

STANDARDS COMMITTEE

~~PROCEDURAL RULES FOR REVIEWS OF INITIAL THE ASSESSMENT DECISIONS OF CODE OF CONDUCT COMPLAINTS SUB-COMMITTEE~~

1 Purpose

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

Commented [EK1]: New purpose of committee

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 a ~~Reviewan 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.
- **Initial 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 **'ReviewAssessment Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to ~~review a decision of the Monitoring Officer~~ **make determinations** under sections 4 and 6 of ~~the arrangements~~ **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 **ReviewAssessment**

3.1. The **ReviewAssessment** 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 6.4 of the arrangements for dealing with Code of Conduct Complaints referring the matter for hearing.

~~Information submitted in a request for a review should be focused solely upon the substantive allegations of the original complaint.. If new allegations are raised in the review request, then these shall be dealt with in one of the following ways, to be determined by the Monitoring Officer:-~~

4. Attendance at Meetings

4.1. The **ReviewAssessment** 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 **ReviewAssessment**, 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.

Commented [EK3]: For emphasis

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 **ReviewAssessment** 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 ReviewAssessment will proceed in their absence. As it is a reviewan 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 ReviewAssessment 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 ~~representations~~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, ~~being someone other than the officer who made the initial assessment under review.~~

Commented [EK4]: No longer part of the procedure

5. Procedure

- ~~5.1. Prior to the Review commencing, the Chairman shall introduce the persons present and explain the procedure to be followed at the Review~~
- 5.2. 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.
- 5.3. 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
- 5.4. The Monitoring Officer will provide reports on any complaint that is to be assessed.
- 5.5. 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 a recommendation on whether to refer the complaint for investigation, dismiss the complaint, refer for alternative resolution, with reasoning for any recommended outcome.
- 5.6. The reports will also include in full any relevant material and supporting evidence provided by the complainant or subject member
- ~~5.4-5.7.~~ 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 ReviewAssessment

Commented [EK5]: For confidentiality

Commented [EK6]: New procedure

~~5.5.5.8.~~ The Sub-Committee may take into account written representations made by, correspondence from, a party that have been received since the publication of the agenda, where it is considered that this will assist the ReviewAssessment.

~~5.6.5.9.~~ 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

~~5.7.5.10.~~ Following any statements by the parties, the ReviewAssessment Sub-Committee will normally withdraw, with the Independent Person(s), if in attendance, and relevant officers, to consider the case.

~~5.8.5.11.~~ Taking into consideration the documents provided, 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 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.

~~5.9.5.12.~~ 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.

~~5.10.5.13.~~ 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.

~~5.14.~~ In reaching its~~Before making any decision, the Sub-Committee~~sub-committee will have regard to the initial assessment reasoning and decision-views of an Independent Person. The Independent Person, if in attendance, may contribute to the discussion of the Sub-Committee at any time

~~5.11.5.15.~~

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. ReviewPost-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

Commented [EK7]: No longer relevant

Commented [EK8]: To reflect updated assessment criteria

Commented [EK9]: So that the views of the IP may be made available even if they are not in attendance

Commented [EK10]: To report all outcomes to the committee.

Assessment Sub-Committee. This will be considered using the same procedure as detailed above.

Assessment Sub-Committee Meeting Procedure Summary

~~7. The Democratic Services Officer will request nominations for a Chairman for the Review.~~

Commented [EK11]: Standing chair/vicechair appointed annually

~~The Chairman welcomes all those present and introduces the Review.~~

1. ~~If appropriate, the Chairman invites the Sub-Committee Members, Council Officers, the complainant (if present), and the Subject Member (if present) to those present to introduce themselves.~~

Commented [EK12]: For simplicity

2. The Chairman outlines the ~~Review~~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. ~~The Complainant and Subject Member are~~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.~~

Commented [EK13]: To allow all parties to speak, while preserving confidentiality

~~5. The Sub-Committee retires to consider their decision.~~

~~5. The Monitoring Officer presents a report for each complaint requiring assessment.~~

Commented [EK14]: New procedure

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.

Commented [EK15]: To reflect assessment criteria

7. If the criteria in 8 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.

~~In~~Before reaching their decision the Sub-Committee will ~~have regard to~~request and receive the ~~initial assessment~~views of the ~~Monitoring Officer~~an Independent person in person or in writing.

Commented [EK16]: To ensure views of IP are known whether present or not