

## **Wiltshire Council**

### **Standards Committee**

**19 April 2023**

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## **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.

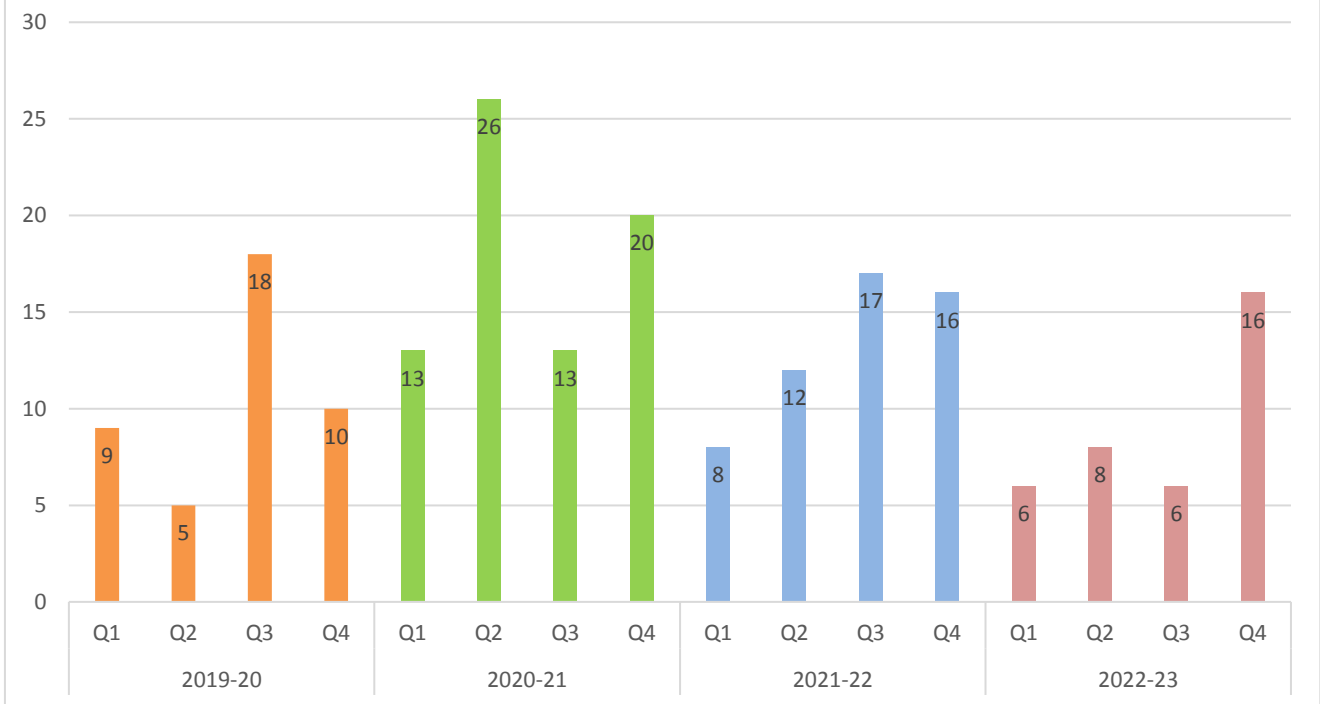
### **Summary of committee meetings**

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**

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## **Appendices**

None.