

# AGENDA

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**Meeting:** Standards Committee

**Place:** Kennet Room - County Hall, Bythesea Road, Trowbridge, BA14 8JN

**Date:** Wednesday 5 October 2022

**Time:** 2.30 pm

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Please direct any enquiries on this Agenda to Lisa Alexander, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01722 434560 or email [lisa.alexander@wiltshire.gov.uk](mailto:lisa.alexander@wiltshire.gov.uk)

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## Membership:

Cllr Paul Oatway QPM (Chairman)	Cllr Pip Ridout
Cllr Allison Bucknell (Vice-Chairman)	Cllr Mike Sankey
Cllr Andrew Davis	Cllr Iain Wallis
Cllr Matthew Dean	Cllr Derek Walters
Cllr Ruth Hopkinson	Kathy Barnes
Cllr Bill Parks	Joanne Cetti
Cllr Sam Pearce-Kearney	Julie Phillips
Gordon Ball	

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## Substitutes:

Cllr Richard Britton	Cllr Mel Jacob
Cllr Trevor Carbin	Cllr Gordon King
Cllr Ernie Clark	Cllr Kathryn Macdermid
Cllr Howard Greenman	Cllr Dr Nick Murry
Cllr Jon Hubbard	Cllr Graham Wright

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## **Public Participation**

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

# AGENDA

## Part 1

Items to be considered when the meeting is open to the public

1 **Apologies for Absence**

2 **Minutes** (*Pages 5 - 8*)

To confirm the minutes of the meeting held on 15 June 2022.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **28 September 2022** in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Friday 30 September 2022**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Wiltshire Council Complaints Report 2021 - 22** (*Pages 9 - 44*)

To note the report and consider the proposals.

7 **Changes to Protocol 6 of the Constitution** (*Pages 45 - 64*)

To note the report and consider the proposals.

8        **LGA Model Code of Conduct Working Group Update** *(Pages 65 - 92)*

At the last meeting, the Standards Committee invited the Working Group to meet again to consider comments of the Constitution Focus Group and Group Leader, with proposals brought back to Committee.

9        **Status Report on Code of Conduct Complaints** *(Pages 93 - 96)*

To note the Status Report on the current position on Code of Conduct Complaints.

10       **Appointment of an Independent Person** *(Pages 97 - 98)*

To note the report and consider the recommendation.

11       **Urgent Items**

**Part II**

*Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed*

## Standards Committee

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### MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 15 JUNE 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 and Cllr Gordon King  
(Substitute)

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#### 37 **Apologies for Absence**

Apologies for absence were received from:

- Cllr Sam Pearce-Kearney, who was substituted by Cllr Gordon King.
- Cllr Mike Sankey
- Cllr Pip Ridout
- Gordon Ball (non-voting)
- Jo Cetti (non-voting)

#### 38 **Minutes**

The minutes of the meeting held on 20 April 2022 were presented for consideration. It was;

#### **Resolved**

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

#### 39 **Declarations of Interest**

In relation to item 6 - code of conduct complaints status report, Councillor Davis noted for openness, that he was included as a statistic within the update.

#### 40 **Chairman's Announcements**

The Chairman thanked Damian Kearney, one of the Independent Persons on the Standards Assessment Sub Committee for his contribution to the process, as he had stood down following a career change and relocation. A recruitment process was underway to fill the post.

#### 41 **Public Participation**

There were no questions or statements.

42 **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 between 12 April and 7 June 2022 and providing a summary of the complaints considered by the Assessment Sub Committee since the last Standards Committee meeting held on 20 April 2022.

There had been 4 Code of Conduct Complaints received by the Monitoring Officer during that period. All were due to be assessed by the Assessment Sub-Committee at its next scheduled meeting on 28 June 2022.

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 11 May 2022 for a dip sample of cases to be undertaken to enable oversight.

The Committee requested an additional statistic be included in future updates, to show the length of time it took to inform the complainant and subject member when a complaint was decided to go to the Assessment Sub Committee.

The Committee agreed to review the current process timescales, as the requirement to resolve a complaint within 5 days was not always practical.

After a discussion, it was,

**Resolved:**

**To note the position on Code of Conduct Complaints.**

43 **Positive Conduct Campaign**

The Committee received an update on the Wiltshire Council campaign to promote positive democracy and councillor conduct across the county.

The campaign would include a webinar on 7 July 2022 providing useful hints and tips on promoting standards in public life and running positive local council meetings.

The initiative would include a Best Practice tool kit, to help demonstrate and encourage positive democracy among all elected members at county and parish level.

The council would also be looking at possible barriers that may be preventing good democracy, and offer guidance on how to hold positive meetings,

including support for clerks, with the aim of a reduction in complaints and an increased feeling of support.

It was,

**Resolved**

**To note the update.**

44 **LGA Model Code of Conduct Working Group Update**

At the last meeting, the Standards Committee considered a report and resolved to seek comments from the Constitution Focus Group (CFG) and Group Leaders on the proposed new Code of Conduct.

The Committee considered the comments received and discussed the recommendation as set out in the original report.

A summary of the CFG minutes were provided, in addition, one response had been received from Group Leaders.

The CFG had questioned the benefits in changing the code, questioning whether it would lead to behaviour changes given there was no change to legislation to allow sanctions.

The Committee discussed the longer-term effect of adopting a new code, in relation to future elected members, at parish and county level replacing those that retire. It was suggested that to proceed at a slower pace may be more appropriate.

The Chair of the Code of Conduct Working Group agreed that although sanctions were not available, this did not mean the council should cease to move forward with an updated code of conduct. The launch of a new policy with an educational programme would signal change.

The Committee agreed to invite all Group Leaders to attend a Code of Conduct Working Group meeting to provide their views, before making its final decision at the next meeting.

It was,

**Resolved**

**To defer making a decision until the next meeting, to allow for the Code of Conduct Working Group to meet with Group Leaders to seek their input.**

45 **Constitutional Changes**

The Committee considered the recommendations of the Constitution Focus Group (CFG) in relation to Part 3B of the Constitution, to adopt changes in respect of the Channel Panel.

Over the course of two meetings the CFG considered the proposals in detail and made a series of amendments, as set out in the report.

Subsequently the Director of Public Health, and Officers, had suggested some minor changes, such as to not specify the specific job titles to be listed in the constitution as they were often subject to change.

The Committee noted its support for a Members Briefing paper which was due to be circulated once the proposals were approved.

After a brief discussion, it was,

**Resolved,**

**The Standards Committee recommend Council approve the changes to Part 3B as set out at Appendix 1**

46 **Urgent Items**

There were no urgent items

(Duration of meeting: 2.00 - 2.50 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](mailto:lisa.alexander@wiltshire.gov.uk)

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



**Wiltshire Council**

**Overview and Scrutiny Management Committee**

**28 September 2022**

**Standards Committee**

**5 October 2022**

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## **Wiltshire Council Annual Complaints Report 2021-22**

### **Purpose**

1. To present the Wiltshire Council Annual Complaints Report 2021-22 (**Appendix 1**).

### **Background**

2. The Annual Complaints Report provides a detailed picture of the council's complaints activity between 1 April 2021 and 31 March 2022. The report does not cover complaints about elected members and the Wiltshire Police and Crime Commissioner, which are reported separately to Standards Committee and the Police and Crime Panel respectively.
3. The Annual Complaints Report presents information about:
  - How promptly complaints were responded to and resolved;
  - How many potential complaints were triaged and resolved informally as service requests;
  - How many complaints and service requests were received overall;
  - Which services we received complaints about;
  - The underlying factors behind identified complaint trends and the measures in place to address them;
  - The outcome of complaints;
  - How many complaints were received, investigated and upheld by the Local Government and Social Care Ombudsman (LGSCO);
  - How complainants choose to submit their complaints;
  - The demographics of residents who submitted complaints.
4. The Annual Complaints Report presents data covering the last four years to illustrate any trends across these measures.

### **Main Considerations**

#### Annual Complaints Report headlines

5. The key headlines are:

- The gradual **reduction** in complaints received over the past four years has continued;
  - The number of complaints handled at Stage 1 of the corporate Complaints Procedure continues to steadily **decrease**;
  - The number of complaints handled at Stage 2 of the corporate Complaints Procedure is **stable**;
  - The number of complaints handled through the statutory Adult Social Care and statutory Children’s complaints procedures is **stable**;
  - There was **small increase** to the percentage of complaints upheld or partially upheld by the council;
  - The service areas attracting the highest numbers of complaints were:
    1. Children’s Services (88) – an increase on the previous year, but decrease on the two years before that;
    2. Development and Building Control (71) – a fairly small increase on the four previous years;
    3. Adult Social Care (64) – continuing the steady reduction seen over the past four years.
  - The service areas attracting the highest numbers of potential complaints that were resolved informally (i.e. complaints resolved as service requests) were:
    1. Waste Management (256);
    2. Highways and Transport (234);
    3. Housing (135).
6. The report refers to the findings presented in the LGSCO’s Annual Review Letter 2021-22 for Wiltshire Council (**Appendix 2**). The annual letters provide a breakdown of the Ombudsman’s investigations and findings during the year. The 2021-22 letter shows that:
- There was a slight **increase** in complaints about the council received by the LGSCO, but a **decrease** on all three years prior to that;
  - The LGSCO decided to investigate **more** complaints about the council than in 2020-21, when the LGSCO temporarily paused investigative work during the Covid-19 pandemic;
  - The LGSCO upheld a **smaller** percentage of complaints about the council than they upheld about other unitary councils;
  - **All** LGSCO recommendations to the council were complied with.

#### Issues identified

7. The analysis and reporting of complaints activity is an important part of a learning culture for the organisation. Without a detailed picture of complaints

activity, elected members and officers are less able to identify and address issues with service delivery.

8. Under the section 'What did we receive complaints about?', the Annual Report breaks down the complaints received regarding key services. It highlights specific issues experienced by some services in 2021-22, including:
  - An increase in complaints about SEND services;
  - An increase in complaints about Passenger Transport;
  - Several services that, while they do not attract a significant number of formal complaints, create comparatively high numbers of complaints that are ultimately resolved informally as service requests (e.g. Waste and Highways & Transport).
9. The Annual Report includes information about the factors behind these trends and the actions in place to address them.

#### Improvements to the council's complaints handling function

10. To further enhance the council's complaint handling function, the following actions are planned for the next 12 months:
  - A new complaint case management system, enabling more efficient and detailed reporting of complaints activity;
  - Improvements to the council's complaints webpages to provide clearer guidance to members of the public; and
  - Improved corporate guidance for council officers on effective complaints handling procedures.

#### **Proposals**

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

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#### **Perry Holmes, Monitoring Officer and Director for Legal & Governance**

Report author: Henry Powell, Democracy and Complaints Manager, 01225 718400  
[complaints@wiltshire.gov.uk](mailto:complaints@wiltshire.gov.uk)

Date: 26 September 2022

#### **Appendices**

Appendix 1 Wiltshire Council Annual Complaints Report 2021-22

Appendix 2 Wiltshire Council's Annual Review Letter 2021-22 – Local Government and Social Care Ombudsman

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**Wiltshire Council**

**Annual Complaints Report**

**2021-2022**

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## **Introduction**

1. This Annual Complain Report provides an overview of the complaints Wiltshire Council received between 1 April 2021 and 31 March 2022 and how we have dealt with them (though we have not published the names or other personal details of people who have complained).
2. Wiltshire Council welcomes feedback to help us to identify and address problems for customers, and to improve our services. We aim to deliver a complaints function that:
  - Is simple for everyone to use and understand
  - Is led and supported by the very top of the organisation
  - Ensures excellent service standards are delivered
  - Fulfils the needs of our customers
  - Enables us to learn from customer feedback in order to improve
  - Complies with the relevant legislation and council policy
  - Focuses on fair, proportionate resolution at the earliest stage
  - Works in an open-minded and impartial way.

## **What is a complaint?**

3. Complaints can be wide-ranging, but can be defined as
  - a failure to provide a service, or an inadequate standard of service
  - dissatisfaction with the application of a council policy
  - treatment by, or attitude, of a member of staff (excluding those which may be disciplinary in nature which are dealt with in accordance with the Council's HR policies)
  - disagreement with a decision where the customer cannot use another procedure (for example, an appeal) to resolve the matter
  - the council's failure to follow the appropriate administrative process.
4. It should be noted that when an issue is raised with the council for the first time, where appropriate, it is treated as a request for a service, rather than as a formal complaint. This reflects how the customer's priority is usually to have their issue promptly resolved, rather than to make a formal complaint. However, such service requests can escalate to formal complaints if the customer remains dissatisfied.

## **How do we handle complaints?**

5. The council has a dedicated Complaints Team, sitting within the Legal and Governance directorate. The Complaints Team works closely with council services to respond to and address issues raised by customers.
6. To meet its statutory obligations, the council has several complaints procedures. Customers are supported to follow the appropriate route when they submit their complaint. The procedures are as follows:

	Stage 1	Stage 2	Stage 3
<p><b>1. Corporate Complaints Procedure</b> (Protocol 6 of the Constitution)</p> <p>For all complaints, except those falling under the procedures outlined below.</p>	<p>Acknowledged within <b>2 days</b></p> <p>Response from the relevant <b>service team</b> within <b>20 days</b> (can be extended to <b>30 days</b>)</p>	<p>Independent investigation and written response from the <b>Complaints Team</b></p>	<p>Customer referral to the <b>Local Government and Social Care Ombudsman</b> (LGSCO) for independent review.</p>
<p><b>2. Children’s Statutory Complaints Procedure</b></p> <p>For complaints regarding the council’s actions under the Children Act 1989, which generally includes assessments and services regarding:</p> <ul style="list-style-type: none"> <li>• Children in need</li> <li>• Looked after children</li> <li>• Special Guardianship support</li> <li>• Post-adoption support</li> </ul>	<p>Acknowledged within <b>2 days</b></p> <p>Response from the relevant <b>service team</b> within <b>20 days</b> (can be extended to <b>30 days</b>)</p>	<p>Independent investigation and written response from the <b>Complaints Team</b>, overseen by an <b>independent person</b></p>	<p>Consideration by <b>Independent Review Panel</b></p>
<p><b>3. Adult Social Care Statutory Complaints Procedure</b></p> <p>For complaints regarding the council’s provision of Adult Social Care services.</p>	<p>Acknowledged within <b>2 days</b></p> <p>Response from the relevant <b>service team</b> within <b>6 months</b></p> <p>Extension permitted if agreed by all parties</p>	<p>Customer referral to the <b>Local Government and Social Care Ombudsman (LGSCO)</b> for independent review</p>	<p>N/a</p>
<p><b>4. Pension complaints</b></p> <p>For complaints about decisions made by the employer and/or Wiltshire</p>	<p>Response from the adjudicator (a person nominated by the body whom</p>	<p>Response from the referee (cannot be the same as the</p>	<p>Complainant referral to <b>The Pensions Ombudsman</b> (TPO) for</p>



Pension Fund regarding pensions.	the complaint is against) within <b>2 months</b>  Extension permitted	adjudicator) within <b>2 months</b>  Extension permitted	independent review.
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The council also considers complaints regarding:

- **Elected or co-opted members of local councils in Wiltshire**
- **The Wiltshire Police and Crime Commissioner**

These types of complaint are dealt with under separate procedures and are not covered within this report.

Please see the council’s [complaints webpage](#) for further information.

**Complaints activity 2021-22**

7. This report provides an overview of complaints received by the council during the period **1 April 2021 to 31 March 2022**. It also outlines other contacts received by the Complaints team that were resolved without a formal complaints procedure being followed. Typically, these complaints were handled as ‘service requests’, where the Complaints Team direct the customer to the appropriate service for resolution of their problem.

<p><b>Key headlines – 2021/22</b></p> <ul style="list-style-type: none"> <li>• The gradual <b>reduction</b> in complaints received over the past four years has continued (a 41% reduction since 2018-19)</li> <li>• The number of complaints resolved as ‘service requests’ has <b>reduced</b> since the previous year</li> <li>• The number of complaints handled at Stage 1 of the corporate Complaints Procedure continues to steadily <b>decrease</b></li> <li>• The number of complaints handled at Stage 2 of the corporate Complaints Procedure is <b>stable</b></li> <li>• The number of complaints handled through the statutory Adult Social Care and statutory Children’s complaints procedures is <b>stable</b></li> <li>• There was small <b>increase</b> to the percentage of complaints upheld or partially upheld by the council</li> <li>• The service areas attracting the highest numbers of complaints were:</li> </ul>
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1. Children's Services<sup>1</sup> (88) – an increase on the previous year, but decrease on the two years before that
2. Development and Building Control (71) – an increase on the four previous years
3. Adult Social Care (64)<sup>2</sup> – continuing the steady reduction seen over the past four years
  - The service areas attracting the highest numbers of complaints that were resolved informally (i.e. as service requests) were:
    1. Waste Management (256)
    2. Highways and Transport (234)
    3. Housing (135)
  - There was a slight **increase** in complaints about the council received by the LGSCO, but a **decrease** on all three years prior to that
  - The LGSCO decided to investigate **more** complaints about the council than in 2020-21, when the LGSCO temporarily paused investigative work during the Covid-19 pandemic
  - The LGSCO upheld a **smaller** percentage of complaints about the council than they upheld about other unitary councils
  - **All** LGSCO recommendations to the council following upheld complaints were complied with.

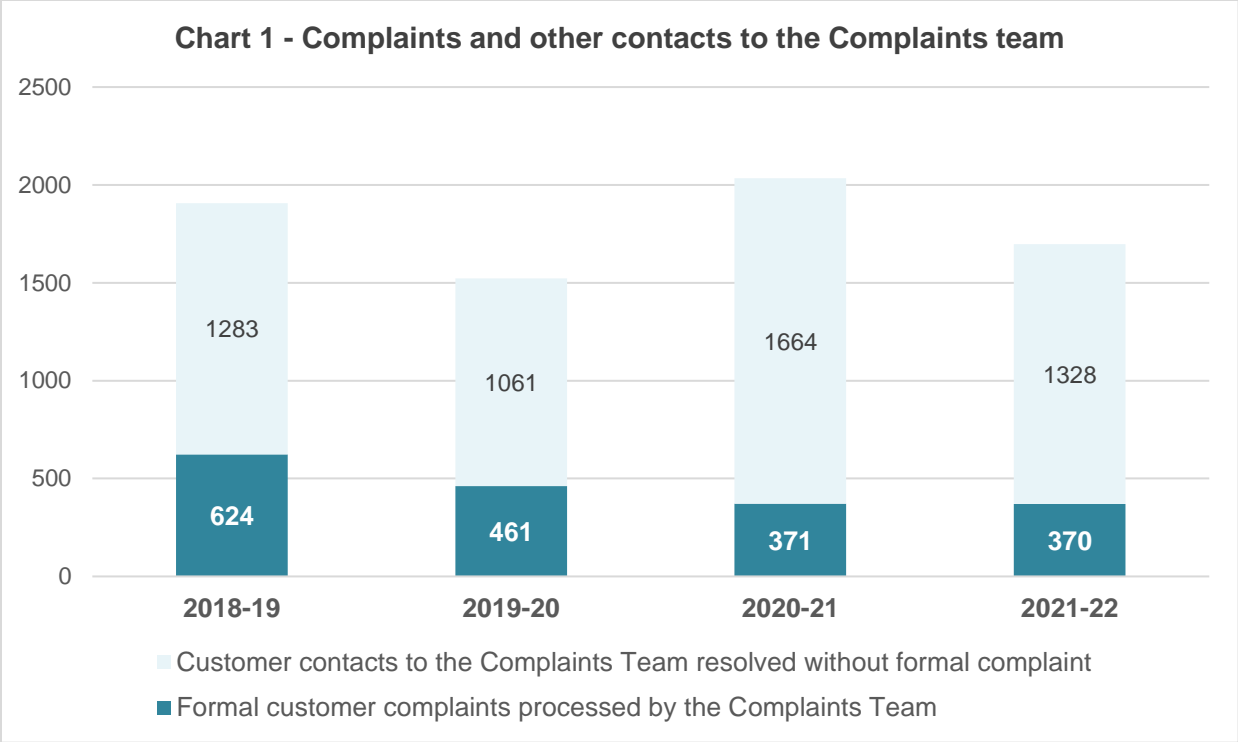
### Number of complaints received

8. As **Chart 1** shows, in 2021/22, the council handled 370 complaints through its formal procedures. This is consistent with the previous year (371), following a reduction in complaints over the past four years – a 41% reduction since 2018/19.
9. There were also 1,328 customer contacts to the council's Complaints Team that were resolved without a formal complaint. This represents a significant reduction on the previous year's total. The spike in contacts to the Complaints Team dealt with as service requests in 2020-21 is likely to be due to the impact of the Covid-19 pandemic on service demand and delivery.
10. The significant reduction in the number of formal complaints received over the past four years is due, at least in part, to the increasing emphasis placed on triaging and resolving complaints as service requests.

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<sup>1</sup> Throughout the report, 'Children's Services' refers to the Children & Families and Education & Skills directorates.

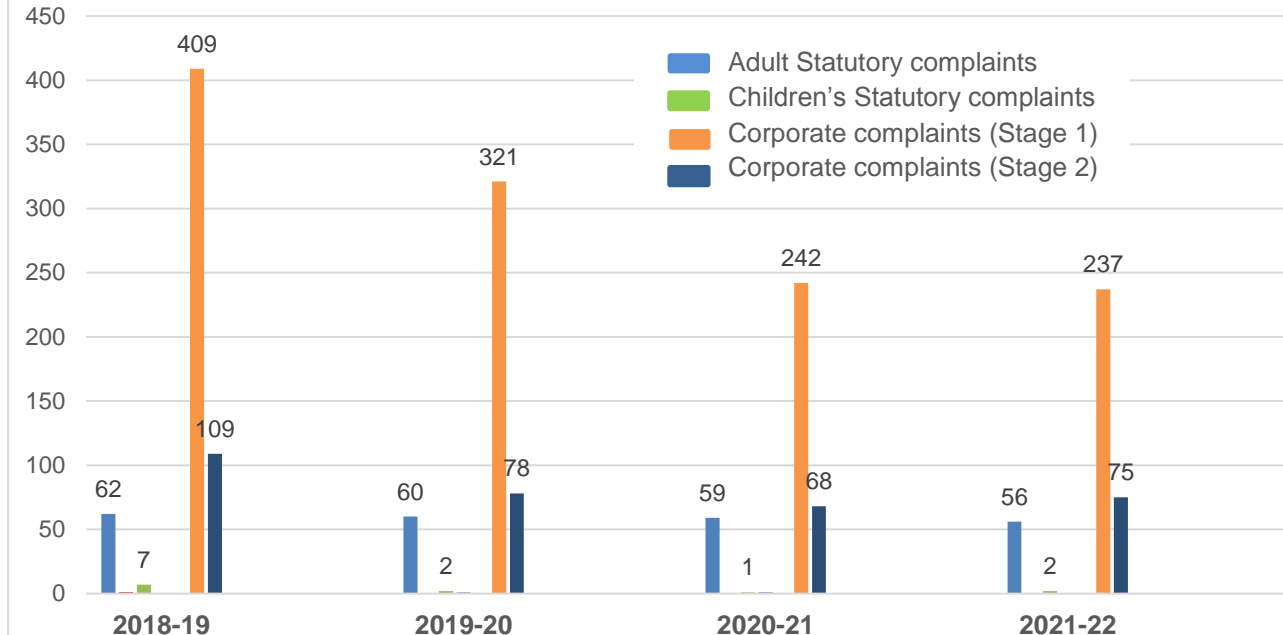
<sup>2</sup> Throughout the report, 'Adult Social Care' refer to the Ageing & Living Well and Wholelife Pathway directorates.



**How the council handled complaints**

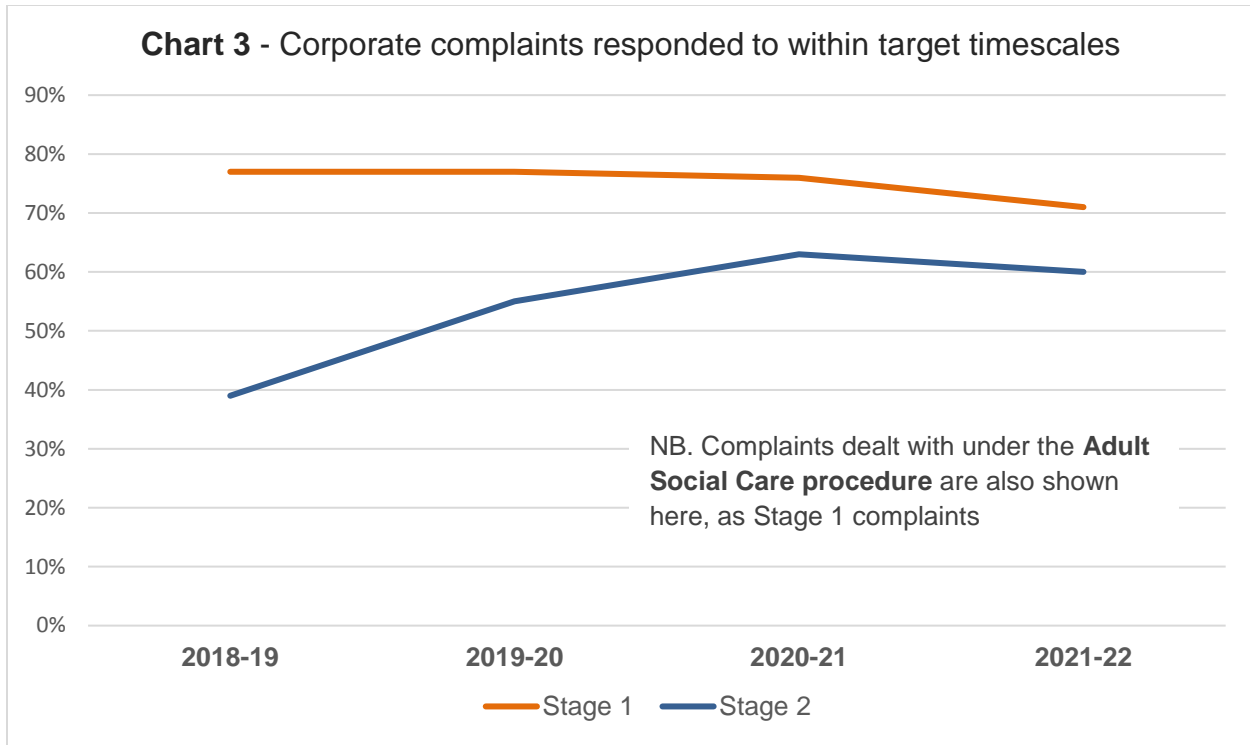
11. **Chart 2** shows how complaints were handled under the council’s various complaints procedures over the past four years.
12. The number of complaints handled at **Stage 1** of the Corporate Complaints Procedure has steadily **reduced**, and significantly accounts for the reduction in the numbers of complaints received overall.
13. The number of complaints reaching **Stage 2** of the Corporate Complaints Procedure, and under the statutory Adult Social Care Procedure, is relatively **stable**.
14. Very few complaints are handled under the statutory Children’s Complaints Procedure, reflecting the narrow parameters of that Procedure.

**Chart 2 - Complaints received per complaints procedure**



**How quickly the council resolved complaints**

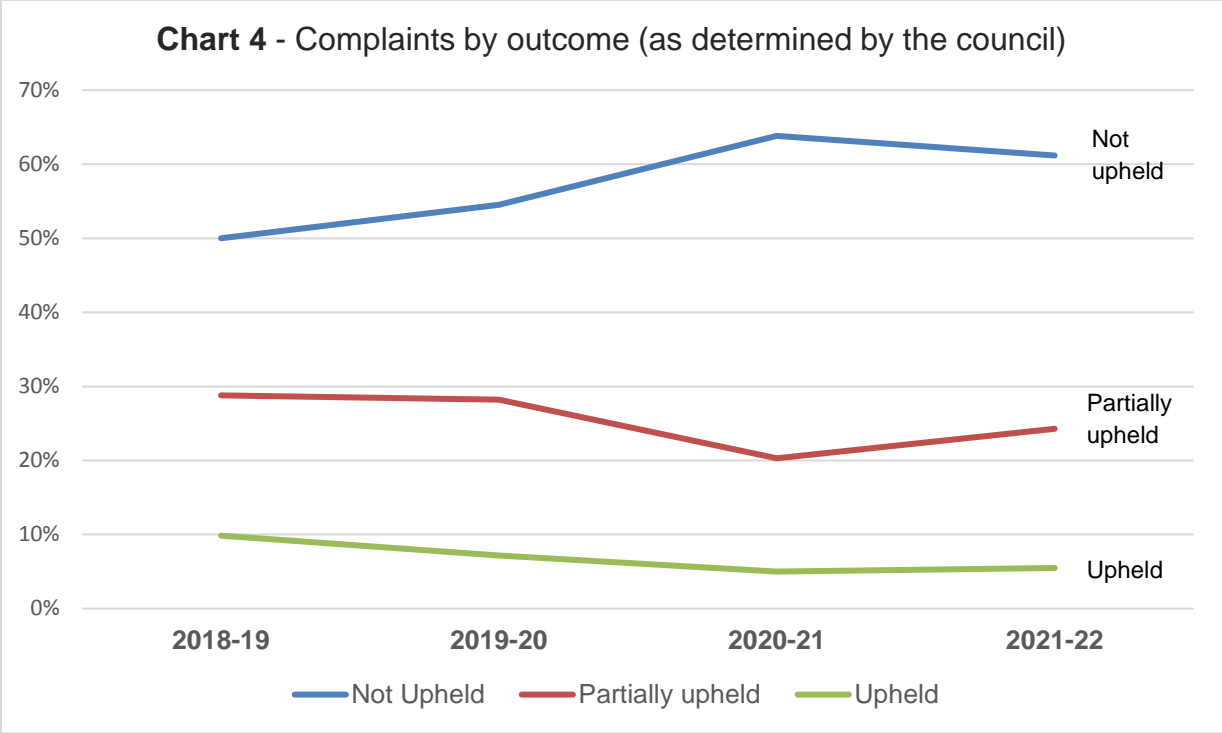
15. The council's complaints procedures include target timeframes for providing substantive responses to complainants (see paragraph 6 for details).
16. **Chart 3** shows the percentage of complaints for which responses were provided within those target timeframes. Stage 1 responses are provided by the appropriate service area. If the complainant remains dissatisfied, a Stage 2 investigation is undertaken by the Complaints Team who then provide a further response.
17. Complaints dealt with under the Adult Social Care statutory procedure, which is a one-stage process, are reflected in Chart 3 as Stage 1 complaints. The statutory timeframe for responding to complaints under this procedure is six months.
18. In 2021-22, slightly fewer responses to Stage 1 and Stage 2 complaints were provided on time than in the previous year. This is likely to be due to:
  - a) A high vacancy rate in the Complaints Team during the year covered – this has now been addressed; and
  - b) The increasing focus on dealing with complaints as service requests means those which do become formal complaints tend to be more complex and are more time-intensive to resolve.



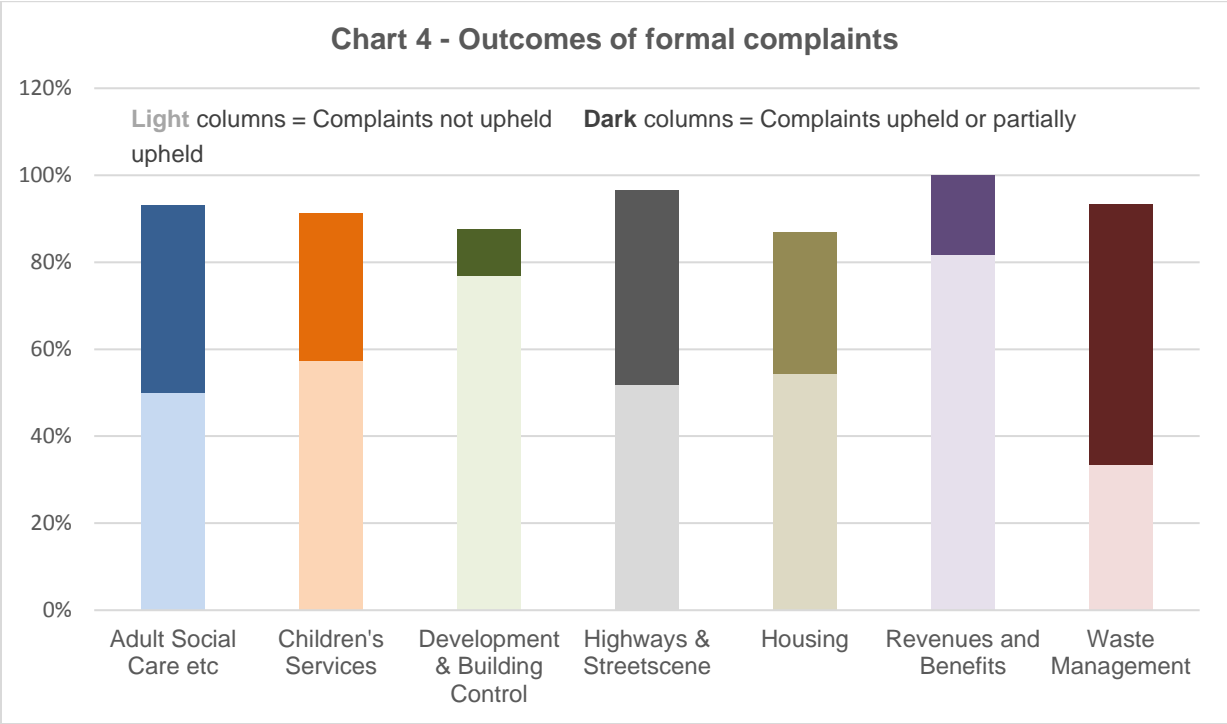
## Complaint outcomes

19. Once a complaint is resolved, it is labelled by the council as 'upheld', 'partially upheld' or 'not upheld'. For those complaints that are upheld or partially upheld, some form of remedial action is taken, such as provision of a service and an apology to the complainant.
20. **Chart 4** shows the outcomes of complaints, as determined by the council<sup>3</sup>. In 2021-22:
  - 61% of complaints were not upheld by the council
  - 24% were partially upheld by the council
  - 6% were upheld by the council.
21. This represents a small **increase** in the percentage of complaints being either upheld or partially upheld, and a small **decrease** on the percentage of complaints not being upheld, since 2020-21.

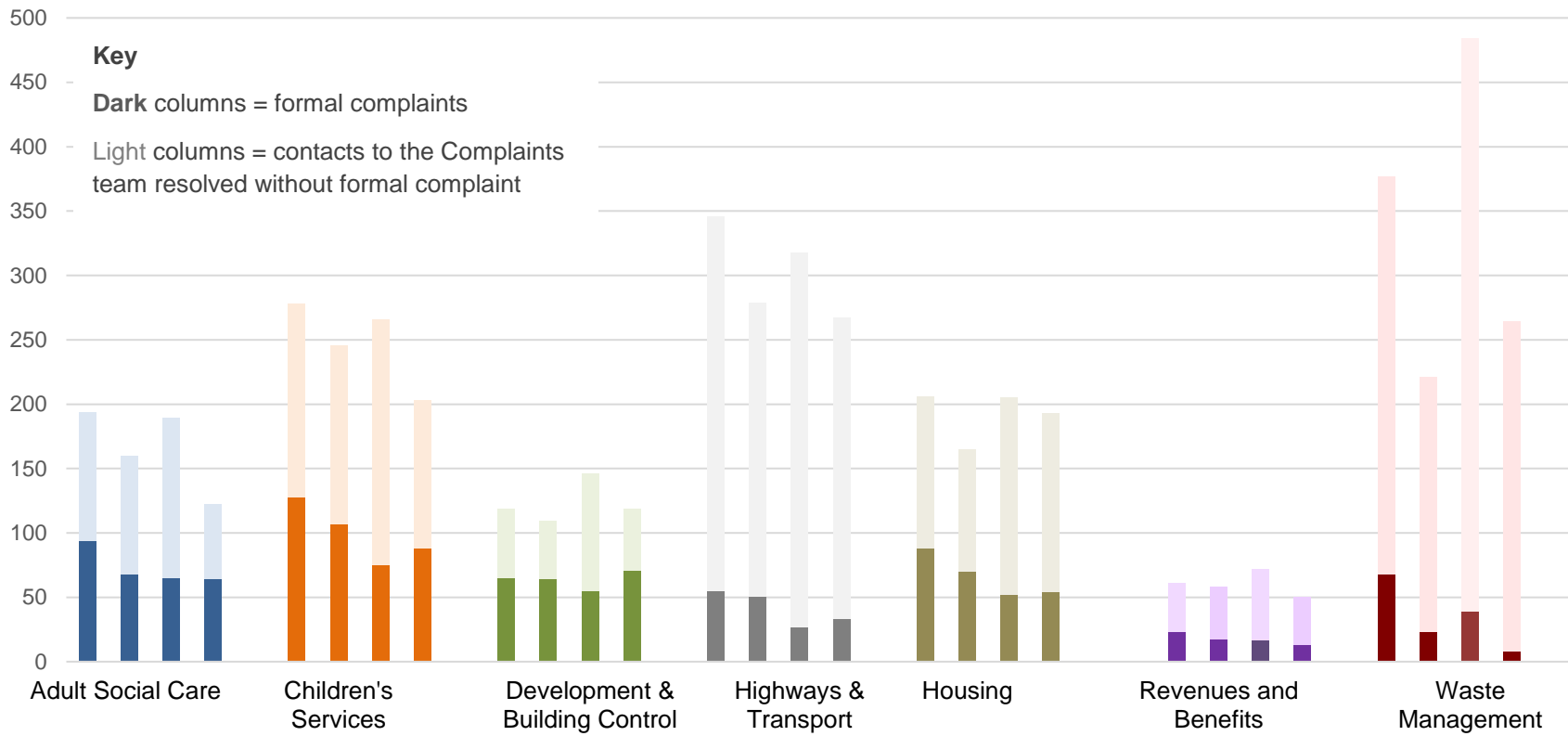
<sup>3</sup> Unfortunately the data here is incomplete, with only 309 of the 370 complaints received being assigned an outcome. The council is currently developing a new complaints casework management system, which will improve complaints data recording and reporting.



22. **Chart 5** shows the outcomes of individual complaints (not *complainants*) broken down by service area. This is described further under the service section below.



**Chart 6 - Complaints and other contacts to the Council's Complaints Team**

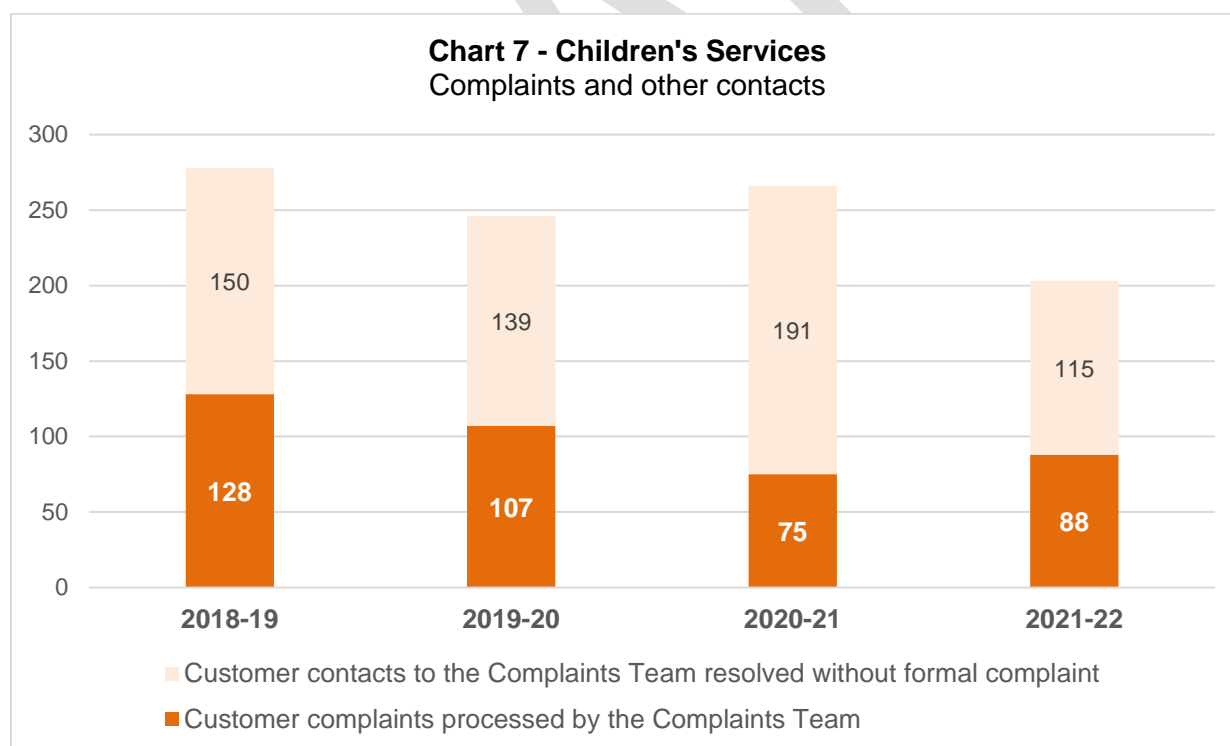


**4-year figures: 2018/19 to 2021/22**

## What did we receive complaints about?

23. **Chart 6** (above) shows how complaints and service requests to the Complaints Team were distributed across the **seven** council service areas that attracted the highest number of such contacts. It is important to note that the number of complaints received is significantly influenced by the number of residents who access the service, its importance in their lives and the impact of the decisions that some services take (e.g. child protection).
24. **Chart 6** also shows the number of contacts received by the Complaints team that were resolved outside of the formal procedures – typically as service requests. For some areas, the number of formal complaints is relatively low while the number of service requests is high. This reflects how, for those services, most customers want to resolve their issue (e.g. address a missed bin collection) rather than pursue a formal complaint.
25. The seven service areas are presented below in descending order of the most formal complaints received.

### 1. Children's Services<sup>4</sup>



26. In 2021-22, the council handled **88** complaints about Children's Services through its formal procedures (24% of the council's total). This represents an **increase**

<sup>4</sup> 'Children's Services' combines the Council's Children & Families and Education & Skills directorates.



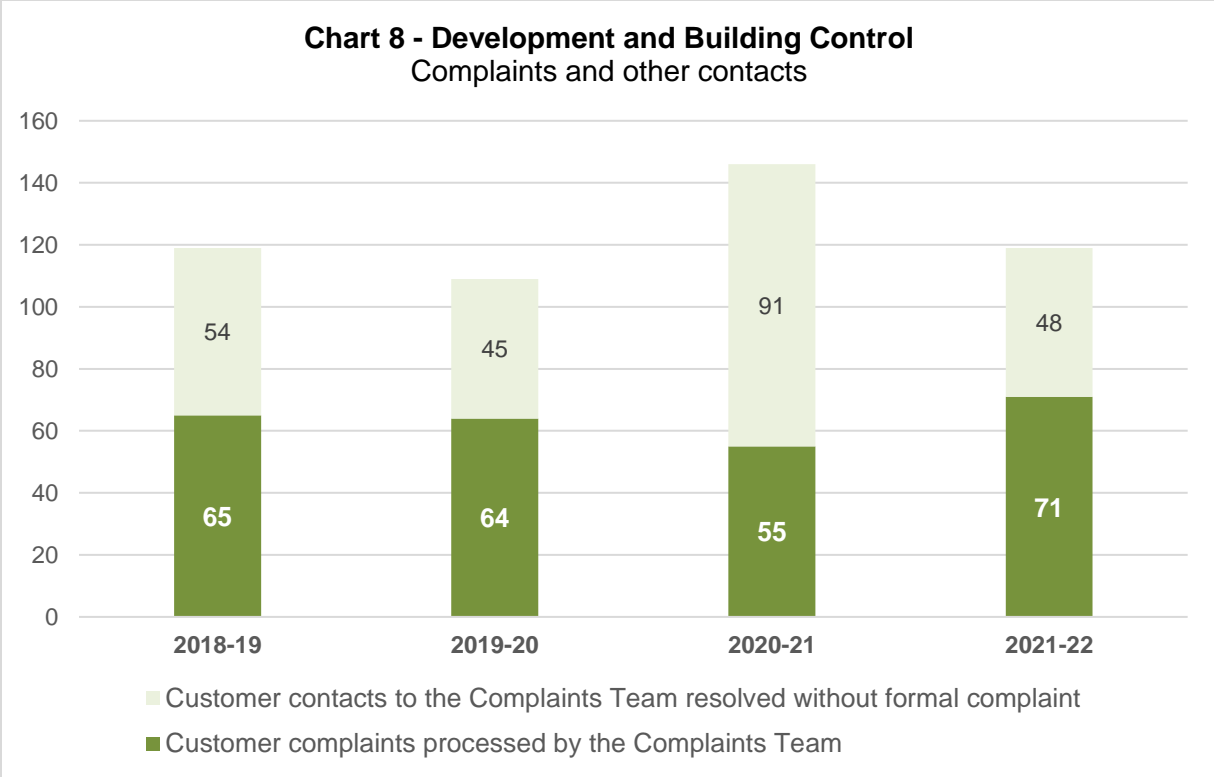
compared with the previous year (75 / 20%), but remains **lower** than the two years before that.

27. Of the 88 complaints received, 4 were recorded as upheld, 19 partially upheld and 62 not upheld. This means that 26% were recorded as upheld or partially upheld; a fairly low percentage relative to the other six services detailed here.
28. The LGSCO received 25 complaints about the councils 'Education and Children's Services'<sup>5</sup> – the most of any service area. Of these, 6 (24%) were upheld.
29. In addition to formal complaints, there were 115 other contacts to the council's Complaints Team about Children's Services that were resolved without the need for a formal complaint. This is a significant **reduction** compared with the previous year (191), in line with the reduction seen across other services.
30. Complaints about Children's Services have been concentrated on its SEND services – 44% of its total. This represents a significant **increase** on the number and percentage from all previous years. The SEND service has experienced significant demand following the pandemic and this has impacted on the timeliness of education, health and care plans (EHCPs). In many cases, the statutory 20 week period has been missed and this has resulted in an increase in complaints. The service is implementing plans to improve timeliness and to provide support whilst awaiting an assessment.

## 2. Development and Building Control

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<sup>5</sup> The way the LGSCO categorises complaints does not align with the Council's directorates.



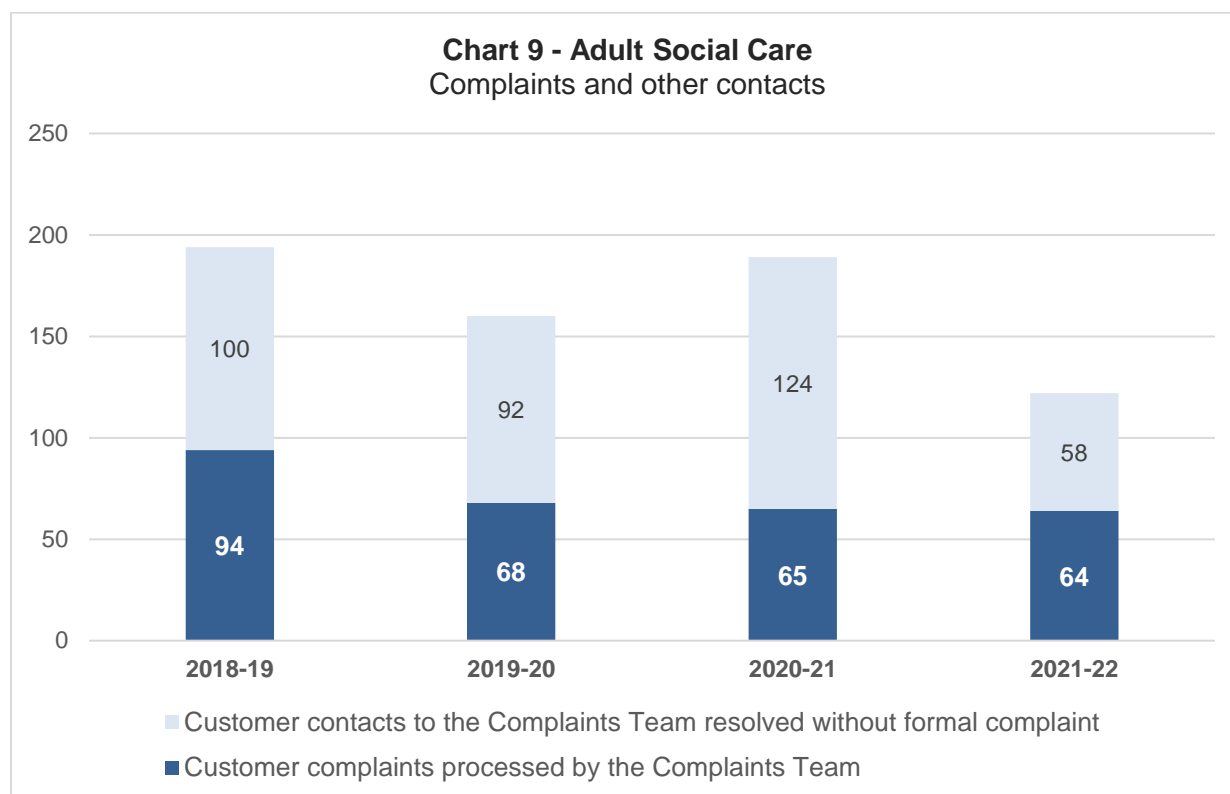
31. In 2021-22, the council handled 71 complaints about Development and Building Control through its formal procedures (19% of the council's total). This represents an **increase** compared with the four previous years.
32. Of the 71 complaints received, 1 was recorded as upheld, 6 partially upheld and 50 not upheld by the council. This means that 10% were recorded as upheld or partially upheld.
33. The LGSCO received 22 complaints about the council's 'Planning and Development Control'<sup>6</sup> service area. Of these, only 3 (14%) were upheld.
34. In addition, there were 48 other customer contacts to the council's Complaints Team about Development and Building Control that were resolved without the need for a formal complaint. This is a significant **reduction** compared with the previous year, in line with the reduction seen across other services.
35. Complaints about Development and Building Control in 2021-22 were concentrated on its Development Control (47%) and Enforcement (31%) functions – a picture that is **consistent** with previous years.
36. Such complaints often relate to situations where there has been disagreement between officers and interested parties on the merits of planned development or the expediency to take enforcement action. When making decisions officers must

<sup>6</sup> The way the LGSCO categorises complaints does not align with the Council's directorates.

consider the policies of the development plan and planning case law, as well as the circumstances of the site.

37. In some circumstances, complaints are received about the time it has taken to handle planning or enforcement matters. Often these matters are complex and require input from a range of people both within and external to the council.

### 3. Adult Social Care<sup>7</sup>

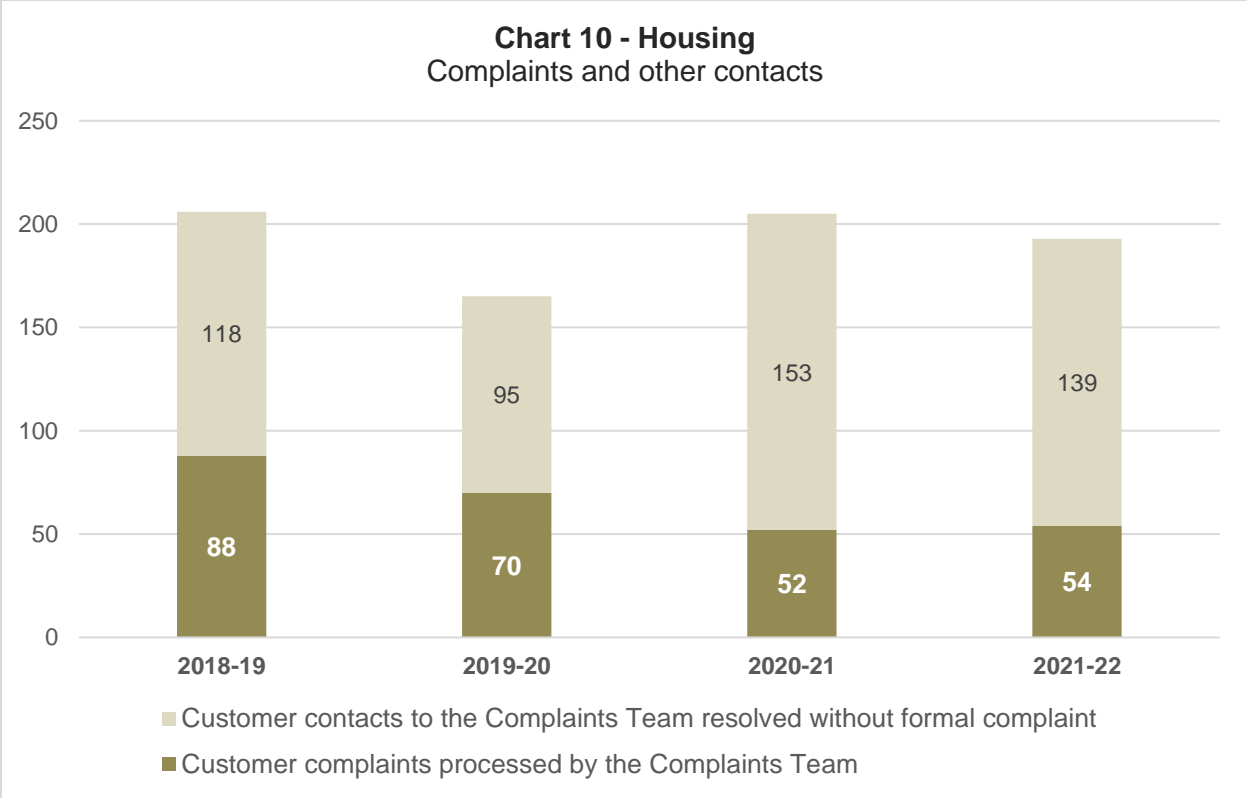


38. In 2021-22, the council handled 64 formal complaints about Adult Social Care (17% of the council's total), comprising 56 through the statutory Adult Social Care Procedure and 8 through the corporate Complaints Procedure.
39. This represents a marginal **reduction** compared with the previous year (65, or 18% of the council's total), and continues the steady **reduction** seen over the past four years.
40. Of the 64 complaints received, 4 were recorded as upheld, 15 partially upheld and 22 not upheld by the council. This means that 30% were recorded as upheld or partially upheld.
41. The LGSCO received 19 complaints about the council's 'Adult Social Care' service area – the third highest number by service area. Of these, 7 (37%) were upheld.

<sup>7</sup> 'Adult Social Care' combines the Ageing & Living Well and Wholelift Pathway directorates.

42. In addition to formal complaints, there were 58 other customer contacts to the council's Complaints Team about Adult Social Care that were resolved without the need for a formal complaint. This is a significant **reduction** compared with the previous year (124), in line with the reduction seen across other services.
43. Complaints about Adult Social Care primarily related to its locality teams (now titled Ongoing Support) (58%) and finance (13%) – a picture that is broadly **consistent** with previous years.
44. Despite a significant increase in demand for support from adult care services in the past 12 months, the number of complaints received regarding adult care services has remained stable.
45. To simplify the financial assessment process for those who may have to pay for their care, the council has introduced an easy-to-use online calculator tool that can quickly advise how much the customer may need to contribute.
46. Individuals with longer term and more complex needs are supported by the council's Ongoing Support locality teams. These services are increasingly focusing on working with customers to prevent and delay increases in care needs. However, demand has grown here due to the numbers of people experiencing difficulties and the complexity of individual and family circumstances. Strategies are in place to grow the workforce responding to this demand, but challenges remain with staff recruitment.

#### **4. Housing**

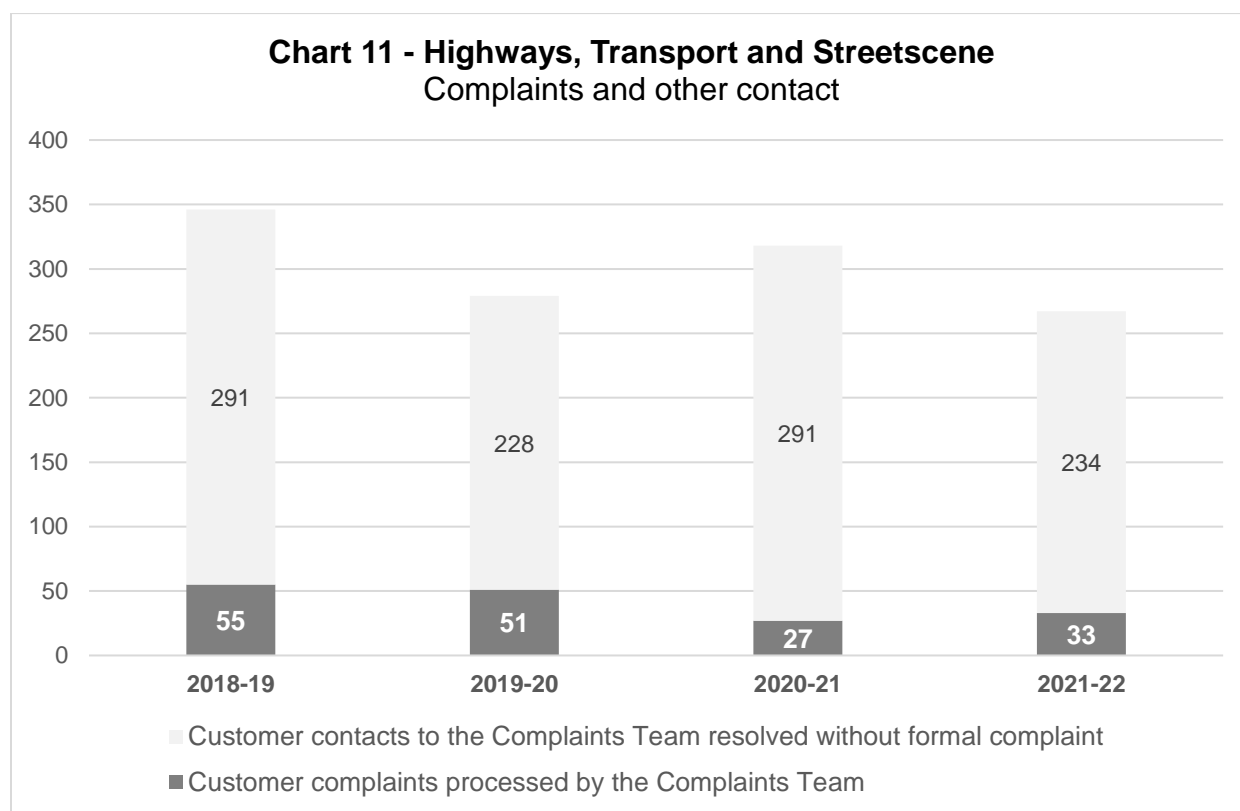


- 47. In 2021/22, the council handled 54 complaints about Housing through its formal procedures (15% of the council’s total). This broadly **maintains** the number received in 2020/21 but is a **decrease** on the numbers received in previous years.
- 48. Of the 54 complaints received, 4 were recorded as upheld, 11 partially upheld and 25 not upheld by the council. This means 28% were recorded as upheld or partially upheld; a middling percentage relative to the other six services detailed here.
- 49. In addition, there were 139 other customer contacts to the council’s Complaints Team about Housing that were resolved without the need for a formal complaint. As illustrated in **Chart 5**, this represents the **third highest** number of such contacts to the Complaints team of the seven services detailed here. However, it is a **reduction** when compared with 2020/21, in line with the reduction seen across other services.
- 50. Complaints about Housing in 2021-22 were concentrated on Repairs (54%) and Management (Tenancies) (20%) – a picture that is **consistent** with previous years.
- 51. Overall the level of complaints about services provided to the Council’s tenants has remained broadly static year-on-year; the underlying trend is one of reduction when comparing with a number of previous years.
- 52. The number of Housing complaints represents only 3.6% of the total number of homes in receipt of the council’s housing service (although any council tenant may raise multiple complaints). No Stage 2 complaints about Housing were upheld.

Some complaints have led to service changes being implemented, such as asbestos survey results being shared with tenants and tenants now being able to submit feedback digitally. The tenancy management and repairs service will be restructured in 2022 to provide services on a geographical basis, improving accountability for delivery and day-to-day intelligence around customer needs and performance.

- 53. 16% of Housing related to Housing Advice and Lettings. There has been an increase in demand in this area and a restructure has been undertaken to better meet customer needs.

## 5. Highways, Transport and Streetscene

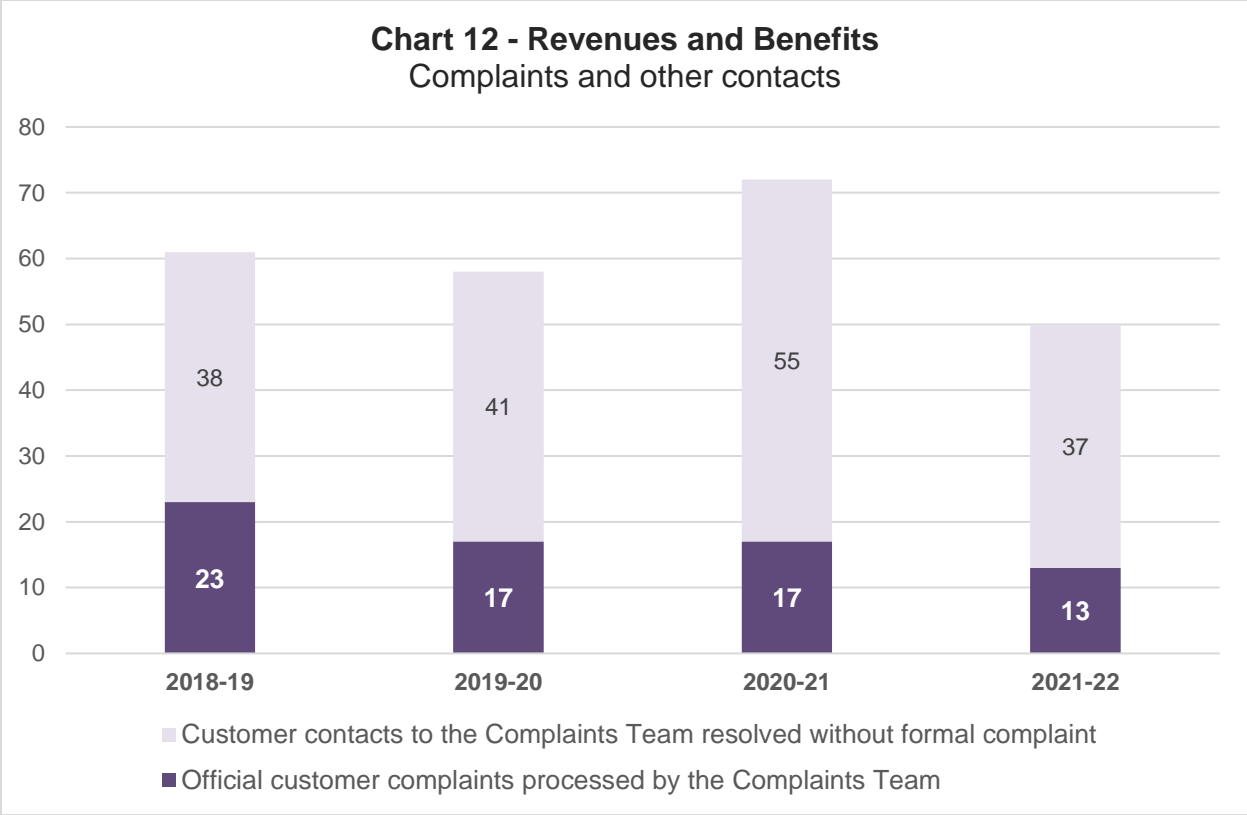


- 54. In 2021-22, the council handled 33 complaints about Highways, Transport and Streetscene through its formal procedures (9% of the council's total). This is broadly **consistent** with previous years, although continues an overall **decrease** since 2018-19.
- 55. Of the 33 complaints received, 2 were recorded as upheld, 11 partially upheld and 15 not upheld by the council. This means that 39% were recorded as upheld or partially upheld.
- 56. In addition, there were 234 other customer contacts to the council's Complaints Team about Highways, Transport and Streetscene that were resolved without the need for a formal complaint. As illustrated in **Chart 5**, this represents the **second**

**highest** number of such contacts to the Complaints team of all the council services. However, it is also a significant **reduction** compared with the previous year, in line with the reduction seen across other services.

57. Complaints about Highways, Transport and Streetscene in 2021-22 were concentrated on its Passenger Transport functions (17 / 52%), which have shown a gradual **increase** over the past four years.
58. The service maintains over 4,400km of road and related infrastructure. There is considerable customer interest in issues such as routine maintenance and gully emptying where funding has been reduced over recent years. Funding is now being increased in these areas but rising costs may become an issue in the longer term. Shortages of drivers and the availability of resources can affect delivery of passenger transport functions, which can result in increased complaints.
59. Following customer feedback, Highway Operations has reviewed its services, with the following outcomes:
  - Parking Services consultation
  - New Streetscene contract
  - Emergency strategy for Fleet Services
  - New Highway Resilience plan; and
  - An improvement plan for fly tip control by Enforcement.
60. Where appropriate, Highway Services continue to delegate services to the local councils to better meet local priorities.

## **6. Revenues and Benefits**



- 61. In 2021-22, the council handled 13 complaints about Revenues and Benefits through its formal procedures (4% of the council’s total). This represents a small **decrease** compared with previous years.
- 62. Of the 13 complaints received, 0 were recorded as upheld, 2 partially upheld and 9 not upheld by the council.
- 63. In addition, there were 37 other customer contacts to the council’s Complaints Team about Revenues and Benefits resolved without the need for a formal complaint. This is a **reduction** compared with previous years, in line with the reduction seen across other services.
- 64. A reduction in complaints about revenue collection may be explained by the waning of the Covid-19 pandemic during the year reported. The Benefits Service, meanwhile, has needed to deliver an increased number of financial support schemes at short notice, prioritising crisis support. Consequently, some longer-term customer may not have had the level of service attention experienced previously.

**7. Waste management**





- 65. In 2021-22, the council handled 8 complaints about Waste Management through its formal procedures (2% of the council's total). This represents a **decrease** compared with previous years.
- 66. In addition, there were 256 other customer contacts to the council's Complaints Team about Waste management resolved without the need for a formal complaint. As illustrated in **Chart 5**, this represents the **second highest** number of such contacts to the Complaints team of the council service areas detailed here. However, it is also a significant **reduction** compared with the previous year, in line with the reduction seen across other services.
- 67. The Waste Management service regularly transacts with every Wiltshire household and also manages the waste collected. The figures shown in Chart 13 should therefore be considered in the context of the scope and scale of the services provided, plus the significant public interest that they attract.
- 68. In 2021-22, improvements were made to kerbside collection arrangements following the introduction of new collection rounds in March 2020. While the new rounds provided efficiencies, after their introduction they also required rebalancing to maintain service reliability.
- 69. The implementation of new waste collection rounds from February 2021 is also relevant. Implementation was negatively impacted by industrial action amongst the contractor workforce, which resulted in the suspension of the kerbside recycling

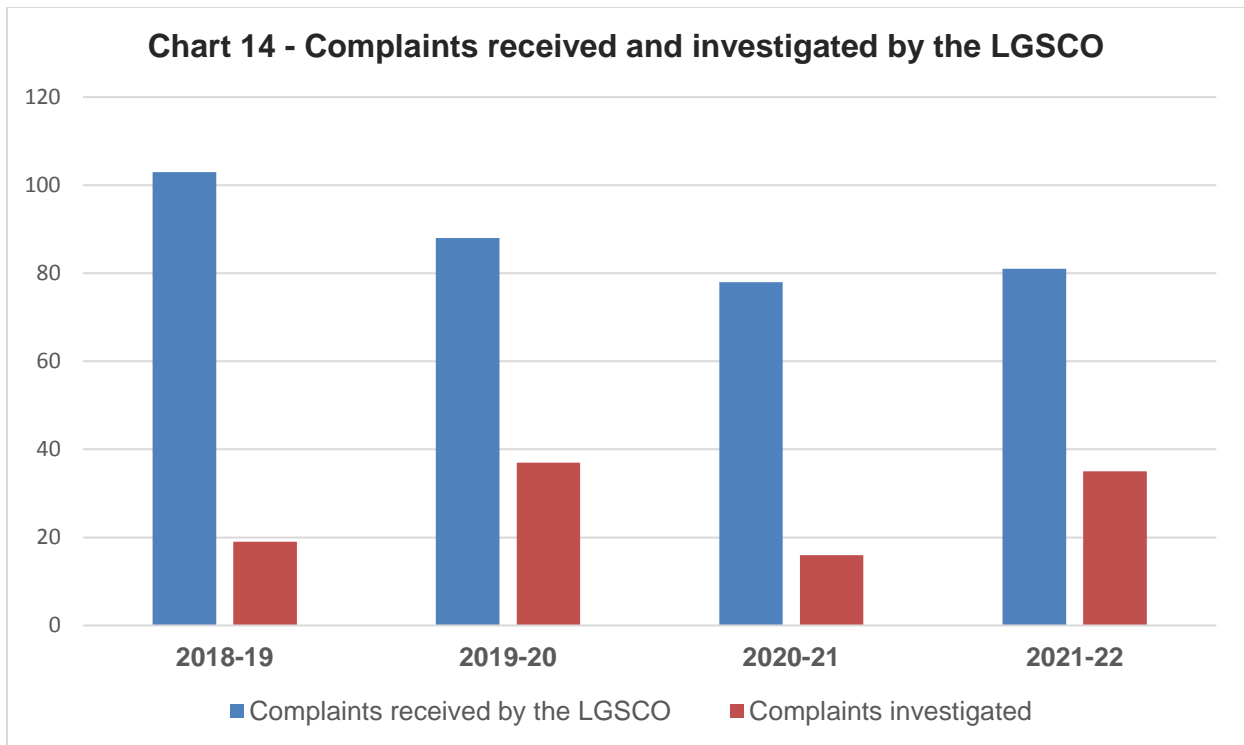
service between 7- 18 March 2022. Although this occurred towards the end of the reported period, the level of service disruption was significant.

### **Ombudsmen findings**

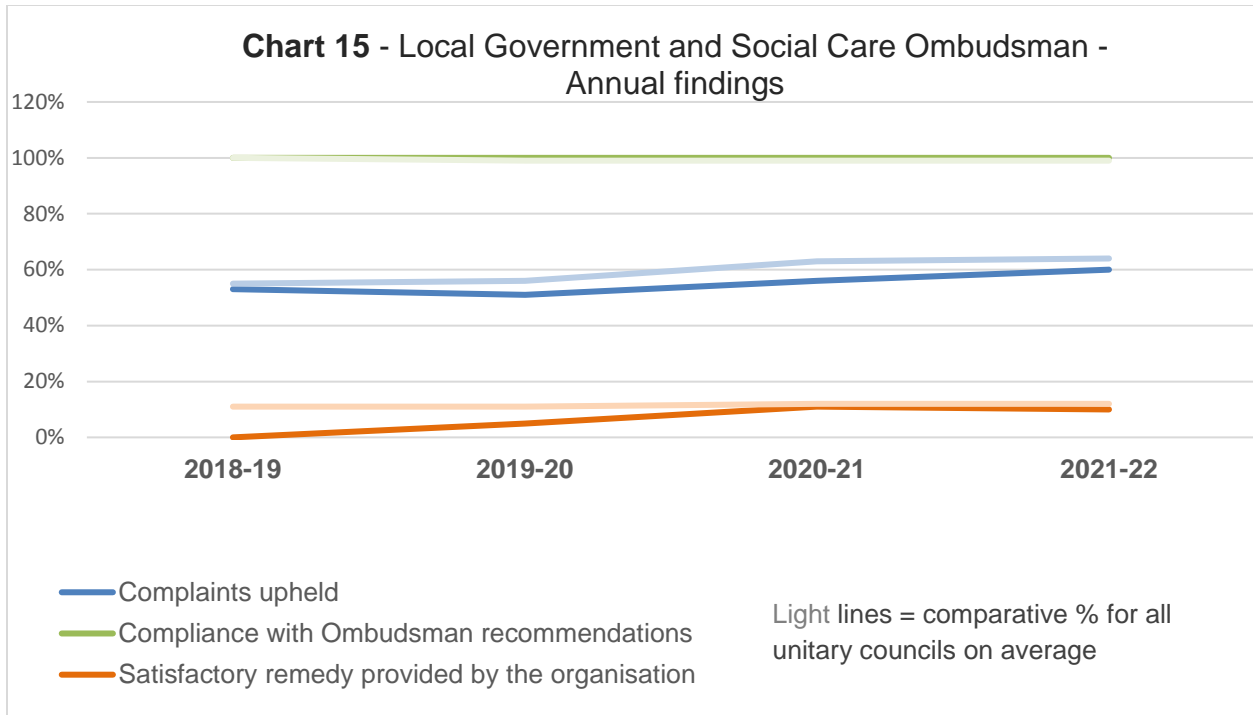
70. When residents are not satisfied with a local authority's response to a complaint, they can ask the [Local Government and Social Care Ombudsman](#) (LGSCO) to consider the matter. When the complaint relates to the local authority's responsibilities as a social housing landlord, the complaint must be referred to the [Housing Ombudsman](#). When the complaint relates to pensions, it must be referred to the [Pensions Ombudsman](#). Normally, the Ombudsmen will only consider complaints when all stages of the local authority's complaints procedure have been completed.

### **Local Government and Social Care Ombudsman**

71. The council's LGSCO Annual Review letter for 2021/22 is attached to this report. The LGSCO produces an annual review letter each year and it provides a summary of the complaints made to the LGSCO regarding the council, and the LGSCO's findings in relation to these. The council's 2021-22 letter and all previous letters are available on the LGSCO website, [here](#).
72. In 2021-22, the LGSCO received 81 complaints regarding the council (see **Chart 14**). This is a slight increase on the total received in 2020-21, but a decrease on the number received in years prior to that.
73. Of the 81 complaints received, the LGSCO decided to investigate 35. This is an increase on the number of investigations undertaken in 2020-21, when the LGSCO temporarily paused investigative work in response to the Covid-19 pandemic.



74. 60% of investigated complaints about the council were upheld (21 of 35 investigations) (see **Chart 15**).
- This is a small increase on the percentage upheld in 2020-21 (56%)
  - This compares favourably with an average of 64% upheld against all unitary councils nationally.
75. In 100% of the complaints that the LGSCO upheld and made recommendations about (16), the council complied with all LGSCO recommendations.
- This maintains the 100% shown for the past four years.
  - This is slightly better than the 99% shown for all unitary councils.
76. In 10% of complaints the LGSCO investigated and upheld (2 of 21), the council had already provided a satisfactory remedy **before** the complaint reached the Ombudsman.
- This is a slight decrease on the previous year (11%).
  - This is slightly lower than the 12% figure for all unitary councils nationally.



### Housing Ombudsman

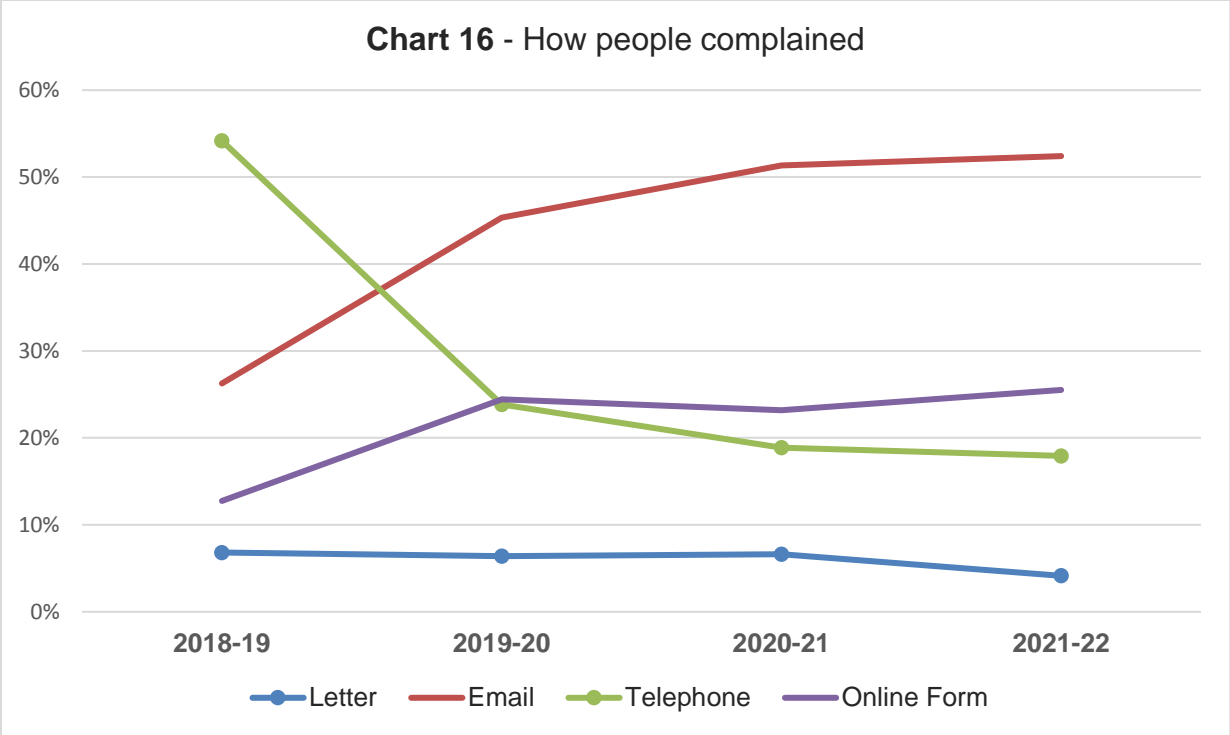
77. The Housing Ombudsman publishes annual landlord performance reports only for landlords with **five or more cases**. For 2020-21, the Housing Ombudsman only investigated two complaints about the council, one of which was determined as 'partial maladministration' and one as 'outside the Ombudsman's jurisdiction'. The data for 2021-22 is not yet available.

### Pensions Ombudsman

78. In 2021-22, no complaints about the council in regard to pensions were considered by the Pensions Ombudsman.

### How people complained

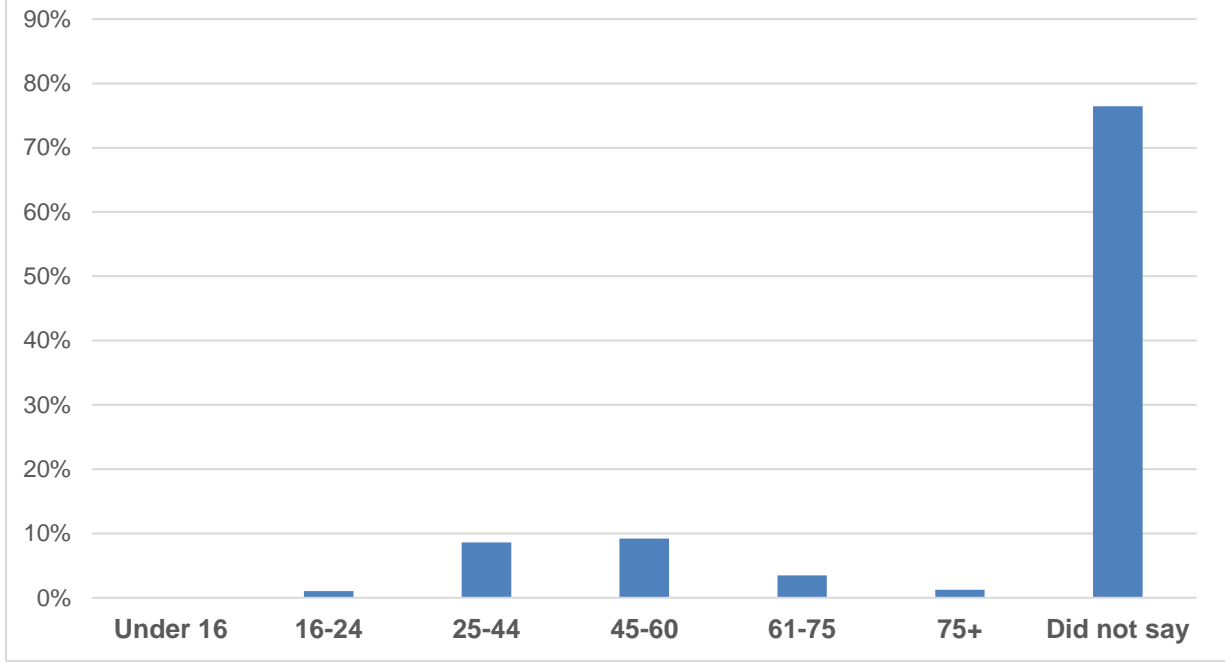
79. **Chart 16** shows that email continues to be the most popular method of submitting a complaint, with those received by letter continuing to decrease and those made in person reducing to nil (therefore not shown).



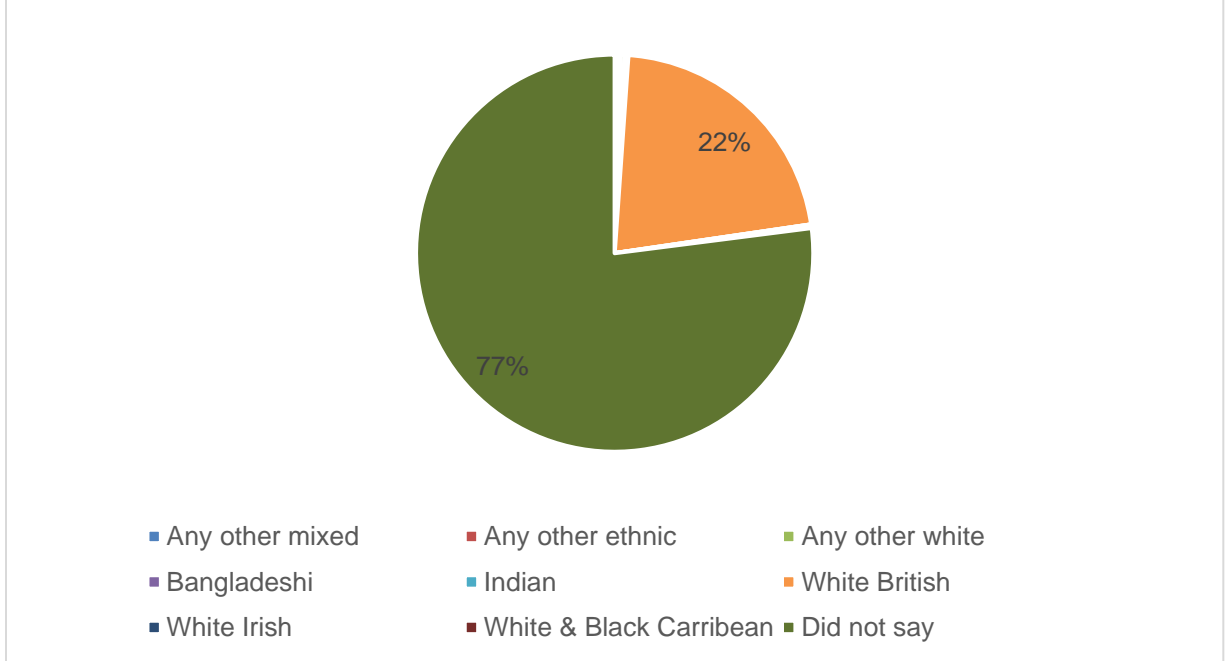
**Complainant demographics**

80. **Charts 17-19** show the reported demographics of customers who have contacted the council’s Complaints Team. This includes those with complaints that were ultimately resolved as service requests. As the charts indicate, unfortunately a high percentage of customers choose not to provide this information.

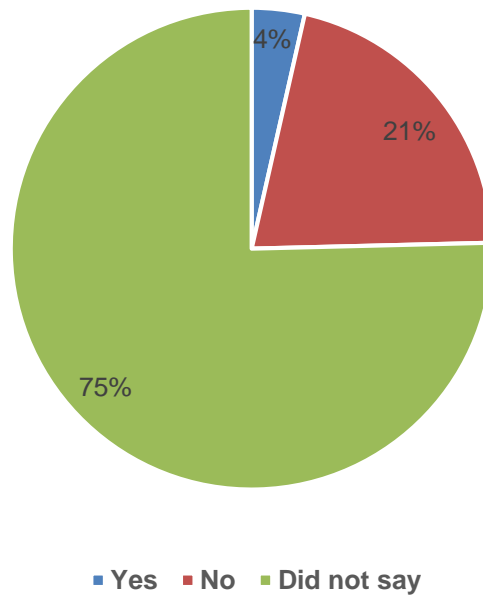
**Chart 17 - Age of complainants**



**Chart 18 - Ethnicity of complainants**



**Chart 19 - Complainants with disabilities**



### **Contact**

If you would like further information, please contact Wiltshire Council's Complaints Team:

Email: [complaints@wiltshire.gov.uk](mailto:complaints@wiltshire.gov.uk)

Tel: 01225 718400

### **Further information**

- LGSCO Annual Review Letter for Wiltshire Council 2022 ([link](#))
- Wiltshire Council Complaints webpage ([link](#))
- Wiltshire Council's corporate Complaints Procedure ([link](#))
- Making a complaint about Adult Social Care ([link](#))
- Children's social care: getting the best from complaints ([link](#)) (guide to the statutory Children's complaint procedure)

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20 July 2022

*By email*

Mr Herbert  
Chief Executive  
Wiltshire Council

Dear Mr Herbert

### **Annual Review letter 2022**

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2022. The information offers valuable insight about your organisation's approach to complaints. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to encourage effective ownership and oversight of complaint outcomes, which offer such valuable opportunities to learn and improve.

### **Complaint statistics**

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

**Complaints upheld** - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic.

**Compliance with recommendations** - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

**Satisfactory remedy provided by the authority** - In these cases, the organisation upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and credit organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 27 July 2022. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

### **Supporting complaint and service improvement**

I know your organisation, like ours, will have been through a period of adaptation as the restrictions imposed by the pandemic lifted. While some pre-pandemic practices returned, many new ways of working are here to stay. It is my continued view that complaint functions have been under-resourced in recent years, a trend only exacerbated by the challenges of the pandemic. Through the lens of this recent upheaval and adjustment, I urge you to consider how your organisation prioritises complaints, particularly in terms of capacity and visibility. Properly resourced complaint functions that are well-connected and valued by service areas, management teams and elected members are capable of providing valuable insight about an organisation's performance, detecting early warning signs of problems and offering opportunities to improve service delivery.

I want to support your organisation to harness the value of complaints and we continue to develop our programme of support. Significantly, we are working in partnership with the Housing Ombudsman Service to develop a joint complaint handling code. We are aiming to consolidate our approaches and therefore simplify guidance to enable organisations to provide an effective, quality response to each and every complaint. We will keep you informed as this work develops, and expect that, once launched, we will assess your compliance with the code during our investigations and report your performance via this letter.

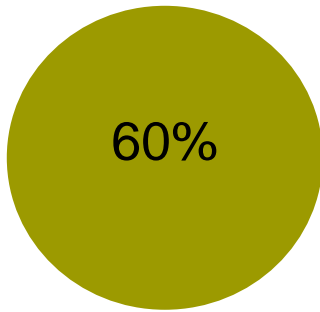
An already established tool we have for supporting improvements in local complaint handling is our successful training programme. We adapted our courses during the Covid-19 pandemic to an online format and successfully delivered 122 online workshops during the year, reaching more than 1,600 people. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Yours sincerely,



Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England

### Complaints upheld



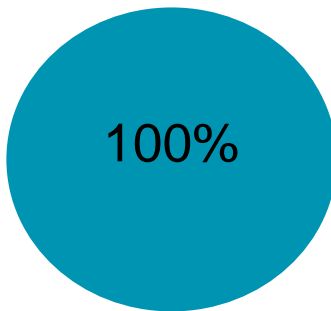
**60%** of complaints we investigated were upheld.

This compares to an average of **64%** in similar organisations.

**21**  
upheld decisions

Statistics are based on a total of **35** investigations for the period between 1 April 2021 to 31 March 2022

### Compliance with Ombudsman recommendations



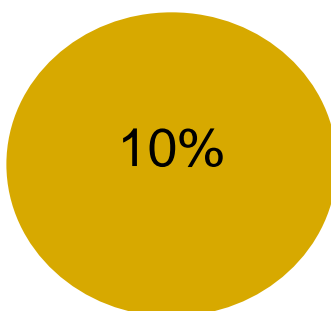
In **100%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **99%** in similar organisations.

Statistics are based on a total of **16** compliance outcomes for the period between 1 April 2021 to 31 March 2022

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

### Satisfactory remedy provided by the organisation



In **10%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **12%** in similar organisations.

**2**  
satisfactory remedy decisions

Statistics are based on a total of **21** upheld decisions for the period between 1 April 2021 to 31 March 2022

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Wiltshire Council

Standards Committee

5 October 2022

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## Changes to Protocol 6 of the Council's Constitution – The Complaints Procedure

### Purpose

1. To propose changes to Protocol 6 of the council's Constitution – the Complaints Procedure – in order to:
  - a) ensure compliance with the Housing Ombudsman's new Complaint Handling Code; and
  - b) make the Complaints Procedure more comprehensive and user-friendly for customers.

### Background

2. Most customer complaints to the council fall within the parameters of its corporate Complaints Procedure – Protocol 6 of the council's Constitution (**Appendix 1**). Exceptions to this are complaints that have their own dedicated, statutory complaints procedures, including those that are about:
  - Adult social care
  - Certain aspects of children's services under the Children's Act 1989
  - Elected members
  - The Wiltshire Police and Crime Commissioner.
3. It should be noted that when an issue is raised with the council for the first time, where appropriate, it is treated as a 'service request', rather than as a formal complaint. This reflects how the customer's priority is usually to have their issue promptly resolved rather than to seek formal redress. However, service requests can escalate to complaints where the customer remains dissatisfied or if the customer states from the beginning that they do wish to pursue a formal complaint.
4. The corporate Complaints Procedure comprises a two-stage process, with complaints moving from Stage 1 to Stage 2 when the customer remains dissatisfied following a Stage 1 response (as well in certain other specific circumstances):

	<b>Lead</b>	<b>Time limit</b>	<b>Extension</b>
<b>Stage 1</b>	Investigation and response from the appropriate service team	20 days	10 days

<b>Stage 2</b>	Investigation and response from the Complaints team	30 days	10 days
<b>External review</b>	Referral by the customer to the appropriate Ombudsman within 12 months.		

5. When a customer has completed Stage 2 of the Procedure and remains dissatisfied, they can contact the appropriate Ombudsman to request external review of the matter. The Ombudsman may choose to investigate and, if fault is found, direct the council to take remedial action to address the issues identified and avoid future recurrence. They may also recommend an apology and can also recommend an appropriate compensation payment to the customer.
6. The council works mainly within complaints frameworks administered by two Ombudsmen:
  - The Local Government and Social Care Ombudsman (LGSCO) – for most complaints regarding council services; and
  - The Housing Ombudsman – for complaints regarding the council as a social housing landlord.

#### Housing Ombudsman – new Complaint Handling Code

7. In March 2022, the Housing Ombudsman published a new Complaint Handling Code ([here](#)) following the original Code’s introduction in 2020. As a member landlord, the council’s complaint handling arrangements for social housing complaints must align with the mandatory elements of the new Code. Failure to comply with the new Code could lead to the issuing of a ‘complaint handling failure order’ against the council. A report on how the council is responding to the new Code more broadly is provided elsewhere on this agenda.
8. At present, complaints to the council about its actions as a social housing landlord are handled under its corporate Complaints Procedure. The Procedure is **not compliant** with the Housing Ombudsman’s new Code in the following ways:

<b>Code section</b>	<b>Housing Ombudsman requirement</b>	<b>How the council’s current procedure is not compliant</b>
1.2	A complaint must be defined as:  <i>“an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.”</i>	Defines a complaint as:  <i>“any expression of dissatisfaction by you or your representative.”</i>

5.1	Landlords must respond to the <b>Stage 1</b> complaint <b>within 10 working days</b> of the complaint being logged.  <b>10 working day</b> extension permitted	Requires <b>Stage 1</b> responses to be provided within <b>20 working days</b> of the complaint being logged  (The current <b>10 working day</b> extension complies with the Code)
5.13	Landlords must respond to the <b>Stage 2</b> complaint <b>within 20 working days</b> of the complaint being escalated.  <b>10 working day</b> extension permitted	Requires <b>Stage 2</b> responses to be provided within <b>30 working days</b> of the complaint being escalated.  Requires that extensions at Stage 2 do not exceed <b>20 working days</b>

## Main considerations

### Housing Ombudsman – new Complaint Handling Code

9. The Housing Ombudsman’s new Code applied from 1 April 2022, with member landlords required to be compliant from 1 October 2022. The necessary changes to the council’s complaints procedure therefore need to be approved by Full Council on 18 October 2022. In practice, since July 2022, all complaints about the council’s actions as a social housing landlord have been responded to within the shorter timescales now set out in the new Code.

10. There are three options for making the council’s complaints procedure compliant with the Housing Ombudsman’s new Code:

**Option 1 (preferred)** – Amend the corporate Complaints Procedure to:

- Implement the new, shorter timescales for social housing complaints **only**; and
- Maintain existing timescales for all other complaints.

*Advantages:*

- Avoids adding a separate, new procedure purely for social housing complaints;
- Avoids setting timescales for responding to all other complaints that are not consistently achievable (which would reduce customer satisfaction and potentially prompt criticism from the LGSCO).

*Disadvantages:*

- Prioritises responding to one category of complaints over others.

**Option 2** – Amend the corporate Complaints Procedure to reflect the new, shorter timescales for **all** complaints.

*Advantages:*

- Avoids adding a separate, new procedure only for social housing complaints
- Avoids prioritising one category of complaints over others.

*Disadvantages:*

- Risks implementing timescales for all complaints that are not consistently achievable (which would reduce customer satisfaction and potentially prompt criticism from the Ombudsmen).

**Option 3** – Create a dedicated Social Housing Complaints Procedure reflecting the new, shorter timescales (with timescales in the existing corporate Complaints Procedure to be unchanged).

*Advantages:*

- Avoids implementing a timescale for all other complaints that cannot be achieved consistently (which would reduce customer satisfaction and potentially prompt criticism from the LGSCO).

*Disadvantages:*

- Reduces clarity and simplicity overall by creating a separate, new procedure purely for one specific category of complaints;
- Prioritises responding to one category of complaints over others.

11. An amended version of Protocol 6 – Complaints Procedure is provided at **Appendix 2** and reflects **Option 1** as the preferred option. This option is proposed for the following reasons:
12. In 2021-22, 71% of Stage 1 complaints and 60% of Stage 2 complaints were responded to within target timescales (including the current permitted extensions). These figures have been relatively stable for some years. Experience shows that meeting the timescales can be challenging due to the complexity of some complaints and to other operational demands. Reducing the target timescales for **all** complaints (Option 2) is therefore likely to increase the number of responses being provided late. This is likely to increase complainant frustration and potentially prompt criticism and findings of fault from the LGSCO.
13. Social housing complaints represent a small proportion of the total number of complaints handled under the Procedure (around 10-15%). Implementing a special target timescale only for these complaints should therefore have minimal impact on the response times for other complaints.
14. Introducing a new procedure exclusively for social housing complaints would increase the complexity of the complaints handling system overall. In addition, the current corporate Complaints Procedure is largely in line with the new Housing Ombudsman's Code. A whole new procedure could therefore be considered an excessive measure to address a small number of compliance issues.



## Other amendments to the corporate Complaints Procedure

15. The current Protocol 6 – Complaints Procedure (**Appendix 1**) accurately sets out the current process but is not comprehensive or user-friendly as a public-facing document.
16. As well as addressing the issues of compliance outlined above, the proposed new Procedure attached at **Appendix 2** has the following advantages:
  - Provides an easy-reference flowchart of the complaints process
  - Sets out the council's commitment to valuing complaints and the objectives of its complaints function
  - Clarifies that complaints cannot be considered from corporate bodies, due to the lack of a personal injustice
  - Clarifies what a response to a complaint will include and what happens when a complaint is upheld
  - Describes how the council will:
    - respond to anonymous complaints, complaints about multiple services and about other agencies
    - use complaints data to learn and improve
    - protect customers' data and confidentiality
    - manage unreasonable customer behaviour
    - support customers with specific needs to access the procedure.

## Consultation

17. The Constitution Focus Group (CFG) considered the proposed Code on 26 September 2022. CFG agreed that the proposed changes to the definition of a complaint and to the target timescales for response were necessary in order to maintain compliance with the Housing Ombudsman's Code.
18. Wiltshire Council's Housing Board will consider the proposals on 28 September 2022 and its comments will be reported to Standards Committee.

## **Proposal**

19. To note that the current corporate Complaints Procedure is not compliant with the Housing Ombudsman's new Complaint Handling Code.
20. To note the comments of the Constitution Focus Group and Wiltshire Council's Housing Board.
21. 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.

---

**Perry Holmes, Monitoring Officer and Director for Legal & Governance**

Report author: Henry Powell, Democracy and Complaints Manager, 01225 718400  
[complaints@wiltshire.gov.uk](mailto:complaints@wiltshire.gov.uk)

**Appendices**

Appendix 1            **Current** 'Protocol 6 – Complaints Procedure' of Wiltshire Council's Constitution

Appendix 2            **Proposed amended** 'Protocol 6 – Complaints Procedure' of Wiltshire Council's Constitution

# Wiltshire Council

# Complaints Procedure

## Foreword

This Complaints Procedure (“the Procedure”) reflects Wiltshire Council’s commitment to valuing complaints. We welcome hearing our customers’ complaints to better understand how they view our services and to use these opportunities to learn and improve for the future.

We aim to resolve customer dissatisfaction promptly and efficiently and to conduct appropriate and fair investigations so that we can make evidence-based decisions on the facts of the case.

We aim to deliver a complaints function that:

- Is simple for everyone to use and understand
- Is led and supported by the very top of the organisation
- Ensures excellent service standards are delivered
- Fulfils the needs of our customers
- Enables us to learn from customer feedback in order to improve
- Complies with the relevant legislation and council policy
- Focuses on fair, proportionate resolution at the earliest stage
- Works in an open-minded and impartial way

Not all complaints that the Council may receive are covered by the procedure set out in this document. In particular, complaints about adult social care, some aspects of children’s services, the Wiltshire Police and Crime Commissioner and elected members are governed by other, statutory, procedures. Links to those procedures are provided where appropriate.

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## What is a complaint?

Wiltshire Council's definition of a complaint is an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.

*'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.'*

A complaint may relate to:

- ✓ failure to provide a service
- ✓ inadequate standard of service
- ✓ dissatisfaction with the application of a Council policy
- ✓ treatment by, or attitude, of a member of staff (excluding those which may be disciplinary in nature which will need to be dealt with in accordance with the Council's HR Policies)
- ✓ disagreement with a decision where the customer cannot use another procedure (for example an appeal) to resolve the matter
- ✓ the Council's failure to follow the appropriate administrative process.

This list does not cover everything.

A complaint does **not** fall within this Complaints Procedure if it:

- × is a routine first-time request for a service
- × relates to legal proceedings involving the complainant, including proceedings brought by or against the Council
- × concerns a disagreement with a decision where a statutory right of appeal exists, for example in relation to council tax, planning or licensing
- × is an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- × is a matter relating to a contract between the complainant and the Council
- × relates to personnel matters, including appointments, dismissals, pay, pensions and discipline
- × is a challenge to a policy/decision made by the Council
- × concerns school management issues (these are managed by individual schools)
- × falls within the scope of another statutory complaints process, such as those dealing with adult social care, some aspects of children's services, elected members, or the Wiltshire Police and Crime Commissioner (see below)
- × is not regarding a personal injustice.

These issues will not be treated as complaints under this procedure. Customers will instead be directed to any appropriate alternative procedures that may be available.

## Who can make a complaint?

Anyone who receives, requests or is affected by our services can make a complaint.

We will accept complaints brought by third parties (such as a friend or relative of the person affected) where there is clear evidence that the customer has given their permission. A complaint can also be made through an independent advocacy service and details of those services will be provided to the customer where appropriate.

A complaint can be made in writing, in person, by telephone, by email or online.

We do not accept complaints from corporate bodies under this Procedure, as in such cases there is no “personal injustice” suffered by the complainant.

## Complaints involving more than one service or organisation

If a complaint relates to the actions of two or more Council services, we will endeavor to provide one response covering all issues raised.

Where a complaint relates to both a Council service and another agency or public service provider, (for example a housing association or a government department), and the Council has a direct interest in the issue, we will handle the complaint about the Council through this Procedure.

## Handling anonymous complaints

The Council recognises that on occasions some complainants will wish to remain anonymous.

Generally, we will consider anonymous complaints if there is enough information to identify that there is an issue that needs to be considered and to enable further enquiries.

If, however, an anonymous complaint does not provide enough information to enable us to take further action, or is repetitive, we may decide not to pursue it further.

If an anonymous complaint makes serious allegations, we will refer it to an appropriate senior officer immediately for consideration.

If we pursue an anonymous complaint, we will still record the issues raised to allow us to take corrective action where appropriate.

## What if the customer doesn't want to complain?

If a customer has expressed dissatisfaction, but does not wish to complain, we will still fully consider the matter and take corrective action where appropriate.

## Time limit for making complaints

In line with guidelines set by the Local Government and Social Care Ombudsman and the Housing Ombudsman, this procedure sets a time limit of **12 months** from when the customer first knew, or ought to have known, of the problem, within which time they may ask us to consider the complaint, unless there are special circumstances for considering complaints beyond this time.

We will apply this time limit with discretion.

## Satisfactorily resolved

At all stages of the complaints handling process the emphasis will be on resolving the complaint at the earliest opportunity.

On all occasions, an explanation will be provided to the complainant and where a mistake, error or failure (maladministration) is identified then a suitable apology along with a proposal for remedial action (if needed) will be provided. This does not mean that the Complainant's view will always be preferred.

If the complainant is unhappy with the conclusion, they are entitled to refer the matter to the appropriate Ombudsman who can provide an independent assessment of this conclusion. We will advise customers which Ombudsman is appropriate for their complaint.

## Informal resolution

Often customers simply want the issue they are raising to be resolved, rather than to pursue a complaint under the council's formal procedure. The council will therefore often seek to resolve complaints by promptly delivering the service or correcting the error highlighted by the customer, without following the formal complaints procedure.

Where this approach is not appropriate, and in all cases where the customer requests it, the complaint will proceed to Stage 1.

# Complaints Procedure

## Complaint received

- Received in person, by phone, email, webform or letter
- Acknowledged within **2 working days** and recorded centrally



## Informal resolution

- Where appropriate, quickly resolved as a 'service request'
- This can mean promptly delivering a service or correcting an error
- When not appropriate, or when the customer requests it, proceed to **Stage 1**



## Stage 1: Service team response

- Response by the relevant service team within **20 working days\***
- **10 working day extension** possible, with reasons and updated timescale provided to the customer
- Customer informed of the outcome, addressing relevant areas and reasons, and advising how to progress to **Stage 2: Investigation**
- \*For complaints about the council as a **social housing landlord**, response within 10 working days with a 10 working day extension



## Stage 2: Investigation

- For complaints that are:
  - not resolved at Stage 1
  - considered complex, serious or high risk
  - considered unlikely to be resolved at Stage 1
  - where the customer believes they have faced discrimination due to a protected characteristic
- Complaints Team investigates
- Response provided within **30 working days\*\***
- **10 working day extension\*\*** possible with reasons and updated timescale provided to the customer
- Customer informed of the outcome, addressing relevant areas and reasons, and advising how to progress to **Independent external review**
- \*\*For complaints about the council as a **social housing landlord**, response within 20 working days with a 10 working day extension



## Independent external review

- For issues that have not been resolved at **Stages 1 and 2**, customers can contact the appropriate Ombudsman, whose contact details will be provided
- In most cases, they will only investigate if the customer:
  - has completed the council's complaints procedure
  - contacts them within 12 months of becoming aware of the matter
  - has been directly affected by the matter
- For complaints that are upheld, Ombudsmen can require the council to take remedial action and make compensatory payments

## Learning from complaints

- Complaint details, outcomes, actions taken and Ombudsman findings recorded centrally
- Complaints data reported to senior officers and councillors highlighting areas of concern and improvement actions in place



## Maintaining confidentiality

Confidentiality in complaints handling includes maintaining the customer's confidentiality and explaining to them the importance of confidentiality generally. We will always bear in mind legal requirements as well as internal policies on confidentiality and the use of customer's information. This includes when we need to make enquiries to an outside agency.

## Managing unacceptable behaviour

A customer's reasons for complaining may contribute to the way in which they present their complaint. Regardless of this, we must treat all complaints seriously and properly assess them.

However, the actions of some customers may result in unreasonable demands on time and resources or unacceptable behaviour towards our staff. We will, therefore, apply our policies and procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from customers. Where we decide to restrict access to a customer under the terms of our Unreasonable Complainant Behaviour Procedure, we will communicate that decision, notify the customer of any right of appeal, and review any decision to restrict contact with us.

## Supporting the customer

Everyone has the right to access to our complaints procedure. Customers who do not have English as a first language may need help with interpretation and translation services, and other customers may have specific needs that we will seek to address to ensure easy access to the complaints procedure.

We will always take into account our commitment and responsibilities to equality. This includes making reasonable adjustments to our service to help the customer where appropriate.

Several support and advocacy groups are available to support customers in pursuing a complaint and customers will be signposted to these as appropriate.

## Contact us

If you are unsure about making a complaint or want to talk to someone for further advice, information or support, please contact us in the following ways:

Complaints Team  
Wiltshire Council  
County Hall  
Trowbridge  
Wiltshire  
BA14 8JN

Telephone: 0300 456 0100 / 01225 718400  
E-mail: [complaints@wiltshire.gov.uk](mailto:complaints@wiltshire.gov.uk)

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# Wiltshire Council Constitution Protocol 6 Complaints Procedure

# Complaints Procedure

Wiltshire Council is committed to listening to the view of customers and welcomes feedback whether positive or negative. This complaints procedure sets out what you can expect to happen when you make a complaint to this council.

A complaint is any expression of dissatisfaction by you or your representative.

You can complain to us verbally or in writing.

## 1. Aims of the complaints procedure

Our aim is to ensure that your concern is taken seriously and that you receive a satisfactory answer. The aims of this complaints procedure are:-

- To give you an effective way of raising your complaint.
- Where possible, to resolve complaints quickly.
- To deal with complaints fairly and consistently.

## 2. What is covered under the complaints procedure?

A complaint can be considered under this procedure if Wiltshire Council has a power or duty to provide or secure the provision of a service for you. If you are unsure whether we can deal with your complaint, please contact us for advice.

## 3. What is not covered by the complaints procedure?

Sometimes you will not be able to complain using our complaints procedure. We give some examples of complaints that we cannot consider using our complaints procedure below.

- Complaints from individuals or organisations where there is a contract governing the relationship between the council and the complainant (for example, contractors)
- Complaints by one part of the council or its affiliate organisations against another (e.g. community area boards, maintained schools, governing bodies)
- If there are or have been legal proceedings in connection with the complaint, including proceedings taken by the council.
- Any matter that should be considered by a court, statutory tribunal or statutory appeals process.
- A school admission or exclusion appeal dealt with by the Education Appeals Panel.
- Complaints about a councillor – there is a separate complaints process for this.
- A complaint which lies within the jurisdiction of the governing body of a school.
- A complaint about personnel matters, including appointments, dismissals, pay, pensions and discipline.
- Complaints that are principally about members of staff. Complaints about staff may, if it is appropriate, go through the staff disciplinary procedure.

- Complaints about council policy, such as the level of council tax, how eligibility criteria are set, or the prioritisation of works.

This list is not exhaustive. If we cannot consider your complaint using this procedure we will try to advise you of other appropriate routes available to you for making your complaint.

### **Time limitations on making a complaint**

In keeping with Local Government Ombudsman guidelines there will be some complaints that cannot be investigated because too much time has passed for there to be a reasonable and factual investigation to take place.

The Ombudsman puts a time limit of 12 months from the day you become aware of the problem.

The Local Government Ombudsman states:-

*“One reason for the time bar is that the further away an investigation takes place from the events to be investigated the more difficult it may be to establish the material facts with reasonable confidence. This is because of faded memories and other difficulties in gathering evidence. The difficulty of carrying out a fair investigation has to be balanced against the seriousness of the injustice claimed. If there seems to be little evidence of maladministration or of injustice it is unlikely that discretion should be exercised”*

If the Council receives a complaint where there is a question about the length of time since the original complaint, we will seek further advice and you will be contacted with an explanation if we cannot investigate.

## **4. Making a complaint**

We will take complaints seriously, and will always ensure that you receive a response within the set timescales.

You can make a complaint in a number of ways. You can contact us by phone, e-mail, by e-form online, a letter or at one of our offices. When you make your complaint please provide as much information as possible, including the names of any officers you may have already spoken to about the matter and any reference number you may have relating to the complaint.

If you want someone else, for example a friend, relative or representative, to complain to us on your behalf, we will work with them to resolve your complaint. However, we will always need to have evidence that you have given your permission for someone else to complain on your behalf.

## **5. The complaints procedure**

This is a two stage procedure, and it can be used for most concerns you wish to raise.

### **Stage 1**

We hope that most complaints can be resolved at the first stage of the complaints procedure.

When you first make a complaint we should acknowledge receipt of it within 2 working days, and let you know when we think we will be able to give you a full response.

The timescale for responding to Stage 1 is 20 working days. In some circumstances this can be extended to 30 working days. If the team or the complaints manager require more time, you will be contacted and advised of when you can expect a response and the reasons for the delay.

At Stage 1, your complaint will be dealt with by either the Department Complaints Manager or a member of the team that provides the service you are complaining about.

If you are not happy with the full response that you receive at Stage 1, you can ask for the complaint to be put through to Stage 2. Please telephone or write to the corporate complaints team at County Hall if you would like to take your complaint through to Stage 2. The corporate complaints team's contact details are at the end of this document.

### Stage 2 – Investigation and Review

If we are unable to resolve your complaint at Stage 1, the corporate complaints team will review your complaint.

The timescale for responding to Stage 2 is 30 working days. In some circumstances this can be extended to 40 working days. If the corporate complaints team require more time, you will be contacted and advised of when you can expect a response and the reasons for the delay.

We understand that you want your complaint resolved and we want to ensure you get a response as soon as possible. However to ensure all elements of your complaint are considered, we have to ensure that a thorough investigation is undertaken, that all information has been provided to us and that any legal requirement has been looked at. Only then can we produce a comprehensive and considered report for you.

If you remain unhappy with the council's response at the end of Stage 2, you can contact the Local Government Ombudsman. We will provide information about how to complain to the Ombudsman, who is completely independent of the council.

## **7. Data protection**

When you make a complaint, we will log information about your complaint and your name and contact details. Information will only be collected and stored for the purposes of dealing with your complaint and improving our services. Your complaint and details will be treated confidentially.

## **8. Equality and diversity complaints (including complaints relating to allegations of discrimination or discriminatory behaviour)**

If in receiving a service from us, you feel you have experienced any form of unlawful discrimination or unfair treatment on the grounds of your race, gender, disability, sexuality, faith/belief or age you can make a complaint using the corporate complaints procedure. In these cases we will put your complaint straight through to Stage 2 of the corporate complaints procedure.

If the complaint relates to staff conduct and behaviour the corporate complaints manager and the equality and diversity manager will consider the details of the complaint and decide what the most appropriate way to investigate the complaint. Where officers of the council are involved, it may be necessary to refer the matter to the council's human resources department to be handled under the staff disciplinary procedures.

If you remain unhappy with the response, you will be advised how to take the matter further.

Depending on the seriousness of the allegations, it may be necessary to refer the matter directly to the police.

If you would prefer to seek independent advice about a complaint of this nature, you may wish to contact The Equality and Human Rights Commission.

## **Contact us**

If you are unsure about making a complaint or want to talk to someone for further advice, information or support please contact us in the following ways:

Corporate Complaints Team

Wiltshire Council

County Hall

Trowbridge

Wiltshire

BA14 8JN

Telephone: 0300 456 0100

E-mail: [complaints@wiltshire.gov.uk](mailto:complaints@wiltshire.gov.uk)

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**Wiltshire Council**

**Standards Committee**

**5 October 2022**

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## **Report of the Local Government Association (LGA) Model Code of Conduct Working Group**

### **Purpose**

1. To present the recommendations of the Working Group regarding the council's Code of Conduct for Councillors, following their consideration of comments from the Constitution Focus Group and Group Leaders.

### **Background**

2. On 20 April 2022, the Working Group recommended to Standards Committee the adoption of an amended version of the LGA Model Code of Conduct, which largely reflected the LGA Model Code, but retained some sections of Wiltshire Council's existing Code and moved a large amount of text into a guidance section.
3. Standards Committee supported adoption of the revised Code and resolved that it should be presented to the Constitution Focus Group and Group Leaders for comment. On 15 June 2022, Standards Committee resolved that the Working Group should reconvene to consider these comments before the Committee made its final recommendation.

### **Main considerations**

4. For context, the Constitution Focus Group had previously discussed, and not supported the adoption of, the original version of the LGA Model Code.
5. On 1 June 2022, the Constitution Focus Group discussed the Working Group's proposed Code. It expressed reservations about whether it was likely to lead to an improvement in behavior, given that there had not been, and were unlikely to be, changes to Government legislation to enforce sanctions. The Group also raised concerns about:
  - the potential impact on town and parish councils who were currently using Wiltshire Council's existing Code;
  - the Group raised specific concerns regarding paragraph 8.4, in terms of the implications of a Standards Sub-Committee making an unreasonable recommendation, such as asking the member to resign.

6. Group Leaders were asked for their comments and if they wished to be invited to the Working Group. None of the Group Leaders who provided written comments voiced objections, noting either they did not have any comments, or supported the proposals.
7. The Working Group met on 6 September 2022 to review its original recommendations, together with the subsequent comments made by Group Leaders and the Constitution Focus Group.

## Conclusions

8. Having reviewed the comments of the Constitution Focus Group and Group Leaders, the Working Group endorsed their original recommendation of adopting an amended LGA Model Code of Conduct, **but agreed one amendment to the version proposed to Standards Committee in April 2022**: Having consulted Legal Services, they amended paragraph 8.4 as follows:

### Version proposed in April 2022

*8.4 I comply with all sanctions and recommendations imposed on me following a finding that I have breached the Code of Conduct.*

### Version proposed now

*8.4 I comply with all sanctions imposed on me and any recommendations agreed to be undertaken by me following a finding that I have breached the Code of Conduct and any undertakings that I have agreed to fulfil as part of the informal/alternative resolution of any alleged breach of the Code of Conduct.”*

The new version of the Code proposed is attached at **Appendix A**.

9. Regarding the Constitution Focus Group’s concerns about this paragraph noted above, the Working Group notes that:
  - a) Actual sanctions are limited to those defined through case law;
  - b) Any public decision is challengeable via Judicial Review;
  - c) Legal advice indicates that, under the Code proposed at Appendix A, it is only where a member **agrees to fulfil a recommendation but does not do so** that this could be considered a further breach of the Code;
10. The Group accepted that there were a range of views surrounding the issue of compliance and, like Wiltshire’s existing Code, the proposed Code would lack legal enforcement. However, the group felt that the proposed Code provided greater clarity regarding the conduct required. They also considered that the sanctions available to the Standards Committee, such as publication of its

findings, do carry some weight in encouraging good conduct by elected members and holding those who breach their Code to account.

11. The Group endorsed their original conclusions regarding the benefits of the proposed Code over the council's existing Code, namely:

<b>Benefits of proposed LGA Model Code over current WC Code</b>	<b>Impact</b>
<p>Sets out expected behaviours in greater detail, including the following additional sections:</p> <ul style="list-style-type: none"> <li>• Respect</li> <li>• Bullying and harassment</li> <li>• Impartiality</li> <li>• Disclosure and use of information</li> <li>• Disrepute</li> <li>• Abiding by the Code of Conduct</li> <li>• Gifts and hospitality</li> </ul>	<p>Provides more clarity for councillors and the public on what is/isn't considered acceptable conduct</p> <p>Provides more clarity for those assessing alleged breaches of the Code</p> <p>By being more prescriptive, demonstrates the council's full commitment to standards in public life</p> <p>Although some of the bulleted sections are mentioned in the current WC Code's guidance, guidance is not enforceable</p>
<p>Uses the phrasing "I will..." rather than "I must..."</p>	<p>Encourages greater personal ownership of the Code, as opposed to a code that is imposed by others</p>
<p>The Guidance states that the Code applies to all forms of communication and interaction, including:</p> <ul style="list-style-type: none"> <li>• at face-to-face meetings</li> <li>• at online or telephone meetings</li> <li>• in written communication</li> <li>• in verbal communication</li> <li>• in non-verbal communication</li> <li>• in electronic and social media communication, posts, statements and comments.</li> </ul>	<p>Provides greater clarity on when the Code may apply, particularly applicable in the context of the number of complaints now received about conduct on social media</p>
<p>Regarding Registers of Interest:</p> <ul style="list-style-type: none"> <li>• defines 'sensitive' interests</li> <li>• states that you must leave the room in some circumstances</li> <li>• includes guidance re interests specifically for Cabinet members</li> </ul>	<p>Provides greater clarity on handling interests</p>

Benefits of proposed LGA Model Code over current WC Code	Impact
Regarding Gifts and Hospitality, requires that gifts not accepted must also be declared	Provides greater transparency regarding Gifts and Hospitality

## Proposal

12. To recommend the Code of Conduct provided at **Appendix A** for adoption by Full Council.

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## Cllr Ruth Hopkinson, Chair of the LGA Model Code of Conduct Working Group

Report authors:

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## Appendices

Appendix A Proposed Code of Conduct for Wiltshire Council (v2)

Appendix B Current Code of Conduct for Wiltshire Council

**Draft Wiltshire Council  
Constitution  
Part 12  
Wiltshire Council Code  
of Conduct for  
Members**

**1. Code of Conduct** **3**

Appendix 1 – Roles and Responsibilities of Members

Appendix 2 – [Wiltshire Council EPIC Values document](#) [replacing the Behaviours Framework document]

**2. Code of Conduct Guidance** **7**

Appendix 1 Social Media Guidance for Councillors [currently being updated]

Appendix 2 Openness and transparency on personal interests – a guide for councillors

Appendix 3 Standards and Complaints Assessment Criteria

# DRAFT PART 12

## WILTSHIRE COUNCIL CODE OF CONDUCT FOR MEMBERS

As a Member or Co-opted Member of Wiltshire Council, I shall have regard to the following principles:

- **Selflessness**
- **Integrity**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**
- **Leadership.**

To uphold these principles, I will follow the below Code of Conduct whilst carrying out my role.

### **1. Respect**

**1.1** I treat other Councillors and members of the public with respect.

**1.2** I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

### **2. Bullying, harassment and discrimination**

**2.1** I do not bully any person.

**2.2** I do not harass any person.

**2.3** I promote equality and do not discriminate unlawfully against any person.

### **3. Impartiality of officers of the council**

**3.1** I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

### **4. Confidentiality and access to information**

**4.1** I do not disclose information:

- (a) given to me in confidence by anyone
- (b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

- i. I have received the consent of a person authorised to give it;
- ii. I am required by law to do so;
- iii. The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- iv. The disclosure is:
  1. Reasonable and in the public interest; and
  2. made in good faith and in compliance with the reasonable requirements of the local authority; and
  3. I have consulted the Monitoring Officer prior to its release.

**4.2** I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

**4.3** I do not prevent anyone from getting information that they are entitled to by law.

## **5. Disrepute**

**5.1** I do not bring my role or local authority into disrepute.

## **6. Use of position**

**6.1** I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

**6.2** I do not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

## **7. Use of local authority resources and facilities**

**7.1** I do not misuse council resources.

**7.2** I will, when using the resources of the local authority or authorising their use by others:

- (a) act in accordance with the local authority's requirements; and
- (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

## **8. Complying with the Code of Conduct**

**8.1** I undertake Code of Conduct training provided by my local authority.



8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with all sanctions imposed on me and any recommendations agreed to be undertaken by me following a finding that I have breached the Code of Conduct and any undertakings that I have agreed to fulfil as part of the informal/alternative resolution of any alleged breach of the Code of Conduct.

## 9. Interests

9.1 I register and disclose my interests.

## 10. Gifts and hospitality

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

## 11. Taking decisions

11.1 When carrying out my public duties, I make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

11.2 I am as open as possible about my decisions and actions and the decisions and actions of my authority, and am prepared to give reasons for those decisions and actions.

11.3 I am accountable for my decisions to the public and will co-operate fully with whatever scrutiny is appropriate to my office.

---

This Code of Conduct sets out the minimum standards of conduct required of you as a Councillor.

**This Code of Conduct should be read in conjunction with the guidance set out in this constitution** as well as the following appendices:

Appendix 1 – Roles and Responsibilities of Members [unchanged]

Appendix 2 – [Wiltshire Council EPIC Values document](#) [replacing the Behaviours Framework document]

Proposed

# DRAFT WILTSHIRE COUNCIL CODE OF CONDUCT GUIDANCE FOR MEMBERS

## Contents

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3. Application of the Code	9
4. Code of Conduct Guidance	9
5. Register of Interests	14

## Purpose

This guidance is intended to assist you in meeting your obligations under the Council's Code of Conduct.

You are encouraged to seek advice from the Monitoring Officer if you are unclear about any aspect of the Code or how it applies in your particular situation.

The statutory framework for standards in local government is contained in Part 7 of the Localism Act 2011, which can be found at:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

## The Principles of Public Life

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work.

They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Application of the Code of Conduct

The Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a Co-opted Member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to your Code of Conduct.

## Code of Conduct Guidance

This section sets out further guidance relating to your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations set out in the Code of Conduct and how they should be followed.

### **1. Respect**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor- officer protocol.

## **2. Bullying, harassment and discrimination**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

**An objective test is applied in determining whether conduct amounts to bullying or intimidation; in other words the conduct will be looked at through the eyes of a notional reasonable member of the public with knowledge of all the facts, and who looks at the conduct objectively.**

## **3. Impartiality of officers of the council**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the

content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentially and access to information**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### **5. Disrepute**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

#### **6. Use of position**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you must not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

#### **7. Use of local authority resources and facilities**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be

used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### Complaints Procedure

The Council's arrangements for dealing with complaints under the Code of Conduct are set out in Protocol 11 of the Council's Constitution.

### Local Assessment Criteria

Complaints under the Code are assessed or reviewed in accordance with the criteria attached at Appendix 3.

## **9. Interests**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

The Register of Interests section below sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The



presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **11. Taking decisions**

The decisions you take whilst undertaking your public duties should be made on an objective basis, using the best information available whilst avoiding discrimination, or bias. To ensure public confidence in the decision-making process, you should be willing to make the reasons for your decisions, as well as those of Wiltshire Council, publicly available. Information about why decisions have been taken should only be withheld in cases where there are clear and lawful reasons for doing so. As a holder of public office, you must be accountable for your decisions and actions and must submit yourself to the level of scrutiny commensurate with your position. It is important that the public are able to constructively challenge and express concern about the process by which decisions are made.

### **Bias and Predetermination**

Decisions, particularly in regulatory matters such as planning and licensing, may be challenged and ruled unlawful on the ground of bias. The test is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the councillor was biased. In particular, under the Council's Code of Conduct for Members, bias would occur if you placed yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties. The rules on registration and declaration of interests are intended to protect councillors against allegations of bias and predetermination.

The Localism Act 2011 has clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Act makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

The general position, however, remains that, whatever their views, councillors must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

Whether or not there is actual or apparent bias or predetermination is a question of fact to be considered in each case. Where this may be an issue for a councillor advice should be sought at an early stage and in any event before the decision concerned is made.

## Registers of Interests

Your registration of personal interests should be guided by your duty to act in conformity with the Principles of Public Life.

The rules on registering and declaring interests are intended to promote openness and transparency to give the public confidence that councillors are putting the public interest first and are not benefiting their own financial affairs from being a councillor.

You should consider your obligations in respect of registering and declaring interests within this context. As a general rule, if you are in any doubt about your situation you should register or declare an interest. This provides openness and transparency, protects the public interest, the local authority's decision and your own position.

Your register of interests is a public document available on the Council's web site and should contain sufficient details to ensure that the nature of your interest is clear to members of the public. In the case of an interest in land this should include a sufficient description of the land to enable it to be identified.

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### **Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosure of Non-Registerable Interests**

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Table 1: Disclosable Pecuniary Interests	
Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

Table 1: Disclosable Pecuniary Interests

Subject	Description
<b>Land and property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the Councillor’s knowledge)—</p> <ul style="list-style-type: none"> <li>(a) the landlord is the council; and</li> <li>(b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</li> </ul>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <ul style="list-style-type: none"> <li>(a) that body (to the Councillor’s knowledge) has a place of business or land in the area of the council; and</li> <li>(b) either— <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

\* ‘director’ includes a member of the committee of management of an industrial and provident society.

\* ‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body

- (i) exercising functions of a public nature
- (ii) directed to charitable purposes or
- (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

## **Guidance Appendices**

Appendix 1 Social Media Guidance for Councillors [currently being updated]

Appendix 2 Openness and transparency on personal interests – a guide for councillors

Appendix 3 Standards and Complaints Assessment Criteria

Proposed

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**Wiltshire Council  
Constitution  
Part 12  
Wiltshire Council Code of  
Conduct for Members**

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Appendix 2 – <a href="#">Wiltshire Council Behaviour's Framework</a>	

# PART 12

## WILTSHIRE COUNCIL CODE OF CONDUCT FOR MEMBERS

1. You are a Member or Co-opted Member of Wiltshire Council and hence you shall have regard to the following principles:

**1.1 Selflessness;**  
**1.2 Integrity;**  
**1.3 Objectivity;**  
**1.4 Accountability;**  
**1.5 Openness;**  
**1.6 Honesty;**  
**1.7 Leadership.**

2. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the following requirements, by leadership and example.

3. Accordingly, when acting in your capacity as a Member or Co-opted Member:

- 3.1 You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

- 3.2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

- 3.3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

- 3.4 You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

- 3.5 You must be as open as possible about your decisions and actions and the decisions and actions of your authority, and should be prepared to give reasons for those decisions and actions.

- 3.6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.

- 3.7. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government

Act 1986. Members of Wiltshire Council will have regard to the Roles and Responsibilities of Wiltshire Councillors (Part 11) according to Appendix 1 and the Wiltshire Council Behaviours Framework at Appendix 2.

### **Registering and declaring pecuniary and non-pecuniary interests**

- 3.8 You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband or wife, or as if you were civil partners.
- 3.9. In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your authority has decided should be included in the register.
- 3.10. If an interest has not been entered onto the authority's register you must disclose the interest to any meeting of authority at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.
- 3.11. Following any disclosure of an interest which is not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
- 3.12. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

**Wiltshire Council**

**Standards Committee**

**5 October 2022**

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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.

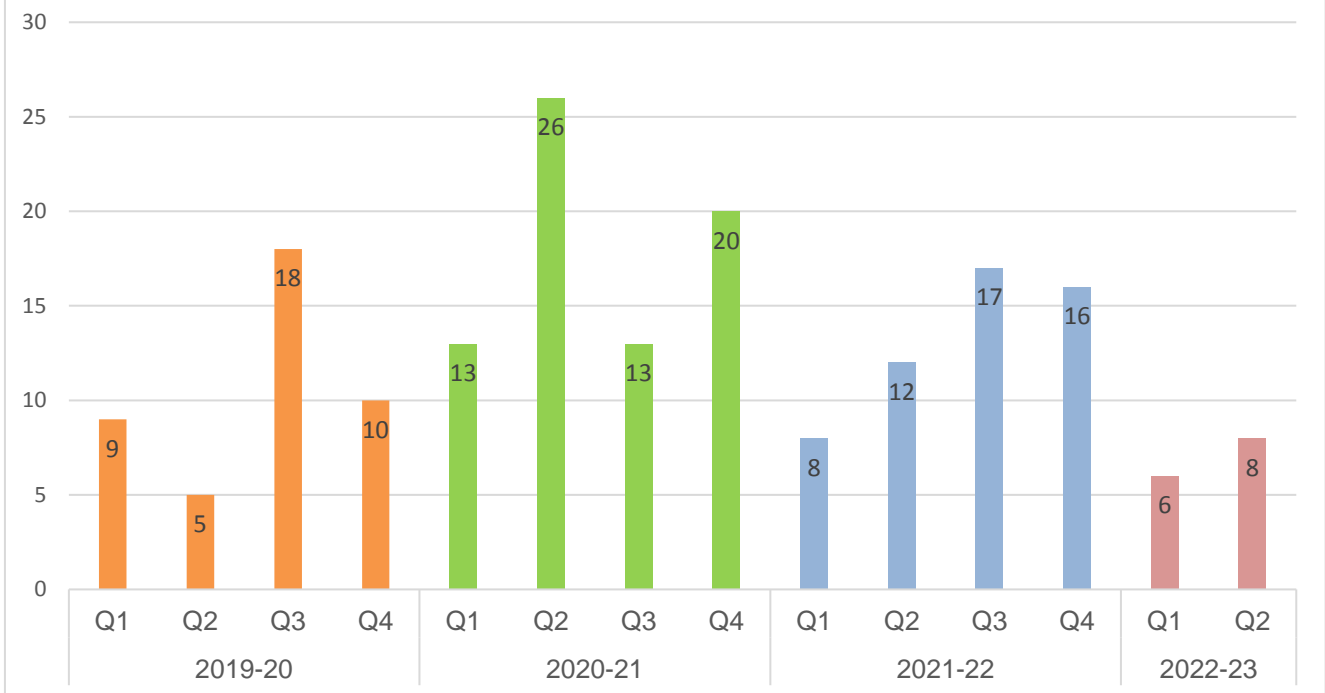
### **Summary of committee meetings**

11. The last Standards Committee meeting took place on 15 June 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 19 October 2022.

### **Summary of complaints received since 7 June 2022 (following publication of the 15 June 2022 meeting agenda)**

13. Between 7 June and 27 September 2022, the Monitoring Officer received 9 complaints under codes of conduct:
  - 2 were determined No Further Action by the Monitoring Officer;
  - 2 were determined No Further Action by Assessment Sub-Committee;
  - 1 was dismissed because the member concerned subsequently resigned;
  - 4 are scheduled to be assessed by Assessment Sub-Committee on 22 October 2022 (one of which has been partly resolved via informal resolution).
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:

**Chart 1 - Code of Conduct complaints received 2019-22**



Quarterly average: 11  
2019-20 total: 42

Quarterly average: 18  
2020-21 total: 72

Quarterly average: 13  
2021-22 total: 52

Quarterly average: 7  
2022-23 total: 14

### Types of complaint

14. The 9 code of conduct complaints received between 7 June and 27 September 2022 can be broken down as follows:

(NFA = No Further Action      MO = Monitoring Officer      ASC = Assessment Sub-Committee)

- 2 were complaints against **Wiltshire Councillors**:
  - 1 regarding harassment (NFA by ASC)
  - 1 regarding accountability (NFA by MO)
- 6 were against **town councillors**:
  - 1 regarding harassment (NFA by ASC)
  - 5 regarding conflicts of interest (to be considered by ASC)
- 1 was against a **parish councillors**:
  - Regarding the non-fulfilment of the alternative resolution following a previous complaint (NFA by ASC).

### 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 this period, 2 complaints have been assessed by or on behalf of the Monitoring Officer, with an average assessment speed of **2.5 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 meeting date, as quickly as possible. During the period reported, 6 complaints have been, or will be, assessed by the Assessment Sub-Committee, with the parties informed of the Assessment Sub-Committee meeting date after an average of **2 working days** from the Subject Member's response being received.
19. All except one of the complaints assessed by Assessment Sub-Committee were or will be considered at the next scheduled meeting after the Subject Member's response was received. Regarding the single exception, the delay in assessing this complaint was due to legal advice being needed to determine whether the complaint could be considered under the Standards regime.
20. No complaints were referred for investigation during this period. Future reports will include data regarding the time taken to conclude investigations where appropriate.

### **Dip Sampling**

15. A table of current cases was provided to the Chairman of Standards Committee on 10 August 2022 for a dip sample to be undertaken to enable oversight. A further dip sample session with the Chairman is scheduled for 4 October 2022.

### **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.



**Wiltshire Council**

**Standards Committee**

**5 October 2022**

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## **Appointment of an Independent Person (s.27 Localism Act 2011)**

### **Purpose of Report**

1. This report asks the Standards Committee to recommend Full Council ratify the appointment of an Independent Person.

### **Background**

2. The Council is required under the Localism Act 2011 to appoint at least one Independent Person (IP) whose views must be sought and taken into account before the Council makes a decision on an allegation it has decided to investigate. The views of an IP may also be sought on other allegations, and by a member who is the subject of an allegation.
3. The Council has chosen to appoint three Independent Persons. These were appointed for four-year terms on 18 May 2021, following a recruitment process overseen by the Standards Committee.
4. As a result of changed circumstances, one of the Independent Persons had resigned their position. The Committee is therefore asked to recommend an appointment to the end of the council term in May 2025.

### **Main Considerations**

5. The Committee was updated of the vacancy for an Independent Person at its meeting on 15 June 2022. In accordance with previous appointments the Monitoring Officer, in consultation with the Chairman, would oversee a process for recruitment.
6. Following advertisement in the Summer, nine candidates were received for interview.
7. The Chairman, along with two other Members, and supported by the Democracy and Complaints Manager, conducted interviews on 5 and 6 September 2022.
8. Following those interviews the Chairman will recommend the appointment of a candidate at the meeting on 5 October 2022.

### **Safeguarding Implications**

9. There are no safeguarding issues arising from this report.

### **Equalities Impact of the Proposal**

10. There are no equalities impacts arising from this report.

### **Risk assessment**

11. There are no significant risks arising from this report.

### **Financial Implications**

12. The IPs each currently receive remuneration of £2,566 a year for carrying out their duties. This sum is adjusted in accordance with the annual pay award to council staff, as with Member allowance, and was set by Council in 2021.

### **Legal Implications**

13. The recommendations in this report are consistent with the Council's obligations under the relevant legislation.

### **Public Health Impact of the Proposals**

14. There are no public health impacts arising from this report.

### **Environmental Impact of the Proposals**

15. There are no environmental impacts arising from this report.

### **Recommendation**

16. That Council ratify the appointment of an Independent Persons following the selection process undertaken by the Standards Committee

**Perry Holmes, Director, Legal and Governance and Monitoring Officer**

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26 September 2022