

Wiltshire Council

Standards Committee

3 October 2024

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 vexatious, malicious, politically motivated, retaliatory, or where it does not reach the threshold of representing a potential breach of the Code of Conduct and it would not be in the public interest, including particularly the efficient use of resources, to proceed.
6. Where the Monitoring Officer determines that there is sufficient evidence to suggest that a breach may have occurred, 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. However, parties are able to ask the Local Government and Social Care Ombudsman to review whether the council has followed its procedures correctly.
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

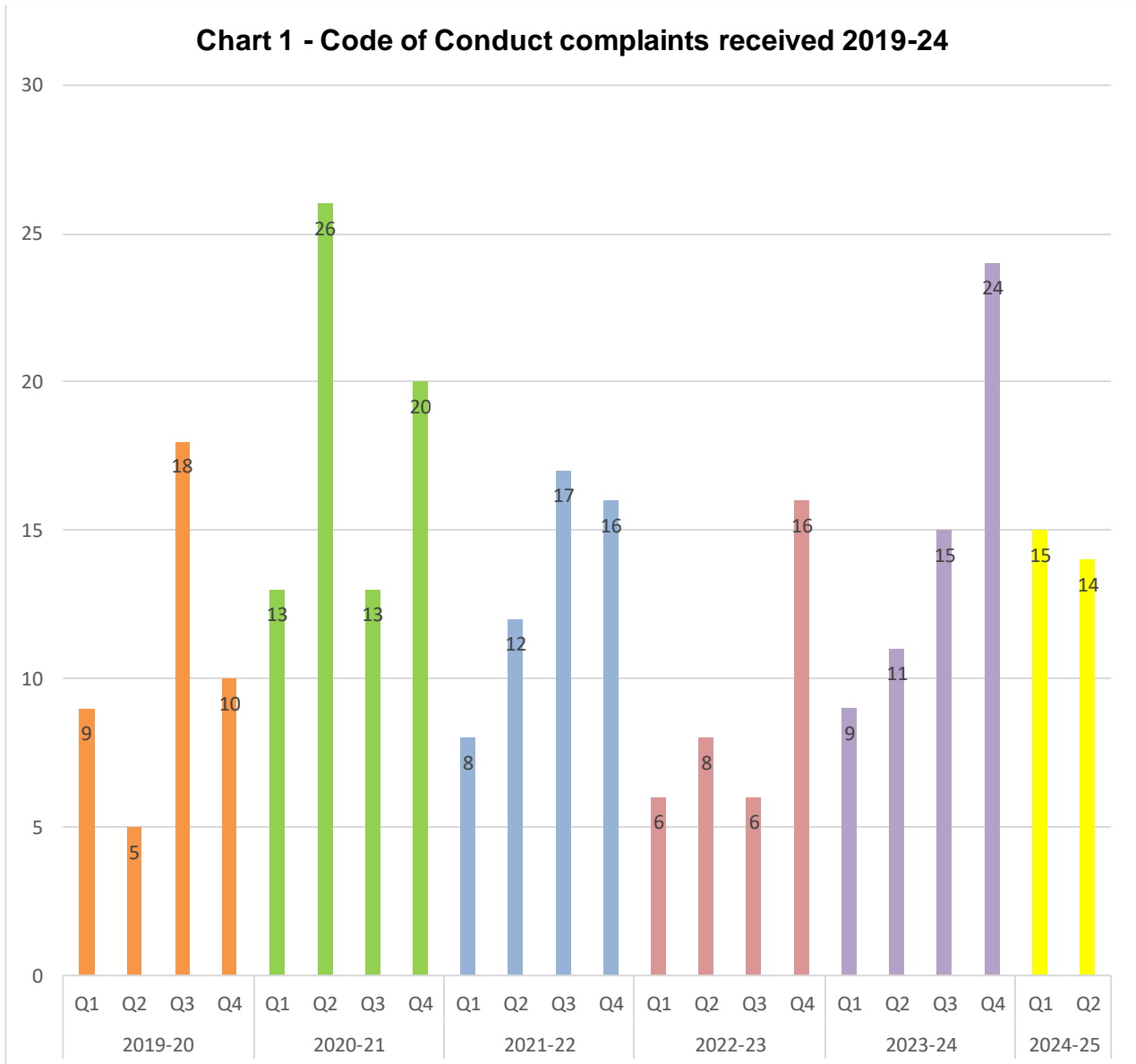
11. The last Standards Committee meeting took place on 2 July 2024. Since that meeting (and at the time of publication) there have been:
 - 1 meeting of the Standards Assessment Sub-Committee.
 - 0 meetings of the Standards Hearing Sub-Committee.
12. The next meeting of the Standards Assessment Sub-Committee is scheduled for 7 November 2024. The next meeting of the Hearing Sub-Committee is scheduled for 2 October 2024.

Summary of complaints received since 24 June 2024 (following publication of the 2 July 2024 meeting agenda)

13. Between 24 June and 24 September 2024, the Monitoring Officer received **14 complaints** under codes of conduct:
 - 4 dismissed by the Monitoring Officer due to the allegations relating to a member acting in their private capacity.
 - 4 dismissed by the Monitoring Officer under paragraph 4.4 of Protocol 11 (see below).
 - 2 dismissed by the Monitoring Officer due to the complaint being regarding an employment matter between the Complainant and council.
 - 1 dismissed by the Monitoring Officer due to the complaint being regarding the actions of the council as a corporate body.
 - 1 dismissed by the Monitoring Officer due to being out of time under paragraph 3.2 of Protocol 11.
 - 1 determined as requiring No Further Action by the Assessment Sub-Committee.
 - 1 awaiting assessment by the Monitoring Officer.

14. The Monitoring Officer can determine No Further Action under paragraph 4.4 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 vexatious, malicious, politically motivated, retaliatory or to not reach the threshold of representing a potential breach of the Code of Conduct 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:



Quarterly avg: 11 Quarterly avg: 18 Quarterly avg: 13 Quarterly avg: 9 Quarterly avg: 15 Quarterly
 2019-20 total: 42 2020-21 total: 72 2021-22 total: 52 2022-23 total: 36 2023-24 total: 59 avg: 14.5

Types of complaint

14. The 14 code of conduct complaints received during the reported timeframe can be broken down as follows (some containing multiple allegations):

- 10 were against **parish councillors**:
 - 1 x withholding information from the council
 - 2 x behaviour in a meeting
 - 1 x abusive language during a meeting
 - 1 x aggressive/threatening behaviour
 - 1 x rude remarks
 - 2 x bullying via email
 - 1 x disparaging remarks via social media
 - 1 x council being under-insured
- 1 was against a **town councillor**
 - 1 x abuse of elected position
- 0 were against a **city councillor**
- 3 were against **unitary councillors**
 - 1 x untaxed car
 - 1 x inappropriate/discriminatory remarks

Breaches of the Code of Conduct

15. No breaches of the Code of Conduct have been determined by the Monitoring Officer or Hearing Sub-Committee during the period reported.

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 the period reported, **12 complaints** were assessed by or on behalf of the Monitoring Officer and this took an average of **3 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 Sub-Committee meeting date, as quickly as possible. During the period reported, **1 complaint** was allocated for assessment by the Assessment Sub-Committee, with the parties informed of the meeting date after **2 working days** from the Subject Member's response being received. The complaint was assessed by Assessment Sub-Committee at its next scheduled meeting (taking into account the required notice period regarding agenda publication).

19. **0 complaints** were referred for investigation by the Assessment Sub-Committee during this period.

20. Under Protocol 11, the council aims to complete Code of Conduct investigations within a total of 45 working days. This comprises 35 working days for the investigation report and a further 10 working days for the parties to submit their comments on it. The table below sets out the time taken for investigations commenced or completed over the past 12 months:

Complaint reference (completion date)	Investigator assigned Target: 5 working days	Investigator's report sent to parties Target: 35 working days	Investigator's report sent to Monitoring Officer Target: 10 further working days	Investigator's report completed – total Target: 45 working days
COC144873 (27 Sep 2023)	6	82	9	91
COC145647 (19 Sep 2023)	6	48	5	53
COC146700 (9 Jan 2024)	3	37	10	47
COC149256 (5 April 2024)	4	42	6	48
COC150777 (29 July 2024)	5	52	15	67*
COC151643 (28 Aug 2024)	5	35	11	46

* Delays due to correspondence with the subject member's legal representative, an interview conducted in writing rather than verbally, and the subject member's legal representative being away when the draft report was circulated.

Dip Sampling

16. A table of current cases was provided to the Chairman of Standards Committee on 25 September 2024, with the next meeting scheduled for 9 October 2024.

Proposal

17. The Committee are asked to note the current position on code of conduct complaints.

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Appendices

None.