

## **Code of Conduct Complaints Comparison Case Study**

### **Purpose of Report**

1. To consider comparative data on Code of Conduct complaints from other local authorities.

### **Background**

2. The Localism Act 2011 introduced a new Standards Regime for local authorities. Full Council adopted new arrangements for resolving standards complaints against elected members in accordance with the Act on 26 June 2012, which came into effect on 1 July 2012.
3. On 21 February 2017 Full Council following review and recommendation of the Standards Committee made revisions to the arrangements, which are set out in Protocol 12 of the Constitution.
4. At its meeting on 26 September 2018 the Standards Committee requested that a review of other councils' arrangements for resolving Code of Conduct complaints be undertaken to enable consideration of whether further assessment and potential amendment to the arrangements was appropriate.

### **Comparison Data**

5. As an initial case study officers have investigated the standards arrangements and Code of Conduct complaints data, where available, from a number of those Unitary Authorities which comprise Wiltshire Council's statistical neighbours<sup>1</sup> and from a number of other similar or neighbouring authorities.
6. It was recognised that direct comparison between these authorities and Wiltshire Council would not in most cases be possible owing to the significant variation in Code of Conduct arrangements across local authorities.
7. For example, councils are not required to establish a dedicated Standards Committee, although some committee must oversee the relevant functions, and councils have different procedures in relation to how and when investigations can be conducted, stages of review of decisions (many, for instance, do not provide for reviews at all) and whether or not any hearings take place. This results in disparity of how outcomes are arrived at, and what outcomes are arrived at.
8. Information referenced or reproduced in this report have been obtained from that which is publicly available for each authority.

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<sup>1</sup> As calculated at the end of 2017 by the Chartered Institute of Public Finance and Accounting (CIPFA)

9. The data table is contained at **Appendix 1** to this report. It must be noted that as with the variance in procedures as described at paragraph 7, local authorities do not all record or publish data relating to their Code of Conduct complaints in the same fashion, or necessarily with any regularity, or across similar time frames. As such this data should be regarded as indicative as more intensive research and active cooperation of other local authorities across a wider time frame would be necessary to establish more consistent facts. Nevertheless, the publicly accessible indicative data does provide enough of a picture to enable some analysis and conclusion.
10. In most cases it was clear that total complaints received did not include complaints which had been rejected as unsuitable due to not meeting criteria and so which did not receive any form of assessment. Annualised data on number of outcomes would not always match the number of complaints received annually due to many not being concluded at year's end.

## **Analysis**

11. In requesting a review, the Committee was particularly interested in the following questions:
  - Is the number of complaints received in Wiltshire anomalously high or low compared to other authorities?
  - Is the ratio of complaints against unitary councillors vs complaints against town and parish councillors in Wiltshire seen in other authorities?
  - Are there any trends in the reasons for complaints received across the authorities?
  - Is the number of complaints referred for investigation in Wiltshire anomalously high or low compared to other authorities?
  - How many complaints go to hearings?

## Number of Complaints

12. For the calendar year 2017-2018 47 complaints were received against councillors, both unitary and parish, within the Wiltshire Council area.
13. This does not appear to be out of keeping with other authorities. The only unitary authorities of larger population than Wiltshire are Durham and Cornwall. Each currently has more unitary councillors than Wiltshire, but fewer parish councils. As can be seen in the appendix, Durham received 41 complaints for the municipal year 2017-2018, while Cornwall received 143. However, this was largely due to receiving 110 complaints against town or parish councillors, far more than any other authority within the case study.
14. Statistical neighbours such as Cheshire East and Cheshire West and Chester received 24 complaints for 6 months of 2018 and 17 across the municipal year respectively. Others such as the East Riding of Yorkshire and Herefordshire received 43 and 50 respectively across their municipal years 2017-18.
15. Broadly, considering particularly those authorities containing both a large population and a large number of parishes and extrapolating for the entire year

where annual data was not available, a number of complaints in the 30s and 40s is not uncommon. Other authorities such as Bath and North-East Somerset and Central Bedfordshire had notably lower complaints, but contain far fewer councillors against which to receive complaints.

16. As Wiltshire contains the greatest number of parishes complaints in the high 40s would appear unexceptional, although there are some which are lower. In previous years complaints in Wiltshire ranged from 24-79, though it has not been below 47 since 2013.

#### Ratio of Complaints

17. Of the 47 complaints received in Wiltshire for the calendar year 2018, 12 were against unitary councillors and 35 against town or parish councillors.
18. While there were exceptions such as in the City of York Council (which does include parishes), Bath and North-East Somerset and North-East Lincolnshire, most of the authorities analysed and for which there was available data received more complaints total against town and parish councillors than unitary councillors.
19. In Herefordshire, Cornwall and East Riding of Yorkshire, as well as estimated data in Shropshire, roughly three times as many complaints were submitted against town or parish councillors, a similar ration to that which occurs in Wiltshire.
20. Given the higher number of subjects who may be complained about, as well as situations where every member of a parish council may be complained about in reaction to a parish council decision rather than conduct of a member, this ratio would not seem to be a surprise and it would appear Wiltshire's levels of similar to that of other authorities.

#### Reasons for Complaints

21. Unfortunately, most of the authorities analysed did not appear to provide data on the types of reasons provided in the complaints that had been received.
22. Given the limited dataset and that with different Codes of Conduct to assess against and thus, to some degree, different types of reasons across the local authorities, it is not considered that the case study has identified any identifiable trend across authorities or sufficient data to suggest Wiltshire may be an outlier in terms of receiving a large number of complaints for specific reasons.
23. Such data as is available indicates high numbers of complaints against the Nolan principles of selflessness, openness, respect, and for failure to declare interests, which are not dissimilar to the highest reasons for complaints in Wiltshire ie inappropriate behaviour (including disrespect/bullying), non-disclosure of interests and slander/defamation of character.

## Investigations and Hearings

24. As in Wiltshire most local authorities looked at specified in their arrangements that full investigations would be reserved for serious complaints where alternative options for resolution are not considered appropriate, bearing in mind the public interest in efficient use of resources.
25. In Wiltshire, eight complaints have been referred for investigation across the calendar year 2017-18.
26. Most of the authorities analysed had investigations in the single digits, or even zero across a six-month period. This remained true even where the number of complaints was very high, as in Cornwall, or very low, such as Cheshire West.
27. The number of complaints referred to investigation in 2017/18 in Wiltshire was relatively high, however there are still some authorities such as East Riding of Yorkshire, Swindon and Cheshire East who have similar or higher numbers despite being smaller authorities. However, it would not appear that the number of investigations in Wiltshire is significantly at variance.
28. In respect of hearings very few were held across the authorities in question. Many had not held a hearing for many years (the last in Wiltshire was held 1 September 2016).
29. There were some authorities which did have six hearings within a municipal year, though it is unknown with further research if that was unusual for a single year. However, given the overall data, and the emphasis of many authorities on local/alternative resolution, and the known situation of some subject members resigning before conclusion of a matter, the very low number or lack of hearings within Wiltshire does not stand out among the data that has been obtained.

## **Conclusions**

30. Wiltshire does not receive an unusually high or low number of complaints, and the proportions of those received against unitary or town and parish councillors is likewise not unusual.
31. While the number of investigations undertaken in Wiltshire is high compared to many authorities, there are some which undertake even more.
32. Due to most authorities not having similar procedures in relation to reviews of decisions, it is not possible to assess whether the number of these is unusual.
33. The number of hearings across almost all authorities is low, although in part this may be due to a focus on alternative resolutions.

## **Safeguarding Implications**

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

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

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

### **Risk Assessment**

36. There are no significant risks arising from this report

### **Financial Implications**

37. There are no financial implications arising from this report.

### **Legal Implications**

38. There are no legal implications arising from this report

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

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

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

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

### **Proposal**

41. **To note the case study data and preliminary analysis set out in the report.**

### **Ian Gibbons, Director, Legal and Democratic Services (and Monitoring Officer)**

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Unpublished reports relied upon in the preparation of this report: None

### **Appendices**

Appendix 1 – Comparison of Local Authority Code of Conduct Complaints

### **Background Papers**

Various information from public council websites