

STANDARDS & ETHICS COMMITTEE:

9 MAY 2023

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

**MEMBERS' CODE OF CONDUCT COMPLAINTS UPDATE – QUARTER 4 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 notified to the Monitoring Officer during Quarter 4 of 2022/23 (the period running from 1st January 2023 to 31st March 2023).

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 3 of 2022/23 were reported to the Committee meeting on 14th February 2023.

Issues

5. During Quarter 4 of 2022/23, covering the period running from 1st January 2023 to 31st March 2023, a total of 1 complaint alleging a breach of the Members' Code of Conduct was notified to the Monitoring Officer by the Ombudsman.
6. In summary of the complaint, a member of the public had complained to the Ombudsman that a Member had treated him poorly, told the complainant that they didn't care about the difficulties he had experienced, bragged about how long they had been a member of the Council and failed to respond to correspondence. The Ombudsman decided there was insufficient evidence to suggest a breach of the Code of Conduct, so the complaint would not be investigated. In relation to the Member's alleged failure to respond to correspondence, the Committee may wish to note the Ombudsman's view, as included within the Ombudsman's decision letter, as follows:

'While Members are there to represent the constituency, it is not always possible for them to represent every individual, and it is open to them to decide how best to use their resources. Failing to respond to correspondence could be considered rude but it is unlikely to amount to a breach of the Code of Conduct. If the Complainant remains unhappy with the service they have received from their elected member, it is open to them to choose a different candidate for election going forward.'

7. The Committee will recall from the Complaints Update report to its previous meeting, in February 2023, that the Ombudsman's office has changed their notification procedures. The Ombudsman now only notifies all parties about a complaint when a decision has been made on whether the matter will be investigated. This change is reflected in the Committee's quarterly update report as follows:
 - (a) Complaints submitted to the Monitoring Officer under the Local Resolution Protocol, continue to be reported on the basis of the *date on which the complaint is made*, allowing comparisons to be made with the number of complaints received in previous quarters and any emerging patterns or concerns; and
 - (b) Complaints notified to the Monitoring Officer by the Ombudsman, are now reported to Committee on the basis of the *date upon which they are*

notified to the Monitoring Officer, including as much information about the dates of relevant incidents as is provided by the Ombudsman.

8. The table below shows the number and type of complaint received during Quarter 4 of 2022/23 alongside comparative figures for previous quarters:

	Q4 Jan – Mar 2022	Q1 Apr – Jun 2022	Q2 Jul – Sept 2022	Q3 Oct – Dec 2022	Q4 Jan – Mar 2023
Local Resolution	1	0	1	0	0
Ombudsman*	2	2	1	2	1
Total	3	2	2	2	1

* Reported on the basis of the date upon which the complaint is notified to the Monitoring Officer.

Type of Complaint

Member on Member	1	0	0	0	0
Public on Member	1	2	2	2	1
Officer on Member	0	0	0	0	0
Community Councillors	1	0	0	0	0
Total	3	2	2	2	1

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. 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.
- 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. 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, and Cllr B made a counter-complaint against the

- complainant (Cllr A). The counter-complaint was resolved informally, with Cllr B withdrawing the complaint and offering an apology to the complainant (Cllr A) for any upset caused by their comments. Cllr A has also been asked to apologise and consider withdrawing the complaint, but to date has not done so.
- iii. A Member (the same Cllr A referred to in sub-paragraph (ii) above), complained about misleading information, which misrepresented 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.
- iv. A Member (the same Cllr A referred to in sub-paragraphs (ii) and (iii) above) complained that another Member had posted untrue and misleading information about the complainant on social media. It has not been possible to resolve this complaint by informal resolution.
10. The Committee will recall, at its last meeting in February 2023, recommending changes be made to the Local Resolution Protocol to provide that an unresolved complaint shall not be referred to the Hearings Panel unless the Monitoring Officer is satisfied that there is direct evidence of a breach of the Code and that it is in the public interest to do so, with the proviso that any decision to not refer an unresolved complaint to the Hearings Panel must be made with the agreement of the Chair of the Standards and Ethics Committee (or Vice-Chair, in the absence of the Chair). The Committee will be pleased to note that these changes to the Local Resolution Protocol were subsequently approved by full Council on 30th March 2023, so are now in effect. The Monitoring Officer will be considering the four unresolved complaints referred to in paragraph 9 above under the revised provisions of the Local Resolution Protocol, to determine whether or not a referral to the Hearings Panel is appropriate.

Quarter 3 of 2021/22

11. One of the complaints reported during this quarter was made 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 decided, following an investigation, that there was no evidence of a breach of the Code. The complainant requested a review of the Ombudsman's decision. Following this review, the Ombudsman confirmed their original decision that there was no evidence of a breach of the Code.

Code of Conduct Training

12. The Committee is invited to note that, following a number of repeat training sessions on the Code of Conduct, offered both in person and remotely, as part of the Member Induction Programme, 78 out of the 79 Cardiff Councillors (99% of all Cardiff Councillors) have now completed this mandatory training. The Monitoring Officer has contacted the remaining member, who has carried out online Code of Conduct training during a previous Council administration, and he has confirmed his intention to carry

out all the outstanding mandatory training which he has not yet completed. If he does not do so within a reasonable time period, the Chair of this committee will write to him with a reminder.

13. At the Committee's last meeting, in February 2023, the Committee discussed what action could be taken in relation to Members' non-attendance at this mandatory training. It was noted that Group Whips and Leaders are informed of any Members from their group who have not attended mandatory training and Group Leaders are asked what action they have taken in this regard as part of the Group Leaders' Report to Standards and Ethics Committee. The Committee agreed to consider potential amendments to the Code of Conduct to include a requirement to attend all mandatory training – this is addressed under the Group Leaders' Reports to Standards and Ethics Committee, Agenda item 4 for this meeting. It was also agreed that the Chair should write to any individual Members who have not attended mandatory training to emphasise the importance of attending such training and urge them to do so.

Legal Implications

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

Financial Implications

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

Recommendation

The Committee is recommended to:

1. Note the contents of the report; and
2. Ask the Chair to write to the individual Member who has not yet attended the mandatory Code of Conduct training, if this training is not completed within a reasonable time period, to urge them to do so.

Davina Fiore

Director of Governance and Legal Services, and Monitoring Officer

25 April 2023

Background papers

- [Standards and Ethics Committee report, 'Member Code of Conduct Complaints Update – Quarter 3 of 2022/23, 14th February 2023](#)
- Monitoring Officer's Code of Conduct Complaints Records and Correspondence
- Democratic Services, Members' Training Records
- [Standards and Ethics Committee report, 'Group Leaders' Duties in Relation to Standards of Conduct', 25th October 2022](#)