appended as **Appendix A** to this report.

7. The Constitution, Article 2.4 provides that:

Each Councillor will, at each Annual Council meeting, give the Cardiff Undertaking to publicly demonstrate their commitment with all other Councillors to upholding the highest standards of conduct and to serving the interests of the Council, Cardiff, its citizens and those to whom the Council owes a duty.

[This is reflected in the Council Meeting Procedure Rules, Rule 2(b)(vi).]

As the Cardiff Undertaking has been duly adopted by full Council, it may be regarded as binding upon all Council members, but there are no prescribed mechanisms for its enforcement; and individual Members cannot be compelled to give the Undertaking.

8. Members must, however, comply with the Members' Code of Conduct, **Appendix B** to this report, and sanctions may be imposed on any Member found to be in breach of the Code.

9. The Committee may also wish to note that all elected Members are required by law to sign a Declaration of Acceptance of Office at the start of their term of office, which includes an undertaking to comply with the Members' Code of Conduct. Members' declarations are published on their individual webpage of the Council's website.

10. The Cardiff Undertaking and the Members' Code of Conduct are included within Part 5 of the Constitution and together constitute the Council's Ethical Code.

11. A breach of the commitments set out in the Cardiff Undertaking may well constitute a breach of the Members' Code of Conduct, which may be investigated and determined under the statutory arrangements for dealing with a breach of the Code of Conduct. However, the Cardiff Undertaking is not enforceable in its own right.

12. At the Annual General Meeting of the Council held following the local elections in 2022, two members declined to give the Cardiff Undertaking. As there is no means of requiring them to give the Undertaking, this has initiated a discussion about whether the Undertaking actually adds anything above and beyond the undertaking to comply with the Code of Conduct given in Members statutory acceptance of office.

13. The Committee is therefore invited to reconsider the utility of the Cardiff Undertaking having regard to the above. The Monitoring Officer's view is that given the Code of Conduct is enforceable and the Cardiff Undertaking is not (unless a breach of it also constitutes a breach of the Members Code of

Conduct), that the Cardiff Undertaking does not add anything beyond the Code of Conduct and therefore is not necessary.

14. However, if the Committee considers that the Cardiff Undertaking should be retained, it is asked to consider the amendment of paragraph 4 of the Undertaking, to reflect the fact that Councillors may also have legal duties to other bodies, for example, to outside bodies to which they may be appointed by the Council. The recommended amendment is as follows:

4. Give priority to the interests of the Council, Cardiff and of the people of Cardiff, when acting as a Cardiff Councillor, subject to any other overriding legal duties.

Legal Implications

15. The Standards and Ethics Committee's terms of reference include:

'To advise the Council on the content of its Ethical Code and to update the Code as appropriate' [Terms of Reference, paragraph (b)].

16. Any change in relation to the Cardiff Undertaking may be recommended by the Standards and Ethics Committee to full Council for approval

17. Changes to the Cardiff Undertaking may also require consequential changes to the Constitution, Article 2.4 and the Council Meeting Procedure Rules, referenced in paragraph 7 of the report. Changes to the Constitution also require the approval of full Council.

18. Other relevant legal implications are set out in the body of the report.

Financial Implications

19. There are no direct financial implications arising from this report.

Recommendations

The Committee is recommended to:

1. Consider whether or not the Cardiff Undertaking should be retained;
2. If the Undertaking is to be retained, to agree the amendment of paragraph 4 of the Undertaking, as set out in paragraph 14 of this report; and
3. Authorise the Monitoring Officer to report the Committee's recommendations on this matter, along with any consequential changes to the Constitution, to full Council for approval.

DAVINA FIORE
DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER

3 February 2023

APPENDICES

Appendix A [Cardiff Undertaking](#)

Appendix B [Members' Code of Conduct](#)

Background papers

[Cardiff Undertaking, report to Council, November 2020](#)

[Cardiff Undertaking, report to Standards and Ethics Committee, September 2020](#)