

Wiltshire Council

Standards Committee

2 July 2024

Changes to Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints

Purpose

1. To propose amendments to Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints (“Protocol 11”) for approval and recommendation to Full Council for adoption into the council’s Constitution.
2. To propose the removal of the separate Local Assessment Criteria document, with relevant content being incorporated into the new Protocol 11.
3. To propose amendments to the Procedure Rules for the Assessment Sub-Committee.

Background

4. Under Section 27 of the Localism Act 2011, all local authorities must promote and maintain high standards of conduct by their members and co-opted members, including by adopting a code of conduct setting out the behaviour that is expected of members when acting in their official capacity.
5. Under Section 28 of the Localism Act 2011, principal authorities such as Wiltshire Council must have in place arrangements under which allegations of misconduct can be investigated and determined. Protocol 11 of Wiltshire Council’s Constitution sets out the process the council follows in assessing and determining such allegations.
6. At present, Protocol 11 (Appendix 1) sets out the overall process for considering Code of Conduct complaints, and a separate document, the Local Assessment Criteria (Appendix 2), provides the Assessment Sub-Committee with further guidance on factors to consider when assessing such complaints. The current versions of both documents were last updated in July 2019 and have been in force since January 2020. Since that time, experience gained by officers, members and the council’s appointed Independent Persons has highlighted parts of both documents that require correction or clarification.
7. The changes proposed have been discussed with:
 - Members of the Standards Committee’s Assessment Sub-Committee, which assesses allegations of member misconduct when requested to do so by the Monitoring Officer.
 - The council’s three Independent Persons, appointed under Section 28 (7) of the Localism Act 2011, and whose views may be sought before a decision

is made on an allegation of misconduct or who may be consulted by a member who is the subject of a complaint.

- The Standards Committee's Constitution Focus Group, which has approved the changes proposed.
8. The Procedure Rules for Assessment Sub-Committee document sets out the process to be followed by the Sub-Committee in its meetings. The proposed changes to Protocol 11 create knock-on implications for the Procedure document, with amendments to paragraph numbers and terminology required. Other minor changes to the document are proposed for increased clarity and useability.

Main Considerations

9. At present, there is some overlap between Protocol 11 and the Local Assessment Criteria in terms of content and purpose. To provide greater clarity for everyone involved in the complaints process, it is proposed that content from both documents be combined into a single, new Protocol 11, with the separate Local Assessment Criteria document being removed.
10. The proposed new Protocol 11 includes a significant amount of textual change, but the key amendments aim to provide:
- a) Consistent use of terminology.
 - b) Clarity around timescales for the submission, assessment and determination of complaints.
 - c) More information about the role of Independent Persons.
 - d) Clarity around the process followed by the Monitoring Officer when exploring 'alternative resolution'.
 - e) More guidance for complainants on providing sufficient information when submitting complaints.
 - f) A more comprehensive list of reasons why complaints may not proceed.
 - g) Greater clarity around the options available to the Monitoring Officer when an investigation is completed.
 - h) Greater clarity and detail around the process followed by the Hearing Sub-Committee, including during the pre-hearing stage.
 - i) A new requirement that an Independent Person must be consulted before the council departs from the arrangements set out in the Protocol.
 - j) Information on the role of the Local Government and Social Care Ombudsman (LGSCO) and its contact details.
 - k) Greater clarity around requirements for confidentiality.

11. The following documents are provided:

Appendix 1	Current Protocol 11
Appendix 2	Current Local Assessment Criteria
Appendix 3	Proposed new Protocol 11 with track changes and comments
Appendix 4	Proposed new Protocol 11 without track changes or comments
Appendix 5	Current Procedure Rules for Assessment Sub-Committee
Appendix 6	Proposed new Procedure Rules for Assessment Sub-Committee with track changes

Overview and Scrutiny Engagement

12. The Constitution Focus Group includes a representative from Overview and Scrutiny, and the above changes have been reviewed by its members.

Safeguarding Implications

13. There are no safeguarding implications.

Public Health Implications

14. There are no public health implications.

Procurement Implications

15. There are no procurement implications.

Equalities Impact of the Proposal

16. There are no equalities implications.

Environmental and Climate Change Considerations

17. There are no environmental implications.

Workforce Implications

18. There are no workforce implications.

Risks that may arise if the proposed decision and related work is not taken

19. Some procedures would continue to lack clarity and not be as efficient or effective as they could be.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

20. No risks have been identified if the proposed actions are taken.

Financial Implications

21. There are no financial implications.

Legal Implications

22. The proposals are in accordance with required legislation.

Proposals

23. To approve the proposed new version of Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints and recommend its adoption into the council's Constitution by Full Council.
24. To recommend the removal of the Local Assessment Criteria document by Full Council, with necessary and updated information from the document now incorporated in the proposed Protocol 11.
25. To approve the proposed new version of the Assessment Sub-Committee Procedure document.

Perry Holmes, Monitoring Officer and Director for Legal & Governance

Report author: Henry Powell, Democracy and Complaints Manager, 01225 718400
complaints@wiltshire.gov.uk

Appendices

- Appendix 1 **Current** Protocol 11
- Appendix 2 **Current** Local Assessment Criteria
- Appendix 3 **Proposed** new Protocol 11 **with** track changes and comments
- Appendix 4 **Proposed** new Protocol 11 **without** track changes or comments
- Appendix 5 **Current** Procedure Rules for Assessment Sub-Committee
- Appendix 6 **Proposed** new Procedure Rules for Assessment Sub-Committee **with** track changes
- Appendix 7 **Proposed** new Procedure Rules for Assessment Sub-Committee **without** track changes

Background Papers

None