

AGENDA

Meeting: Standards Assessment Sub-Committee

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

Date: Tuesday 18 April 2023

Time: 2.00 pm

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

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

Membership:

Cllr Ruth Hopkinson (Chairman)
Cllr Ernie Clark (Vice-Chairman)
Cllr Richard Britton
Gordon Ball
Kathy Barnes (non-voting)

Cllr Gordon King
Cllr Sam Pearce-Kearney

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.

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AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

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

To approve the minutes of the meeting held on 16 March 2023.

3 **Declarations of Interest**

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

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

To note the procedure and assessment criteria for the meeting.

5 **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.

6 **Investigation of Complaint COC142188** (Pages 23 - 150)

7 **Assessment of Complaint: COC144807** (Pages 151 - 222)

8 **Assessment of Complaint: COC144873** (Pages 223 - 264)

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Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 16 MARCH 2023 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Richard Britton and Cllr Gordon King
Kathy Barnes (non-voting), Joanne Cetti (non-voting)

Also Present:

Tony Drew (Independent Person), John McAllister (Independent Person), Henry Powell (Democracy and Complaints Manager)(Virtually), Jo Madeley (Head of Legal Services-Deputy Monitoring Officer), Maria Doherty (Head of Democracy, Governance and Customer Services-Deputy Monitoring Officer), Lisa Alexander (Senior Democratic Services Officer), Max Hirst (Democratic Services Officer).

Present to deliver verbal statements only:

Cllr Kevin Daley (Subject Member COC143439)
Mr Kyle Meredith (Complainant COC143439)

95 **Apologies**

Apologies were received from:

- Cllr Ernie Clark
- Cllr Sam Pearce-Kearney

96 **Minutes of the Previous Meeting**

The minutes of the meeting held on 15 December 2022 were presented for consideration, and it was,

Resolved:

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

97 **Declarations of Interest**

In relation to COC143439, for openness, Councillor Richard Britton noted that he was a member of the Salisbury Conservative Association, which the Subject Member was chairman of, however he had no personal relationship with the Subject Member. As this did not constitute an Interest, Councillor Britton took part in the consideration and vote on this complaint.

In relation to COC144062, Councillor Gordon King noted that he was in attendance at the LHFIG meeting referred to in the complaint, and as such, he would leave the room and not take part in the discussion or vote on that item when it was considered (this complaint was deferred).

98 **Meeting Procedure and Assessment Criteria**

The procedure and criteria were noted.

99 **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 53 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

100 **Assessment of Complaint: COC143439**

A complaint was submitted by Mr Kyle Meredith, the Complainant, regarding the conduct of Councillor Kevin Daley, the Subject Member, of Wiltshire Council. The complaint related to allegations that the Subject Member sent an email which was inappropriate in tone, attitude and overall approach to a real and serious issue and intentionally and repeatedly provided false information relating to the volume of customer parking around a public house close to the homes of the Complainant and the Subject Member.

Preamble

The Sub-Committee noted the reason for allowing the complaint after the 20 day timeframe as set out in Wiltshire Council's Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints and in paras 6-8 of the report.

The Sub-Committee was satisfied the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Wiltshire Council and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the 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.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, the report of the Monitoring Officer and the comments of the Independent Person who was in attendance.

The Sub-Committee also considered a verbal statement from the Complainant, and the Subject Member, who were both in attendance.

Discussion

The complaint involved allegations of an inappropriate email response and intentional provision of false information with regards to a parking issue raised by the Complainant and associated with a public house close to the Complainant's and the Subject Member's homes.

The Complainant alleged that the Subject Member had failed to take action regarding a parking issue, which the Complainant believed to represent a risk to public safety. It was further alleged that this may be because the Subject Member had a personal relationship with the public house.

The Complainant alleged that the Subject Member falsely accused him of providing the Police with misleading information and did not apologise for doing so when asked.

The Complainant also stated that, when responding to an email from the Complainant regarding the parking issue, the Subject Member raised the irrelevant matter of the Complainant's historic planning application. He alleged that to have details of this application the Subject Member must have obtained it through misuse of council resources or an abuse of access, through his status as a member of Wiltshire Council and specifically the, then, Portfolio Holder of Streetscene and Passenger Transport.

The Complainant also alleged that the Subject Member falsely accused the Complainant of parking his own vehicle on the road that he had subsequently objected to others parking on for about a year.

At the Sub-Committee meeting the Complainant clarified that the photographic evidence of the Complainant's car provided by the Subject Member in fact showed a different vehicle to the one which he owned at the time.

The Subject Member, in his response, queried why the complaint had been accepted when it had been received after the 20 working day period required under Protocol 11.

At the Sub-Committee meeting, the Subject Member questioned the complaints process, advising that he had not been contacted by one of the Council's statutory Independent Person and that he felt the complaint should have been dismissed by the Monitoring Officer on the grounds of being of an excessive

and vexatious nature, further adding that the local MP had also received enquiries from the Complainant regarding the parking matter.

The Subject Member stated in his response that the Complainant had parked for approximately one year in the area that he states should not be used by patrons of the public house for reasons of safety. The Subject Member also provided a photograph of this as evidence.

The Subject Member suggested that the Complainant had a long-term problem with the public house and had acknowledged that parking around the public house was a problem for the whole village.

In response to the allegations relating to the tone of his latest email, the Subject Member explained that there were only so many ways you could advise someone that if, in their opinion, a criminal offence has taken place, then they should report it.

In relation to the allegation of false information being provided, the Subject Member confirmed that it was his belief that the Complainant had lied to the Police regarding the advice given by the Subject Member.

The Subject Member confirmed that he, as the divisional member for the area, received notifications relating to local planning applications, as did every other Wiltshire Councillor for their division, as part of their role.

Conclusion

The Sub-Committee was satisfied with the reason set out by the Monitoring Officer regarding his decision to allow the Complaint to proceed though it was received two working days after the 20-working day deadline, as set out in the report. This was because the Complainant had contacted the Council about the complaint within the deadline but required advice on the correct complaints procedure to follow. The Sub-Committee also noted that the Subject Member's response to the Complaint was accepted for consideration by the Sub-Committee, though this was received after the given 10-working day deadline.

The Sub Committee noted para 3.5 under Protocol 11, that at any time during the complaints process the Subject Member had access to and may consult with an Independent Person designated to them, using the contact details provided.

The Sub Committee noted the high level of frustration felt by both parties, which it was felt had arisen partly due to the way in which the Subject Member had presented information within his email correspondence with the Complainant.

The Sub-Committee agreed that incidents of illegal parking were a Police matter, however, if there were no parking restrictions in place, the ongoing issue of excess parking associated with users of the public house was not the sole responsibility of the Subject Member to resolve, despite being understandably frustrating for local residents.

The Sub-Committee agreed that reference to a historical planning application of the Complainant made by the Subject Member was irrelevant to the parking issue and added no value to the correspondence. However, it was noted that planning applications were available publicly on the planning portal and that it was therefore normal for division members to be aware of planning applications within their areas.

The Sub-Committee agreed that if proven the alleged actions of the Subject Member would not represent a breach of the relevant Code of Conduct.

The Sub-Committee provided an advisory note in addition to the decision.

The Sub-Committee therefore resolved to take no further action in respect of the complaint.

It was;

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 in respect of the complaint.

Advisory

The Sub Committee suggested that the Subject Member reflects on his approach to responding to enquires from constituents to avoid future misunderstandings regarding what was within his scope as divisional member.

101 **Assessment of Complaint: COC144062**

This application was deferred due to the meeting being inquorate for this complaint.

102 **Assessment of Complaint: COC144389**

The Complainant related to actions of the Subject Member at a meeting of the Winsley Parish council on 7 February 2023.

Preamble

The Sub-Committee was satisfied the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Winsley Parish Council and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the 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.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, the report of the Monitoring Officer and the comments of the Independent Person who was in attendance.

The Subject Member and the Complainant were not present at the meeting and no additional statements were provided.

Discussion

The complaint involved two parts, firstly the Complainant alleged that the Subject Member, at a public meeting, used the term 'manpower' instead of using a gender-neutral term and secondly that the Subject Member tutted and laughed when the Complainant was speaking.

The Complainant alleged that through these actions the Subject Member was rude, acted inappropriately and has brought the council in to disrepute.

The Complainant expected a formal written apology from the Subject Member as well as a written explanation regarding his actions relating to speed limits in the area, however it was noted that the speed limit issue related to decision-making and therefore fell outside of the Standards regime.

The Subject Member in his response stated that the word 'manpower' had been used for generations to refer to 'the number of workers needed or available to do a specific job' and it was within that context in which he used the term. The Subject Member provided further examples of the terms use and stated that neither Winsley Parish Council or Wiltshire Council had any policy requiring the use of 'gender neutral' language.

Regarding the meeting in question, the Subject Member stated that the Complainant's tone towards volunteer members was an angry one, adding that in his view, volunteers that served their community should be treated with courtesy and that it was not the first time that the Complainant had been discourteous towards parish councillors, having in the past demanded by email, the resignation of councillors and officers.

Conclusion

The Sub-Committee agreed that during debate, at all levels of council and public meetings there was often a level of background response from attendees to indicate disagreement with the view being expressed. The Sub Committee agreed that whilst this could be interpreted differently by individuals, usually this type of this expression was not intended to be disrespectful.

The Sub-Committee noted that there was a high level of frustration felt by Complainant regarding ongoing issues relating to local speed limits as part of an Active Travel Plan, which may have led the Complainant to scrutinise the Subject Member. It was noted that decision making on highway matters did not fall under the remit of the Standards regime and therefore was not for the Sub Committee to take a view on.

The Sub Committee further noted that it was not aware of any policies requiring the use of gender-neutral terminology by councillors and agreed that the use of the term 'manpower' was not intended to be malicious or cause offence. It would therefore not be reasonable to hold the Subject Member to account for use of the term 'manpower' when it remains widely used.

The Sub-Committee agreed that if proven the alleged actions of the Subject Member would not represent a breach of the relevant Code of Conduct.

The Sub-Committee therefore, resolved to take no further action in respect of the complaint.

It was;

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 in respect of the complaint.

103 **Assessment of Complaint: COC144524**

In considering 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 Downton Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment and that they may have been acting in their capacity as a Member during some aspects of 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. Further, if it was felt it would be a breach, whether it was still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, the report of the Monitoring Officer and the comments of the Independent Person in attendance at the meeting.

No additional written or verbal statements were provided by the Subject Member or Complainant, and neither was in attendance at the meeting.

After discussion, it was:

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 refer the complaint for investigation.

104 **Assessment of Complaint: COC144650**

The complaint was postponed to a future meeting.

(Duration of meeting: 11.05 am - 12.35 pm)

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

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

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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