

Wiltshire Council

Standards Committee

25 January 2023

Code of Conduct Complaints – Status Report

Purpose

1. To provide an update on the Code of Conduct complaints received by the council since the Committee's last meeting.

Statutory background

2. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
 - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
 - The registration and disclosure of pecuniary and other interests.
3. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a town or parish council within the council area, has failed to comply with the relevant code of conduct.

Council Code of Conduct procedures

4. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 11 to the Constitution, the procedure having changed with effect from 1 January 2020.
5. On receipt of such a complaint the Monitoring Officer will consider the complaint and, if appropriate, prepare a report for the Assessment Sub-Committee (ASC). The Monitoring Officer (MO) may at this point decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest, including particularly the efficient use of resources, to proceed.
6. Valid code of conduct complaints are determined by the Assessment Sub-Committee, following receipt of the report from the Monitoring Officer. The Assessment Sub-Committee may conclude that no further action should be taken, it may refer the complaint for investigation, or it may recommend that an alternative resolution be explored with the parties.
7. If the Assessment Sub-Committee determines that a formal investigation should be undertaken, an Investigating Officer is appointed by the Monitoring Officer. If the recommendation of the Investigating Officer is that there has been a substantial

breach of the Code of Conduct, and that alternative resolution is not appropriate, then the Monitoring Officer, after consultation with the Independent Person, will refer the matter to a Standards Hearing Sub-Committee.

8. The Standards Hearing Sub-Committee will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member (the councillor who is the subject of the complaint). If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.
9. There is no right of appeal of the decision of the Assessment Sub-Committee or the Hearing Sub-Committee.
10. The Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

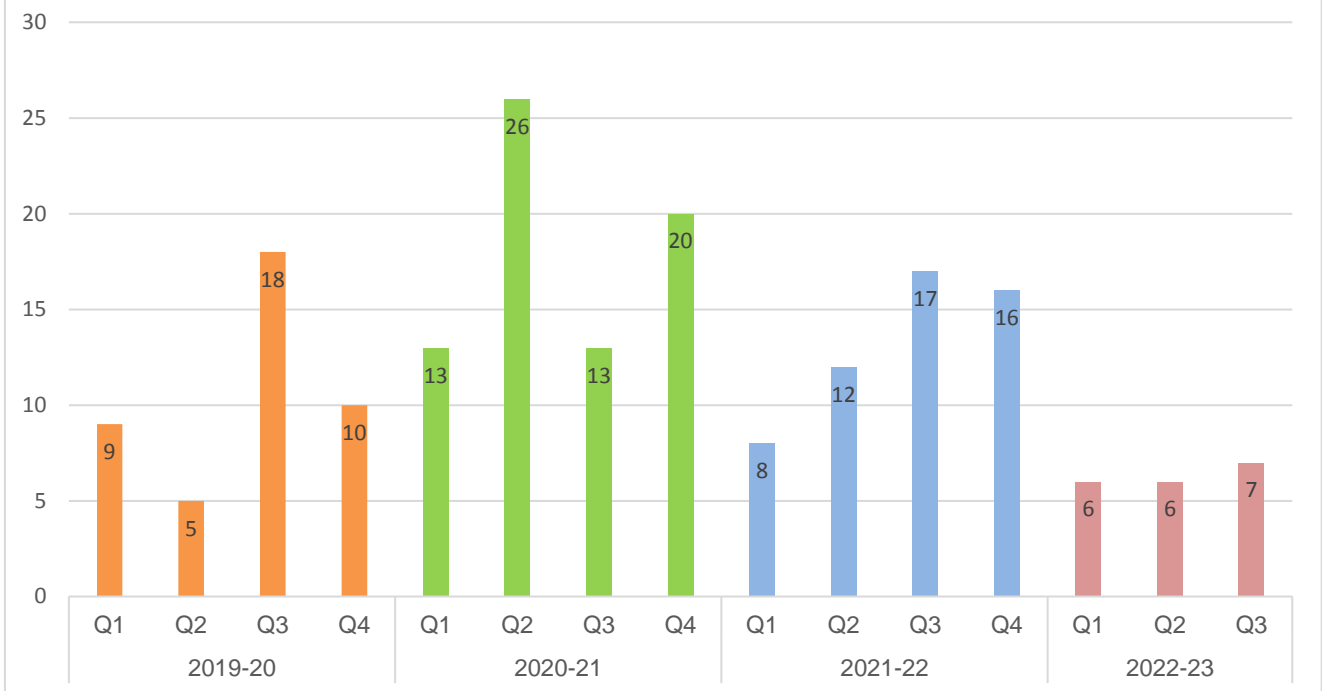
Summary of committee meetings

11. The last Standards Committee meeting took place on 5 October 2022. Since that meeting there have been:
 - 3 meetings of the Standards Assessment Sub-Committee;
 - 0 meetings of the Standards Hearing Sub-Committee.
12. The next meeting of the Standards Assessment Sub-Committee is scheduled for 9 February 2023.

Summary of complaints received since 27 September 2022 (following publication of the 5 October 2022 meeting agenda)

13. Between 27 September 2022 and 17 January 2023, the Monitoring Officer received **7 complaints** under codes of conduct:
 - 6 were determined No Further Action by Assessment Sub-Committee;
 - 1 was dismissed as 'out of time' by the Monitoring Officer.
14. The Monitoring Officer can also determine No Further Action under paragraph 4.6 of Protocol 11 – Arrangements for dealing with Code of Conduct Complaints. This is applied where the Monitoring Officer determines that, on the information available, the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest for further action to be taken, including particularly the efficient use of resources.
15. **Chart 1** shows the code of conduct complaints received since 2019:

Chart 1 - Code of Conduct complaints received 2019-22



Quarterly average: 11
2019-20 total: 42

Quarterly average: 18
2020-21 total: 72

Quarterly average: 13
2021-22 total: 52

Quarterly average: 6
2022-23 total so far: 19

Types of complaint

14. The 9 code of conduct complaints received between 27 September 2022 and 17 January 2023 can be broken down as follows:

(NFA = No Further Action MO = Monitoring Officer ASC = Assessment Sub-Committee)

- 0 were complaints against **Wiltshire Councillors**:
- 0 were against **town councillors**:
- 7 were against **parish councillors***:
 - 1 was regarding insulting remarks (NFA by ASC)
 - 2 were regarding conflicts of interest (1 x NFA; 1 x referred for Investigation)
 - 2 were regarding threatening behaviour (NFA by ASC)
 - 2 were regarding bullying, disrespect, integrity and use of council resources (NFA by ASC)
 - 1 was regarding meeting chairing (NFA by ASC)

* NB. Some complaints involve multiple issues and are therefore listed more than once.

Complaint resolution speed

16. Under Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints, the

council aims to assess all such complaints within **5 working days** of receiving the subject member's response. This is a challenging target as complaints can be complex, require legal input and include a large amount of background information that must be reviewed.

17. During this period, **1 complaint** was assessed by or on behalf of the Monitoring Officer, within **5 working days**.
18. Complaints referred to Assessment Sub-Committee cannot usually meet the 5 working day timescale for assessment due to the need for a scheduled meeting. However, the council endeavours to inform complainants and subject members that the complaint will be assessed in this way, and of the meeting date, as quickly as possible. During the period reported, **6 complaints** have been assessed by the Assessment Sub-Committee, with the parties informed of the Assessment Sub-Committee meeting date after an average of **3 working days** from the Subject Member's response being received.
19. 4 of the complaints assessed by Assessment Sub-Committee were considered at the next scheduled meeting after the Subject Member's response was received (taking into account the required notice period regarding agenda publication). For the other 2, these were deferred to the subsequent meeting at the request of the complainant.
20. 1 complaint was referred for investigation during this period. The investigation is ongoing and is currently within the completion timescale set out in Protocol 11 (45 working days).

Dip Sampling

15. A table of current cases was provided to the Chairman of Standards Committee on 6 December 2022 and 11 January 2023 for a dip sample to be undertaken to enable oversight.

Proposal

16. The Committee are asked to note the current position on code of conduct Complaints

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Appendices

None.