

Wiltshire Council

Standards Committee

7 October 2020

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 consider 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 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 substantial 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.
7. 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. There is no right of review of the assessment carried out by the Assessment

Sub-Committee.

8. The 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

9. In line with other committees of the council, during the coronavirus situation meetings of the Standards Committee 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 resumed. Since the last online Standards Committee meeting on 7 July there have been two online meetings of the Standards Assessment sub-committee.

Summary of complaints received

10. Between 30 June 2020 and 20 September 2020, the Monitoring Officer received 19 complaints under the Code of Conduct.
11. A summary of the number of cases received each month is attached at **Appendix 1**.
12. Of the 19 cases received 3 have been withdrawn and 5 have been put on short-term hold at the request of the complainant. 10 cases are pending.
13. Members may note that August had a higher number than normal. This relates to particular issue that has arisen in a particular Parish/Town Council which led to a higher than higher number of complaints that is normal.
14. Members should also note that out of a total of forty three complaints received between January and August fifteen have been resolved by being withdrawn/alternative resolution of by the new screening process under 4.6. This amounts to 34.8% of complaints resolved without the need for formal resolution. Of the fourteen complaints not on hold that were received between the end of June and 20 September 2020 three (21.4%) have been resolved without the need for formal resolution.

Determinations

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

In the period since the last meeting 2 matters have been so determined by the Monitoring Officer or his representatives.

- II. Investigations

In the period since the last meeting, the Assessment sub-committee have determined that 5 investigations take place (2 from complaints received in April, 2 from those received in May and 1 from a complaint received in June).

- III. No Further Action

In the period since the last meeting, the Assessment sub-committee have determined that no further action be taken on 4 matters (2 from June and 2 from July).

IV. Mediation

One matter from June has been referred for mediation by the Assessment sub-committee.

Types of Complaint

15. The complaints received since June 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.

Proposed increased Audit of Code of Conduct Complaints procedure

16. As a result of a review of the Code of Conduct Complaints Procedure by the Monitoring Officer in consultation with the chair, it is proposed that the chair in conjunction with the Monitoring undertake a regular random dip sampling of complaints received and actioned to ensure the level of quality and timeliness of the procedure is being maintained and the outcome of such random audit will be reported to the next available standards Committee

Proposal

17. 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
 - c. To note the additional monitoring of the Code of Conduct Complaints Procedure being developed

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Appendix 1 – Summary of Complaints