

Wiltshire Council

Standards Committee

3 October 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.

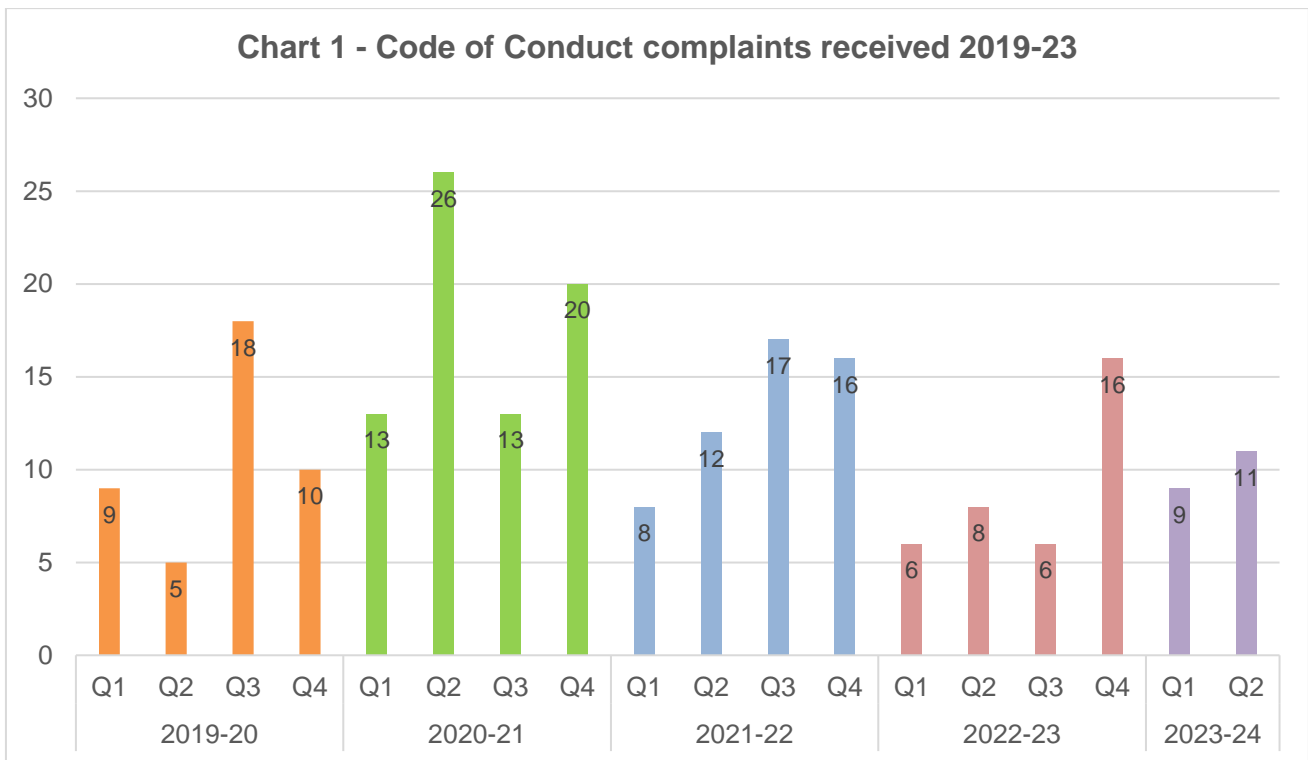
8. The Standards Hearing Sub-Committee will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member (the councillor who is the subject of the complaint). If the Subject Member is a member 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 20 June 2023. Since that meeting (and at the time of publication) there have been:
 - 3 meetings of the Standards Assessment Sub-Committee;
 - 0 meetings of the Standards Hearing Sub-Committee.
12. The next meetings of the Standards Assessment Sub-Committee are scheduled for 28 September and 12 October 2023.

Summary of complaints received since 12 June 2023 (following publication of the 20 June 2023 meeting agenda)

13. Between 12 June and 22 September 2023, the Monitoring Officer received **15 complaints** under codes of conduct:
 - 3 were determined as requiring No Further Action by the Monitoring Officer;
 - 1 was dismissed as 'out of time' by the Monitoring Officer;
 - 2 were dismissed as requiring No Further Action by the Assessment Sub-Committee;
 - 9 are to be determined by Assessment Sub-Committee on 28 September 2023.
14. The Monitoring Officer can 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:



Quarterly average: 11 Quarterly average: 18 Quarterly average: 13 Quarterly average: 9
 2019-20 total: 42 2020-21 total: 72 2021-22 total: 52 2022-23 total: 36

Types of complaint

14. The 15 code of conduct complaints received between 12 June and 22 September 2023 can be broken down as follows:

- NFA = No Further Action
- OoT = Out of Time
- IR = Informal Resolution
- RFI = Referred for Investigation
- DA = Decision awaited
- MO = Monitoring Officer
- ASC = Assessment Sub-Committee

- 9 were against **parish councillors**:
 - 7 x disrespectful / offensive behaviour towards other councillors (DA by ASC)
 - 1 x failing to declare a disclosable pecuniary interest and being disrespectful (DA by ASC)
 - 1 x bullying and harassment (NFA by MO)
- 5 were against **town councillors**
 - 1 x harassment (OoT by MO)
 - 2 x using insulting language (NFA by ASC)
 - 1 x insulting council officers (DA by ASC)
 - 1 x improper decision making (NFA by MO)

- 1 was against a **unitary councillor**
 - Not replying to emails (NFA by MO)

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, **3 complaints** were assessed by or on behalf of the Monitoring Officer and this took an average of **6.6 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, **11 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 **3.9 working days** from the Subject Member’s response being received.

19. All 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), excepting where a request for deferral from one of the parties was accepted.

20. **1 complaint** was referred for investigation during this period.

21. 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 since October 2022:

Complaint reference	Decision notice issued referring for investigation Target: 5 working days	Investigator assigned Target: 5 working days	Investigator’s report sent to parties Target: 35 working days	Investigator’s report sent to MO Target: 10 further working days
COC142188	5	1	40	10
COC144650	5	10*	Investigation ongoing*	-
COC144873	5	6	91	Report with parties for comment
COC145647	5	6	46	7

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* Investigation assigned to an external investigator due to complexity and internal capacity.

22. The Committee will note that completing investigations within the prescribed time limits has been challenging. This is due to their complexity, together with wider work pressures. As reported elsewhere on this meeting agenda, the Complaints team has significantly **improved** performance in completing **corporate** complaint investigations within set timescales, rising from 60% completed on time in 2021-22 to 84% in 2022-23. It is also noted that recent Code of Conduct investigations have been assigned to complaints officers without previous experience in this area to increase the technical resilience of the team and remove single points of failure. It is therefore expected that the timeliness of Code of Conduct investigations will now improve (notwithstanding highly complex investigations, which sometimes unavoidably exceed the target timescales). Future updates will continue to report on performance in this area.

Dip Sampling

15. A table of current cases was provided to the Chairman of Standards Committee on 14 June, 12 July, 8 August and 13 September 2023 for a dip sample to be undertaken to enable oversight. The next session is scheduled for 11 October 2023.

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.