

Standards Committee

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 5 OCTOBER 2022 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Paul Oatway QPM (Chairman), Cllr Allison Bucknell (Vice-Chairman), Cllr Andrew Davis, Cllr Ruth Hopkinson, Cllr Bill Parks, Cllr Mike Sankey, Cllr Iain Wallis and Gordon Ball (Non voting)

47 **Apologies for Absence**

Apologies for absence were received from:

- Julie Phillips (non-voting)
- Derek Walters

The Committee noted that Councillor Sam Pearce-Kearney and Councillor Pip Ridout were in attendance remotely via Teams, therefore they would not take part in any voting.

48 **Minutes**

The minutes of the meeting held on 15 June 2022 were presented for consideration.

Subject to an amendment to include Cllr Ian Wallis to the attendance, it was;

Resolved

To approve and sign the minutes as a true and correct record.

49 **Declarations of Interest**

There were no declarations.

50 **Chairman's Announcements**

Positive Conduct Campaign

As part of the council's Positive Conduct, Positive Democracy campaign to promote high standards of behaviour amongst everyone involved in local democracy in Wiltshire, a public webinar was held in June which provided guidance on avoiding and resolving conduct issues. A video of the webinar was available on the website.

In addition, a Positive Conduct toolkit had been produced, containing a range of useful resources for councillors and clerks, and a Positive Conduct Charter, which the Chairman encouraged all Wiltshire councillors to sign up to, to demonstrate their commitment to the campaign.

51 **Public Participation**

There were no questions or statements.

52 **Wiltshire Council Complaints Report 2021 - 22**

The Committee received the Annual Complaints Report which provided a detailed picture of the council's complaints activity between 1 April 2021 and 31 March 2022.

The Committee noted the gradual reduction in complaints received over the past four years had continued, as had the number of complaints handled at Stage 1 of the corporate Complaints Procedure, with those handled at Stage 2 remaining stable.

There was small increase to the percentage of complaints upheld or partially upheld by the council, with Children's Services, Development and Building Control and Adult Social Care attracting the highest numbers of complaints.

There had been a slight increase in complaints received by the Local Government Ombudsman.

A new internal IT system to process complaints was expected, as were improvements to the Complaints webpage.

The Committee discussed the possibility of including statistics on financial aspects of compensation resulting from a complaint and requested that the data be included in future reports.

Complaints registered via the My Wilts app or other email addresses across the council were dealt with separately and did not form part of the statistics within the update. The Committee agreed that it was useful for service areas to know when there was a spike in complaints about certain issues so that they could respond.

The Committee also discussed the role of Division Members in resolving complaints and how well Wiltshire performed in dealing with complaints compared to other authorities of a similar scale.

It was;

Resolved

To note:

- **The Wiltshire Council Annual Complaints Report 2021-22.**
- **That formal complaints to the council have reduced by 41% since 2018-19.**
- **The actions to further improve the council's complaints handling function over the next 12 months.**

53 Changes to Protocol 6 of the Constitution

The Committee received the report on changes to Protocol 6 of the Constitution, to the current Corporate Complaints procedure, which at present was not compliant with the Housing Ombudsman's Code.

During discussion the Committee noted that the proposed document was more user friendly and comprehensive. It was also suggested that the procedure need not sit with the constitution to reduce future changes being required.

It was;

Resolved

To note the report and:

- **To note that the current corporate Complaints Procedure is not compliant with the Housing Ombudsman's new Complaint Handling Code.**
- **To note the comments of the Constitution Focus Group and Wiltshire Council's Housing Board.**
- **To recommend to Full Council that the amended 'Protocol 6 – Complaints Procedure' as outlined under Option 1 (attached at Appendix 2) is adopted to provide compliance with the Housing Ombudsman's new Complaint Handling Code and to make the Procedure more comprehensive and user-friendly for customers.**

54 LGA Model Code of Conduct Working Group Update

The Committee noted the report of the LGA Model Code of Conduct Working Group and considered the feedback in relation to comments from the Group Leaders.

The Committee discussed the differences between the old and the new proposed Code, specifically around para 8.4 relating to imposed sanctions and noted its support the enhancement.

If approved at Full Council the new Code would then form part of Positive Conduct Campaign, where town and parish councils would be encouraged to consider adopting it themselves.

Following discussion, it was;

Resolved

To note the report and recommend the Code of Conduct provided at Appendix A be adopted by Full Council.

55 **Status Report on Code of Conduct Complaints**

The Committee received the status report, updating on the number and outcome of Code of Conduct complaints received since the last meeting on 15 June 2022 and providing a summary of the complaints considered by the Assessment Sub Committee

There had been 9 Code of Conduct Complaints received by the Monitoring Officer during that period. Of these, 2 were determined No Further Action (NFA) by the Monitoring Officer, 2 were determined NFA by the Assessment Sub Committee, 1 was dismissed and the remaining 4 were due to be assessed by the Assessment Sub-Committee at its next scheduled meeting.

A chart showing Code of Conduct complaints received since 2019 was also included in the report.

A table of current cases had been provided to the Chairman on 10 August 2022 for a dip sample of cases to be undertaken to enable oversight.

After a discussion, it was,

Resolved:

To note the position on Code of Conduct Complaints.

56 **Appointment of an Independent Person**

The Committee noted the report as set out in the agenda.

A recruitment process to fill the vacant Independent Person position had taken place. A total of nine candidates had been interviewed and the panel had unanimously agreed on one candidate.

The Committee supported the recommendation that Full Council to appoint Mr McAllister to the position of Independent Person.

Resolved:

To Recommend that Council ratify the appointment of an Independent Persons following the selection process undertaken by the Standards Committee

57 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.30 - 3.20 pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail lisa.alexander@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114 or email communications@wiltshire.gov.uk

This page is intentionally left blank

Wiltshire Council

Standards Committee

19 April 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.

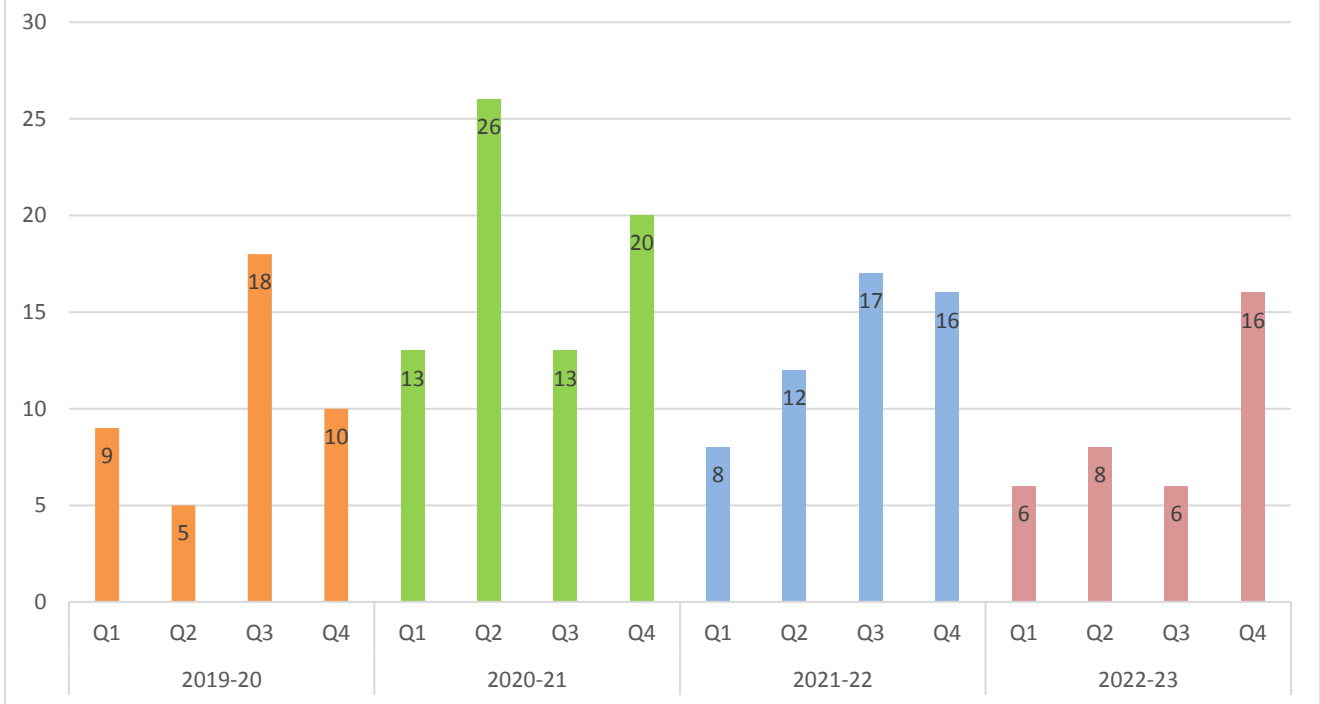
Summary of committee meetings

11. The last Standards Committee meeting took place on 5 October 2022. Since that meeting there have been:
 - 4 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 18 April 2023.

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

13. Between 27 September 2022 and 5 April 2023, the Monitoring Officer received **22 complaints** under codes of conduct:
 - 7 were determined No Further Action by Assessment Sub-Committee;
 - 6 were determined No Further Action by the Monitoring Officer;
 - 1 was resolved via Informal Resolution;
 - 2 were referred for Investigation by Assessment Sub-Committee;
 - 1 was dismissed as 'out of time' by the Monitoring Officer.
 - 2 are to be determined by Assessment Sub-Committee on 18 April 2023;
 - 3 await initial assessment by the Monitoring Officer at the time of writing;
14. The Monitoring Officer determines 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 2019-23



Quarterly average: 11
2019-20 total: 42

Quarterly average: 18
2020-21 total: 72

Quarterly average: 13
2021-22 total: 52

Quarterly average: 9
2022-23 total: 36

Types of complaint

14. The 22 code of conduct complaints received between 27 September 2022 and 5 April 2023 can be broken down as follows:

NFA = No Further Action
IR = Informal Resolution
RFI = Referred for Investigation
MO = Monitoring Officer
ASC = Assessment Sub-Committee

- 6 were complaints against **Wiltshire Councillors**, for the following reasons:
 - Not acting on an issue of public safety (NFA by ASC)
 - Bullying and harassment (IR by MO)
 - Comments in an email (NFA by MO)
 - Comments regarding a neighbourhood dispute (to be assessed)
 - Not responding to emails (NFA by MO)
 - Not declaring an interest at a committee meeting (to be assessed)
- 5 were against **city councillors**;
 - Conflicts of interest regarding a charity (NFA by ASC)
 - Comments on social media (4) (2 x NFA by MO, 2 x to be assessed)
- 1 was against a **town councillor**:

- Misuse of position to obtain a confidential document (NFA by MO)
- 10 were against **parish councillors**:
 - Interests and meeting behaviour (RFI by ASC)
 - Threatening behaviour (NFA by ASC)
 - Bullying, disrespect, integrity and use of council resources (2) (NFA by ASC)
 - Email comments (NFA by ASC)
 - Email comments and chairing of a meeting (NFA by ASC)
 - Council staff resignations (NFA by MO)
 - Gendered language and inappropriate laughing (NFA by ASC)
 - Untrue statements about a charity (RFI by ASC)
 - Cutting a hedge without permission (to be assessed)

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, **6 complaints** were assessed by or on behalf of the Monitoring Officer, within **an average of 11 working days**. The delays have been due to these complaints all being received within a compressed period.
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, **12 complaints** have been assessed or allocated for assessment by the Assessment Sub-Committee, with the parties informed of the Assessment Sub-Committee meeting date after an average of **4 working days** from the Subject Member’s response being received.
19. All **12** 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).
20. **2** complaints were referred for investigation during this period. One investigation was completed after **50 working days**. The target timescale set out in Protocol 11 is **45 working days**. In this case, starting the investigative process was delayed due to one of the parties involved being unavailable for several weeks due a family issue. The other investigation commenced on 6 April 2023 and is ongoing.

Dip Sampling

15. A table of current cases was provided to the Chairman of Standards Committee on 6 December 2022, 11 January 2023, 14 February 2023 and 4 March 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.

Perry Holmes, Director of Legal & Governance and Monitoring Officer

Report Author: Henry Powell, Democracy and Complaints Manager,
complaints@wiltshire.gov.uk

Appendices

None.

This page is intentionally left blank

Wiltshire Council

Standards Committee

19 April 2023

Local Government and Social Care Ombudsman decision regarding the Council's handling of a Code of Conduct complaint

Purpose

1. To report on the decision of the Local Government and Social Care Ombudsman (LGSCO) not to investigate a complaint about the council's handling of a Code of Conduct complaint.

Background

2. The system of regulation of standards of member conduct in England is governed by the Localism Act 2011. Local authorities must have a Code of Conduct for members, which must be consistent with the Nolan Committee's principles of selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
3. All local authorities (other than parish and town councils) must have procedures in place to deal with complaints about member conduct. Wiltshire Council, as the principal authority, also deals with complaints about the conduct of parish and town councillors.
4. The LGSCO does not offer a right of appeal against a council's decision on member conduct complaints, but it can consider if there was fault in the way the council considered the complaint. It can also investigate complaints about the way the council investigated the complaint about parish or town councillors.

Main considerations

5. On 9 March 2023, the council was informed by the LGSCO that it had been asked to investigate the council's handling of a Code of Conduct complaint that was determined as requiring No Further Action by the council's Assessment Sub-Committee. The complainant had asked the LGSCO to investigate the wording of the decision notice setting out the Sub-Committee's decision, which then formed the published minutes of the meeting. The complainant believed that the wording used was prejudicial against them.
6. On 16 March 2023, the LGSCO informed the council that it had decided not to investigate the matter because it was unlikely to find fault by the council. The LGSCO's decision notice is attached at **Appendix 1**. The decision states that, "I understand Mrs X disagrees with the wording of the Council's decision. However, without evidence of fault in the decision-making process, we cannot consider the wording of the decision notices."

Proposal

7. To note the LGSCO's decision not to investigate a complaint regarding the council's handling of a Code of Conduct complaint.

Perry Holmes, Monitoring Officer and Director Legal and Governance

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

Appendices

Appendix 1 LGSCO decision notice – 16 March 2023

DRAFT

16 March 2023

Complaint reference:
22 015 145

Complaint against:
Wiltshire Council

The Ombudsman's final decision

Summary: We will not investigate this complaint about the wording of the decision notices published in response to complaints the parish councillors had breached the code of conduct. This is because we have seen no evidence of fault in the decision making process.

The complaint

1. The complainant, I shall refer to as Mrs X, complains about the Council's wording of the decision notices on her complaints that two parish councillors breached the code of conduct.

The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word fault to refer to these. We consider whether there was fault in the way an organisation made its decision. If there was no fault in the decision making, we cannot question the outcome. (*Local Government Act 1974, section 34(3), as amended*)

How I considered this complaint

3. I considered information provided by Mrs X and the Council.
4. I considered the Ombudsman's Assessment Code.

My assessment

5. Local Authorities have a duty to designate a Monitoring Officer to ensure the lawfulness and fairness of authority decision making. The Monitoring Officer must ensure that the authority, its officers, and members maintain the highest standards of conduct. Each council has different rules for dealing with complaints about code of conduct breaches.
6. The Ombudsman does not provide an appeal against the Monitoring Officer's decisions. We are also unable to investigate or comment on the actions of the councillors complained about. We can consider the Council's administration of a code of conduct complaint. However, where a decision has been made in line with the correct procedure, taking account of the relevant evidence, the Ombudsman will generally not criticise the decision, even if the complainant does not agree with it.

-
7. In this case, I am satisfied the Monitoring Officer dealt with the matter in line with the Council's rules for code of conduct complaints.
 8. Mrs X's concerns her complaints were put to the Council's Assessment Sub Committee. The Council confirms the Sub Committee considered:
 - The complaint and supporting documents from Mrs X
 - A written statement from Mrs X
 - The response of the subject members; and
 - The Monitoring Officer's reports on the complaints
 9. The Sub Committee decided the evidence it had seen did not show the parish councillors had breached the code of conduct.
 10. I understand Mrs X disagrees with the wording of the Council's decision. However, without evidence of fault in the decision-making process, we cannot consider the wording of the decision notices.

Final decision

11. We will not investigate Mrs X's complaint because we are unlikely to find fault by the Council.

Investigator's decision on behalf of the Ombudsman