

## **Wiltshire Council**

### **Standards Committee**

**7 July 2020**

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#### **Code of Conduct Complaints - Status Report**

##### Statutory Background

1. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
  - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
  - The registration and disclosure of pecuniary and other interests
2. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a parish council within the council area, has failed to comply with the relevant Code of Conduct.

##### Council Structure and Procedures

3. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are now set out in Protocol 11 to the Constitution, the procedure having changed with effect from 1 January 2020.
4. On receipt of such a complaint the Monitoring Officer will review the complaint and prepare a report for the Assessment Sub-Committee. The Monitoring Officer may at this point decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest, including particularly the efficient use of resources, to proceed.
5. All valid code of conduct complaints received after 1 January 2020 are now determined by the Assessment Sub-Committee, following receipt of the report from the Monitoring Officer. The assessment sub-committee may conclude that no further action should be taken, it may refer the complaint for investigation or it may recommend that an alternative resolution be explored with the parties.
6. If the sub-committee determine that a formal investigation should be undertaken, an investigating officer is appointed by the Monitoring Officer. If the recommendation of the investigating officer is that there has been a breach of the Code of Conduct, and that alternative resolution is not appropriate, then the Monitoring Officer, after consultation with the Independent Person, will refer the matter to a Standards Hearing Sub-Committee. This committee will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member (the councillor who is the subject of the complaint). If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.

7. It should be noted that complaints received prior to January 1 2020, have been dealt with under what was then Protocol 12. Under this procedure all such complaints are subject to an initial assessment on behalf of the Monitoring Officer, having sought comments from the Subject Member. This initial assessment may conclude that no further action should be taken, it may refer the complaint for investigation or it may recommend that an alternative resolution be explored with the parties. Under this procedure both parties (the Complainant and the Subject Member) have a right to a review of the initial assessment. This is considered by the Review Sub-Committee of the Standards Committee.
8. The right to a review of the initial assessment no longer exists under the new procedures, the assessment having already been carried out by the Assessment sub-committee.
9. The full Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

#### Effect of Covid-19 Pandemic

10. In line with other committees of the council, during the coronavirus situation the Standards Review sub-committees and Assessment sub-committees were delayed until safe arrangements for meetings were devised or alternative arrangements could be made. Following discussions with group leaders, planning chairs and the constitution focus group, a new constitutional protocol was adopted by the Monitoring Officer under delegated powers in May and committee meetings could resume. Since that time there has been one online meeting of the Standards Review sub-committee and one online meeting of the new Standards Assessment sub-committee.

#### Summary of complaints received 7 November 2019 and 29<sup>th</sup> June 2020

11. Between 6 November 2019 and 29 June 2020, the Monitoring Officer received 38 complaints under the Code of Conduct. Of these complaints, 15 were received before 1 January 2020 and were dealt with under the previous protocol 12. 23 were dealt with under the new procedures set out in Protocol 11.
12. 8 concerned members of Wiltshire Council, while the remainder were against members of town and parish councils within the authority's area.
13. A summary of the number of cases received each month is attached at **Appendix 1**.

#### Cases dealt with under Protocol 12

14. Of the 15 cases dealt with under the previous procedure and assessed by, or on behalf of, the Deputy Monitoring Officer the decision to take no further action was made in 6 cases and 6 were withdrawn or resolved by alternative resolution.

#### Investigations

15. In this period, investigations have been carried out in respect of three complaints. The investigation reports are currently being considered by the Monitoring Officer.

#### 16. Reviews

17. Six complaints were considered by the Review Sub-Committee for the period

covered by this report.

#### Cases dealt with under Protocol 11

18. Of the 23 cases dealt with under the new procedure 3 have been withdrawn, one discontinued for lack of communication. 11 cases are pending.

#### Matters determined by Monitoring Officer under Paragraph 4.6 (trivial, vexatious, malicious or politically motivated)

19. In the period since 1 January 2020 when the new procedures came into force there have been 6 matters so determined by the Monitoring Officer or his representatives.

#### Investigations

20. In the period since 1 January 2020, the Assessment sub-committee have determined that 2 investigations take place.

#### Types of Complaint

21. The complaints received cover a number of issues. They all allege some form of inappropriate behaviour, such as failing to treat the complainant with respect, bullying or posting inappropriate remarks or material on social media. A number allege failure to declare interests.

#### Proposal

22. The Committee are asked:
- a. To note the current position on Code of Conduct Complaints
  - b. To consider whether there is any further or different information that they would wish to see in future updates

#### **Ian Gibbons, Monitoring Officer**

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Appendix 1 – Summary of Complaints