

STANDARDS AND ETHICS COMMITTEE:

9th MAY 2023

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

**GROUP LEADERS' REPORTS TO STANDARDS AND ETHICS
COMMITTEE; AND POTENTIAL CHANGES TO THE MEMBERS'
CODE OF CONDUCT (MANDATORY TRAINING) AND THE CARDIFF
UNDERTAKING**

**PART OF APPENDICES B1, B2, B3 & B4 IS NOT FOR PUBLICATION AS IT
CONTAINS EXEMPT INFORMATION OF THE DESCRIPTION IN PARAGRAPHS
12 & 13 OF SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT 1972**

Reason for this Report

1. To allow the Committee to receive and consider the reports from political group leaders on the discharge of their new statutory duties relating to standards of conduct of members of their groups (introduced under Part 4 of the Local Government and Elections (Wales) Act 2021); and consult with political group leaders about potential changes to the Members' Code of Conduct (in relation to mandatory training) and the Cardiff Undertaking.

Background

2. The Local Government and Elections (Wales) Act 2021 ('the 2021 Act'), Part 4 introduced certain changes to the statutory ethical framework (set under Part 3 of the Local Government Act 2000), which took effect from 5th May 2022, including:
 - (a) New duties for leaders of political groups to take reasonable steps to promote and maintain high standards of conduct by members of their group, and to co-operate with the standards committee in the discharge of its functions; and
 - (b) New duties for standards committees to monitor the compliance of political group leaders with their new duties; and for advising and training (or arranging training) of political group leaders in relation to those duties (referred to in paragraph (a) above); and to submit an annual report to full Council.

3. In line with established practice in Cardiff, the Committee meets annually with group leaders and whips to informally discuss conduct issues. The last such meeting was held on 25th October 2022, when the Committee received a report on group leaders' new statutory duties in relation to standards of conduct, considered the Welsh Government's draft statutory guidance on this issue, and approved a proforma for group leaders to report to the Standards and Ethics Committee on a biannual (every six months) basis.

Issues

Group Leaders' Reports to Standards and Ethics Committee

4. In complying with the new statutory duties, political group leaders and standards committees must have regard to any guidance issued by the Welsh Ministers. Draft statutory guidance, issued for consultation in February 2022 and considered by the Committee at its meetings in June and October 2022, is appended as **Appendix A** to this report.
5. The proforma Group Leaders' Report, developed in consultation with group leaders and whips and approved at the Committee's meeting in October 2022, has been forwarded to all group leaders for completion, return and discussion at this meeting. The Group Leaders' Reports, completed by the leaders of each of the four political groups represented on the Council, are appended as **Appendices B1-B4** (including mandatory training attendance figures for each group, with individual group members' training records attached on an Exempt basis), for the Committee's consideration. Group leaders and whips have also been invited to attend the Committee meeting to discuss their reports with the Committee.
6. The Committee should note that the new statutory provisions in relation to its annual report to Council will, in future, require an assessment of group leaders' compliance with their new statutory duties under the 2021 Act (as set out in this report) with effect from the Committee's Annual Report 2022/23, the content of which is to be considered at the Committee's next meeting.

Requirement to Attend Mandatory Training – Potential Amendment to Members' Code of Conduct

7. At the February 2023 Committee meeting, the Committee discussed mandatory training and action which could be taken to compel Members' attendance. The Committee noted that the new statutory duties of Group Leaders would require them to take steps to address any non-attendance at mandatory training by Members of their group; and that the Chair of the Standards and Ethics Committee would be asked to write to any individual Councillors who had not attended the mandatory Code of Conduct training.
8. The Committee also asked that consideration be given to incorporating a requirement to attend mandatory training within the Members' Code of Conduct, as a permitted local variation to the statutory model Code (by law, local authorities may amend their code of conduct to incorporate other provisions, as long as they are consistent with the model Code). This could be

achieved by inserting a new paragraph 8(c) into the Members' Code of Conduct, as shown in **Appendix C**. It was agreed that this potential amendment should be discussed with Group Leaders to seek their views at the May Committee meeting.

9. It should be noted that if a duty to attend mandatory training is incorporated within the Members' Code of Conduct, any non-attendance at mandatory training, within a reasonable time limit, for example six months of election or the training being identified as mandatory, and without good reason, would constitute a breach of the Members' Code of Conduct. Any such breach of the Code may be the subject of a complaint under the conduct complaints process, and if upheld, the Member may become liable to sanctions.
10. The Committee will note the information about mandatory training attendance contained within, and appended to, each of the Group Leaders' Reports (**Appendices B1-B4**), as referred to in paragraph 5 above, in relation to the reporting period running from 9th May 2022 to 31st March 2023.
11. For the Committee's information, updated figures showing the total number of Members who have completed each mandatory training course as of 30th April 2023 is shown in the table below:

	MANDATORY TRAINING COURSE ATTENDANCE				
	Code of Conduct	IGDP	Equalities and Diversity	Corporate Parenting	Safeguarding
Number of Members who have completed training	78	71	71	74	73
Total number of Members	79	79	79	79	79
Percentage who have completed training	98.73%	89.87%	89.87%	93.67%	92.41%

Notes	86.08%	68 Members	have completed all modules
	6.33%	5 Members	have 1 outstanding module
	1.27%	1 Member	has 2 outstanding modules
	0.00%	0	have 3 outstanding modules
	5.06%	4 Members	have 4 outstanding modules
	1.27%	1 Member	has 5 outstanding modules
	100.00%	79	TOTAL

Cardiff Undertaking

12. The Cardiff Undertaking was adopted by Cardiff Council in 2004, on the recommendations of a Corporate Governance Commission, which had been set up to review the Council's corporate governance arrangements at that time. 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.
13. The Cardiff Undertaking is included within Part 5 of the Constitution (alongside the statutory Members' Code of Conduct) and is appended to this report as **Appendix D**.
14. At the February 2023 Committee meeting, the Committee received a report reviewing the purpose and status of the Cardiff Undertaking, and a recommended amendment if the Undertaking is to be retained. It was noted that there are no prescribed mechanisms for enforcing the Undertaking. Also, that two Members have declined 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 already given in Members' statutory declaration of acceptance of office (required under section 83 of the Local Government Act 1972). 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.
15. The Committee agreed to seek the views of Group Leaders on the value of retaining the Cardiff Undertaking before making any recommendation to full Council in this regard.
16. If the Committee considers that the Cardiff Undertaking should be retained, it is recommended that paragraph 4 of the Undertaking requires amendment in order 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

17. Under section 51 of the Local Government Act 2000, a local authority may revise its Members' Code of Conduct, provided that the revised Code of Conduct:
 - (i) must incorporate all mandatory provisions of the statutory model code of conduct set out in the Local Authorities (Model Code of Conduct) (Wales) Order 2008; and
 - (ii) may include other provisions which are consistent with the model code.

18. As soon as reasonably practicable after revising its code of conduct, a local authority must ensure copies of the revised code are available for public inspection at a Council office at all reasonable hours; publish a newspaper notice stating that it has revised its code of conduct and specifying the office of the Council where copies of the revised code are available for public inspection at specified times (along with any other publicity measures considered appropriate); and send a copy of the revised code to the Public Services Ombudsman for Wales.
19. Any amendment to the Members' Code of Conduct and or the Cardiff Undertaking requires the approval of full Council.
20. Other relevant legal provisions are set out in the body of the report.

Financial Implications

21. There are no financial implications directly arising from this report.

RECOMMENDATIONS

The Committee is recommended to:

- (1) Note the Group Leaders Reports on the discharge of their new statutory duties in relation to standards of conduct (**Appendices B1-B4**), and provide any appropriate comments; and
- (2) Subject to consultation with Group Leaders and Whips, to:
 - (a) Recommend to full Council the amendment of the Members' Code of Conduct to incorporate a duty to attend all mandatory training, as shown in **Appendix C**; and
 - (b) Either:
 - (i) Recommend to full Council dispensing with the Cardiff Undertaking, on the basis that it is no longer necessary, and removing all references to the Undertaking from the Constitution; OR
 - (ii) Recommend to full Council the amendment of the Cardiff Undertaking as shown in paragraph 16 of this report; and
 - (c) Agree to receive a further report from Group Leaders on compliance with their statutory duties in relation to standards of conduct in six months time.

Davina Fiore
Director of Governance and Legal Services and Monitoring Officer
2 May 2023

Appendices

Appendix A Standards of Conduct draft statutory guidance: [Consultation on the Local Government and Elections \(Wales\) Act 2021: standards of conduct statutory guidance \[HTML\] | GOV.WALES](#)

Appendices B1-B4 Group Leader's Reports to Standards and Ethics Committee (with individual Members' training records Exempt from publication)

Appendix C Members' Code of Conduct, potential amendment

Appendix D Cardiff Undertaking

Background papers

Standards and Ethics Committee report, 'Group Leaders' Duties in Relation to Standards of Conduct', 25th October 2022: [CITY AND COUNTY OF CARDIFF \(moderngov.co.uk\)](#)

Standards and Ethics Committee report, 'Members' Code of Conduct Complaints Update – Quarter 3 of 2022/23', 14th February 2023; and draft minutes thereof: [Item 9 Report.pdf \(moderngov.co.uk\)](#)

Standards and Ethics Committee report, 'Cardiff Undertaking', 14th February 2023 [Item 10 Report.pdf \(moderngov.co.uk\)](#)