

# AGENDA

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**Meeting:** Standards Assessment Sub-Committee

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

**Date:** Tuesday 28 June 2022

**Time:** 10.30 am

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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)

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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## Membership:

Cllr Ruth Hopkinson  
Cllr Ernie Clark  
Cllr Richard Britton

Cllr Gordon King  
Cllr Sam Pearce-Kearney

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## Substitutes:

Cllr Allison Bucknell  
Cllr Trevor Carbin  
Cllr Andrew Davis  
Cllr Matthew Dean  
Cllr Howard Greenman  
Cllr Jon Hubbard  
Cllr Mel Jacob  
Cllr Kathryn Macdermid

Cllr Dr Nick Murry  
Cllr Paul Oatway QPM  
Cllr Bill Parks  
Cllr Pip Ridout  
Cllr Mike Sankey  
Cllr Iain Wallis  
Cllr Derek Walters  
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 I

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

1 **Election of a Chairman for 2022/23**

To call for nominations for Chairman of the Standards Assessment Sub-Committee for 2022/23.

2 **Election of a Vice-Chairman for 2022/23**

To call for nominations for a Vice-Chairman of the Standards Assessment Sub-Committee for 2022/23.

3 **Apologies**

To receive any apologies or substitutions for the meeting.

4 **Minutes of the Previous Meeting** (*Pages 5 - 12*)

To approve the minutes of the meeting held on 10 February 2022.

5 **Declarations of Interest**

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

6 **Meeting Procedure and Assessment Criteria** (*Pages 13 - 22*)

To note the procedure and assessment criteria for the meeting.

7 **Exclusion of the Public**

To consider passing the following resolution:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Agenda Item Numbers 6 onwards, because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

*Paragraph 1 - information relating to an individual*

## Part II

*Items during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed.*

- 8      **Complaint COC134813** (Pages 23 - 218)
- 9      **Complaint COC136344** (Pages 219 - 330)
- 10     **Assessment of Complaint: COC139519** (Pages 331 - 378)
- 11     **Assessment of Complaint: COC139420** (Pages 379 - 414)
- 12     **Assessment of Complaints: COC139676 & COC140276** (Pages 415 - 434)

### Standards Assessment Sub-Committee

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#### MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 10 FEBRUARY 2022 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

#### **Present:**

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),  
Cllr Richard Britton, Cllr Sam Pearce-Kearney and Cllr Trevor Carbin (Substitute)  
Mrs Julie Philips (non-voting)

#### **Also Present:**

Lisa Alexander – Democratic Services  
Frank Cain – Head of Legal Services  
Maria Doherty – Head of Democracy & Governance & Deputy MO  
Tony Drew – Independent Person  
Damian Kearney – Independent Person  
Henry Powell (remotely) – Democracy & Complaints Manager  
Subject Member CoC137643

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#### 37 **Apologies**

Apologies were received from:

- Cllr Gordon King, who was substituted by Cllr Trevor Carbin

#### 38 **Minutes of the Previous Meeting**

The minutes of the meeting held on 25 November 2021 were presented for consideration, and it was,

#### **Resolved**

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

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

There were no declarations.

#### 40 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria for the meeting were noted.

#### 41 **Exclusion of the Public**

It was,

**Resolved:**

**To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute Numbers 41-46, because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.**

42 **Assessment of Complaint: COC137643**

Preamble

A complaint had been made by Cllr Iain Wallis (The Complainant) of Devizes Town Council against Councillor Edward East (The Subject Member), also of Devizes Town Council.

The allegation was that the Subject Member had used his official role to confer a disadvantage to the Complainant in that:

- a) That the Subject Member refused to allow the Complainant to speak during Town Council Meetings on three separate occasions, the most recent being during the meeting of the Town Council on the 4th January 2022; and
- b) That the Subject Member stated to the Complainant his “Contribution has no value” during the meeting of the Town Council on the 4th January 2022.

Assessment

In assessing the complaint, the Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was a member for the period of allegations and remains a member of Devizes Town Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

Discussion

The Sub-Committee noted that the various allegations arose out of the council’s review of its Social Media Policy.

The Sub-Committee also noted that due to the recent advancement and regular use of Social Media sites both locally and globally, many Councils were currently reviewing Policies to bring them in line with current usage and ways of working and that the review was not a result of an individual incident or members actions.

The Sub-Committee further noted that the Subject Member and the Complainant represented different political parties on the Town Council and therefore there was likely to be differing viewpoints as to why actions may or may not be taken by the other.

The Sub-Committee also considered the comprehensive assessment provided by the Independent Person, including publicly available details relating to a local Social Media site for the Devizes area which it was reported that the Complainant was the administrator.

The Sub-Committee considered the allegations relating to the Subject Member, in his role as Chairman, preventing the Complainant, who was not a committee member, from speaking at the Community and Civic Resources (CCR) Committee meeting on 4 January 2022. The Sub-Committee noted that all Devizes Town Council Members, not on the CCR Committee were able to submit comments on the draft Policy ahead of the meeting, and were in addition invited at the meeting, to submit comments on the draft policy to the Chairman for consideration by the working group.

The Sub-Committee further considered the background and response of the Subject Member to the allegations and noted that the Subject Members intention to send the draft Policy back to a working group for further review, and his interpretation of Standing Orders relating to speakers at the meeting, had steered his initial decision not to take comments from those in attendance, however, it was also noted that the Complainant had then been allowed to make a brief statement to the Committee.

The Sub-Committee noted that there was no direct evidence to support the allegations that there had been other occasions where the complainant had been stopped from speaking, and that the timeframe of such other alleged incidents would fall outside of the time frame prescribed under the arrangements for dealing with Code of Conduct complaints adopted by the Council. Therefore, the Sub-Committee determined that it was not able to include those elements in its considerations.

The Sub-Committee determined that the actions did not reach the threshold to amount to a breach of the Code of Conduct and therefore there was no justification for referring the complaint for investigation and therefore determined that no further action should be taken on the complaint.

### Conclusion

The Sub-Committee noted that the behaviour appeared to arise out of a historic clash of styles and personalities between the Complainant and the Subject Member.

The Sub-Committee concluded that the alleged behaviour would not amount to a breach, and that it was not appropriate under the assessment criteria to refer the matter for investigation and therefore there should be no further action on the complaint.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

**Resolved:**

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action on the complaint.**

43 **Assessment of Complaint CoC137460**

Preamble

A complaint had been made by Mr Michael Glover (The Complainant) against Councillor Gary Rowitt (The Subject Member), of Dinton Parish Council.

The allegation was that the Subject Member had, in chairing the meeting, “shouted him down” when the Complainant was attempting to correct the Subject Member’s response to the questions he had asked under Public Participation.

The Complainant also alleged that this denied him the permitted three minutes speaking time.

As a result of this behaviour, it was alleged the Subject Member was in breach of the following paragraphs of the Code of Conduct:

- 2.1 I do not bully any person.
- 5.1 I do not bring my role or local authority into disrepute

The Complainant also alleged that the Subject Member had failed to adhere to the council’s Financial Regulations. However, this was an internal parish council matter and was not dealt with as part of the complaint.

Assessment

In assessing the complaint, the Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was a member for the period of allegations and remains a member of Dinton Parish Council, that a copy of the relevant Code of Conduct was



provided for the assessment, and that they were acting in their capacity as a Member during the alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

### Discussion

The Sub-Committee noted the background to and detail of the allegations in relation to the actions of the Subject Member, in his role of Chairman of Dinton parish council at the meeting held on 13 December 2021.

The Sub-Committee considered the input by the Independent Person.

The Sub-Committee considered the timings which were recorded in the minutes of the meeting, in relation to the period the Complainant was present and spoke for when he read his statement, of which a copy had been provided. It was noted that once a speaker had read a statement, whether or not the whole 3-minute time allowance had been used up, that ended their right to address the Committee. There was no right for members of the public attending the meeting to subsequently interrupt the meeting.

The Sub-Committee considered the allegations relating to the Subject Member raising his voice at the meeting and noted that the role of a chairman did require him to maintain order during periods of disruption and on occasions this may involve a chairperson having to raise their voice to allow themselves to be heard over any disruption occurring in the meeting.

The Sub-Committee also considered whether it would be in the public interest to investigate the matter in relation to a possible standards breach and agreed that as the Subject Members actions as alleged, would not amount to a breach of the code of conduct, an investigation was not warranted.

### Conclusion

The Sub-Committee noted that the behaviour appeared to arise out of a historic clash of personalities between the Complainant who had previously been involved with the Emergency Planning work on behalf of the parish council and the Subject Member.

The Sub-Committee noted that the Subject Member as Chairman of a council meeting was required to keep order during periods of disruption and that on occasion raising his voice would be necessary to be heard over the raised voices of others in attendance.

The Sub-Committee noted that the 3-minute time slot permitted for registered speakers was actually 'up to' 3 minutes and if the entire 3 minutes was not used during the reading of the statement then the remainder was not available to be

used to come back for a second go to answer or ask further questions of the Committee. Therefore, as the statement was read in its entirety, the Subject Member, as chair, was entitled to decline to give the Complainant further speaking time and also to bring the meeting back to order.

The Sub-Committee therefore found that the alleged behaviour, if proved, would not amount to a breach of the Code and determined to take no further action.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

**Resolved:**

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action on the complaint.**

44 **Update on Complaints - CoC128512, CoC128671 & CoC128825**

The Sub-Committee received an update from the Head of Legal Services, on complaints CoC128512, CoC128671 and CoC128825 and it was,

**Resolved:**

**To note the update on COC128512, COC128671 and COC128825 and to receive further updates on the agreed Alternative Resolution when available.**

45 **Update on Complaint - CoC131319**

The Sub-Committee received an update on Complaint CoC131319, from the Head of Legal Services.

During the discussion on the decision of the Monitoring Officer, the Sub-Committee questioned the level of interest that the Subject Member had with regards to the matter being discussed at the council meeting in question.

The Sub-Committee also noted that the Subject Member, although as stated in the update, was no longer a member of the Salisbury City Council (SCC), did still remain a member of Wiltshire Council and therefore still held a position of public office. Discussion around the public perception of the reasons for the decision on the complaint, raised some concern.

The Sub-Committee asked the Head of Legal Services to clarify whether there were options available to them, other than to note the update, should they not agree with the decision.

The Head of Legal Services clarified that the investigation which had been carried out had determined that the level of interest the Subject Member had was a personal interest and that despite the interest not being a pecuniary interest, it should have been declared by the Subject Member for openness.

The Head of Legal Services then identified that the decision of the Monitoring Officer had been based on a recent High Court decision where the Judge had ruled that as the Subject Member had ceased to be a member of a council, the complaint would stop.

The Sub-Committee queried the criteria, in particular the option of 'exceptional circumstances' as set out at 3.1 c:

- That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint.

The Head of Legal Services noted that in light of new case law, the criteria may need to be reviewed and that he would take the matter back to the Monitoring Officer for consideration.

It was,

**Resolved;**

**To note the update on Complaint COC131319.**

(Duration of meeting: 10.30 - 11.16 am)

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)

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## STANDARDS COMMITTEE

### PROCEDURAL RULES FOR THE ASSESSMENT SUB-COMMITTEE

#### 1 Purpose

- 1.1. These rules have been prepared to facilitate proper consideration by the Standards Committee's Assessment Sub-Committee, when making assessment decisions in respect of Code of Conduct complaints ('the Assessment') and receiving details of completed investigations.
- 1.2. The rules set out a framework for how Assessments are to be conducted and explain the role of the participants at the Assessment.

#### 2. Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Review:
  - **'Subject Member/Member'** means a member of Wiltshire Council, or of a parish, town or city council within the Wiltshire Local Authority area, against whom a complaint has been made under the Code of Conduct.
  - **'Complainant'** means the person(s) who have lodged a complaint against the conduct of a Member
  - **'Council'** means Wiltshire Council.
  - **'The Monitoring Officer'** is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the arrangements for dealing with complaints of member misconduct. It includes any officer nominated by the Monitoring Officer to act on his or her behalf in that capacity.
  - **'Democratic Services Officer'** means the Council's Officer who is present at an Assessment Sub-Committee meeting to take minutes and advise on procedure.
  - **'Independent Person'** means a person appointed under Section 28(7) of the Localism Act:
    - a) whose views must be sought and taken into account before a decision is made on an allegation of member misconduct under these arrangements;
    - b) who may be consulted by the Member about the complaint.
  - **Assessment** means a review of the complaint and any written response by the subject member to consider whether on the papers the complaint merits a formal investigation as set out in paragraph 4.1 and the following provisions of Protocol 12 of the Wiltshire Council Constitution (Arrangements for dealing with Code of Conduct Complaints).
  - **'Code of Conduct'** means the code of conduct for members which the Council and Parish Councils are required to adopt under Section 27 of the Localism Act 2011.
  - **'Local Assessment Criteria'** are the arrangements made under Section 28 of the Localism Act 2011. They set out the process for dealing with a

complaint that an elected or co-opted member of Wiltshire Council or of a parish, town or city council within its area has failed to comply with their Code of Conduct.

- **'Party'** means the Subject Member and the Complainant
- The **'Hearing Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to determine complaints of member misconduct under the arrangements in Protocol 12 of the Constitution..
- The **'Assessment Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to make determinations under sections 4 and 6 of the arrangements in Protocol 12 of the Constitution. This can include voting and co-opted non-voting members of the Standards Committee.
- The **'Constitution'** means the Constitution of Wiltshire Council, which includes rules on public participation at committees and the code of conduct complaints procedure.

### **3. The Assessment**

- 3.1. The Assessment is dealt with on the papers and is not to be treated as a hearing of the complaint itself, which can only be convened after an investigation has been concluded and a decision has been made under paragraph 6.1 of the arrangements for dealing with Code of Conduct Complaints referring the matter for hearing.

### **4. Attendance at Meetings**

- 4.1. The Assessment Sub-Committee is a committee of the Council and as such the meeting shall take place in public, However, the Sub-Committee may exclude the public from all or part of the Assessment, by passing a resolution in accordance with Section 100A(4) of the Local Government Act 1972, where it considers that there is likely to be disclosure of exempt information and that it is in the public interest to do so . Given the nature of the issues to be considered by the Sub-Committee it is very likely that such a resolution would normally be appropriate at this stage in the process.
- 4.2. The Complainant and the Subject Member, as parties to the Review, would not be covered by such a resolution to exclude the public and press and may attend the Assessment Sub-Committee. However, the Sub-Committee will normally retire to consider their decision and return to inform the parties of their decision.
- 4.3. If a party has informed the Council that they do not intend to attend the Sub-Committee meeting, or have not given any indication as to whether or not they intend to attend, the Assessment will proceed in their absence. As it is an assessment on the papers, no adverse inference will be drawn from any parties' non-attendance at a meeting.
- 4.4. If a party has indicated an intention to attend the meeting, but is not present at the start of the meeting, the Assessment will proceed in the absence of that party, unless the Sub-Committee considers it necessary to adjourn the meeting to enable the party to attend and make their representations.

- 4.5. If a party does not intend to attend and speak to the meeting, they may submit a short written representation that will be taken into account by the Sub-Committee in reaching their decision.
- 4.6. In addition to the Sub-Committee members and any co-opted member, the meeting may be attended by one or more Independent Persons, Democratic Services Officer(s) and the Monitoring Officer.

## **5. Procedure**

- 5.1. The Complainant and the Subject Member (or their representative) will be permitted up to three minutes to make any statement. If there is more than one complainant or subject member present, then, subject to the discretion of the Chairman, the maximum total time for statements by all complainants shall be three minutes. Any statements made should relate to the specific issues being considered by the Assessment Sub-Committee and should not raise any new issues or allegations.
- 5.2. Complainants and subject members for each complaint will be brought before the sub-committee to make a statement separate from any other complaint, except in the case of the same complaint submitted against multiple members
- 5.3. The Monitoring Officer will provide reports on any complaint that is to be assessed.
- 5.4. The report shall contain a summary of the complaint, supporting evidence, and response of the subject member, which aspects of a relevant code are alleged to have been breached, and options on whether to refer the complaint for investigation, dismiss the complaint, refer for alternative resolution, with reasoning for any recommended outcome.
- 5.5. The reports will also include in full any relevant material and supporting evidence provided by the complainant or subject member
- 5.6. No new documentation is to be introduced at the Sub-Committee meeting without the agreement of the Sub-Committee. New documentation should only be admitted if is considered by the Sub-Committee to be essential to its consideration of the issues in the Assessment
- 5.7. The Sub-Committee may take into account written representations made by, or correspondence from, a party that have been received since the publication of the agenda, where it is considered that this will assist the Assessment.
- 5.8. No questioning of the parties will be permitted, other than by the Sub-Committee with the agreement of the Chairman, to seek clarification of any point that has been made
- 5.9. Following any statements by the parties, the Assessment Sub-Committee will normally withdraw, with the Independent Person(s) if in attendance, and relevant officers, to consider the case.
- 5.10. Taking into consideration the documents provided, namely the original complaint, response of the Subject Member and any relevant additional material, the Sub-Committee will apply the tests required under paragraph 3 of the local assessment criteria, namely whether:
  - a) the complaint is about the conduct of a member of a council within the area of Wiltshire Council;

- b) the member was a member at the time of the incident giving rise to the complaint;
- c) the member remains a member of the relevant council; or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;
- d) a Code of Conduct is in force for the relevant council and provided;
- e) the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

5.11. If the Sub-Committee are not satisfied that the criteria in a-e above are met, the complaint will be assessed as requiring no further action.

5.12. If the Sub -Committee are satisfied that a-e in para 5.7 above are met, they shall consider whether, under the rest of the local assessment criteria, the complaint should proceed to investigation. The Sub-Committee may also recommend any other suitable action, including mediation.

5.13. Before making any decision, the sub-committee will have regard to the views of an Independent Person. The Independent Person, if in attendance, may contribute to the discussion of the Sub-Committee at any time

## **6. Decision**

6.1. The parties will be informed of the Sub-Committee's decision once it has been made and a full decision with written reasons shall be sent to the Complainant and Subject Member as soon as practicable thereafter.

## **7. Post-Investigation**

7.1. If , following an investigation, the outcome of that investigation is a finding of no breach, the Monitoring Officer will prepare a report and recommendation to the Assessment Sub-Committee. This will be considered using the same procedure as detailed above.



## Assessment Sub-Committee Meeting Procedure Summary

1. If appropriate, the Chairman invites those present to introduce themselves.
2. The Chairman outlines the Assessment Procedure as set out in the Agenda, makes any relevant announcements and asks for any declarations of interest.
3. The Sub-Committee determines whether to pass a resolution to exclude the press and the public from the rest of the meeting.
4. Each complainant and subject member will be given the opportunity to make a statement to the Sub-Committee of up to three minutes for each party. In the interests of confidentiality the subject members and complainants for separate complaints will be brought before the assessment sub- committee separately. A complaint made multiple members may be considered together.
5. The Monitoring Officer presents a report for each complaint requiring assessment.
6. Taking into consideration the evidence, namely the original complaint, response of the Subject Member and any relevant additional material submitted in the request for a review of the initial assessment, the Sub-Committee will then apply the tests required under paragraph 3 of the local assessment criteria, namely whether:
  - a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
  - b) That the member was a member at the time of the incident giving rise to the complaint;
  - c) That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;
  - d) That a Code of Conduct for the relevant council is in force and has been provided;
  - e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.
7. If the criteria in 6 a) to e) are met, the Sub-committee will consider whether, under the local assessment criteria, they feel the complaint should be referred for investigation or other suitable action, including mediation, or whether the complaint should be dismissed or no further action should be taken.
8. The Sub-Committee will request and receive the views of an Independent person in person or in writing at the beginning of their discussion.

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## **STANDARDS COMPLAINTS ASSESSMENT CRITERIA**

The Monitoring Officer and Assessment Sub-Committee will adopt the approach and apply the criteria set out below in the assessment of complaints under locally adopted Codes of Conduct for Members.

### **1. Relevance**

1.1 The criteria and procedures set out in this document only apply to complaints made against individual members that fall within the relevant code of conduct. It is likely that complaints will be received by the Monitoring Officer which do not relate to local codes of conduct for members. These might include complaints relating to the provision of services by councils; matters relating to the council as a corporate body (including decisions made by the council); or matters which should be dealt with under a council's complaints procedure. They may be complaints relating to council employees, other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee.

1.2 Where complaints are received that are outside the scope of these procedures, the Monitoring Officer will advise the complainant that they cannot proceed under local codes of conduct, but that the complainant should contact the relevant council in order to bring a complaint under the appropriate alternative complaints procedure, where available.

### **2. Alternative resolution**

2.1 The Monitoring Officer or Assessment Sub-Committee will always consider whether an alternative means of resolving the complaint would be appropriate.

### **3. Initial Tests**

3.1 Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that:

- a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
- b) That the member was a member at the time of the incident giving rise to the complaint;
- c) That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;

- d) That a Code of Conduct for the relevant council is in force and has been provided;
- e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

3.2 If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

#### **4. Sufficiency of information**

4.1 As any assessment will be conducted solely on the papers provided, it is essential that the complainant provide sufficient information to enable the subject member and those responsible for assessing the complaint to understand the substance of the complaint. If insufficient information is provided, the Monitoring Officer will not normally proceed with consideration of the complaint. It is the responsibility of the complainant to provide any supporting evidence for their complaint to justify a full investigation.

4.2 If the complaint meets the criteria set out in 3. a-e above, and the complainant has provided sufficient information to enable the issues complained of to be understood, the Monitoring Officer will send a copy of the complaint to the subject member and ask for the subject member's comments. When these have been received, the Monitoring Officer will consider the complaint and provide a report and recommendation on it to the Assessment Sub-Committee, together with copies of the original complaint ( and any supporting documentation) and the Subject Member's response.

4.3 At this assessment stage, the Assessment Sub-Committee will not normally consider any further representations or correspondence from either the complainant or subject member.

#### **5. Seriousness of the Complaint**

5.1 A complaint will not be referred for investigation if, on the available information, it appears to the Assessment Sub-Committee to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

5.2 A complaint will not normally be referred for investigation if the subject member has offered an apology, a reasonable explanation of the issues, or if the Assessment Sub-Committee takes the view that the complaint can reasonably be addressed by other means.

5.3 Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer or Assessment Sub-Committee to be appropriate, particularly in

cases where a subject member is no longer a member of a relevant council.

## **6. Length of Time Elapsed**

6.1 A complaint will not be referred for assessment when it is made more than 20 working days from the date upon which the complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint. Any such complaint will be dismissed by the Monitoring Officer, and will not be referred to the Assessment Sub-Committee, although the Monitoring Officer retains the discretion to refer a complaint for assessment that would otherwise be out of time, in exceptional circumstances.

6.2 In any event, the Assessment Sub-Committee may decide not to refer a complaint for investigation where, in their opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interests of justice to proceed.

## **7. Anonymous Complaints**

7.1 Anonymous complaints will not be accepted for consideration unless the Monitoring Officer is satisfied that there would otherwise be a serious risk to the complainant's personal safety, in which case the Monitoring Officer will decide how the complaint should be taken forward.

## **8. Multiple Complaints**

8.1 A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Assessment Sub-Committee at the same time. Each complaint will, however, be considered separately. If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

## **9. Confidentiality**

9.1 All information regarding the complaint will remain confidential to the parties until determined otherwise by the Monitoring Officer, Assessment Sub-Committee or Hearing Sub-Committee.

## **10. Withdrawing Complaints**

10.1 A complainant may ask to withdraw their complaint before it has been assessed.

10.2 In deciding whether to agree the request the Monitoring Officer will consider:

- a) the complainant's reasons for withdrawal;
- b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it;
- c) whether action, such as an investigation, may be taken without the complainant's participation.

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