

Wiltshire Council

Standards Committee

18 April 2024

Code of Conduct Complaints – Status Report

Purpose

1. To provide an update on the Code of Conduct complaints received by the council since the Committee's last meeting.

Statutory background

2. 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.
3. 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 town or parish council within the council area, has failed to comply with the relevant code of conduct.

Council Code of Conduct procedures

4. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 11 to the Constitution, the procedure having changed with effect from 1 January 2020.
5. On receipt of such a complaint the Monitoring Officer will consider the complaint and, if appropriate, prepare a report for the Assessment Sub-Committee (ASC). The Monitoring Officer (MO) 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.
6. Where the Monitoring Officer determines that there is sufficient evidence to suggest that a breach may have occurred, code of conduct complaints are 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.
7. If the Assessment Sub-Committee determines 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.

8. The Standards Hearing Sub-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.
9. There is no right of appeal of the decision of the Assessment Sub-Committee or the Hearing Sub-Committee. However, parties are able to ask the Local Government and Social Care Ombudsman to review whether the council has followed its procedures correctly.
10. 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.

Summary of committee meetings

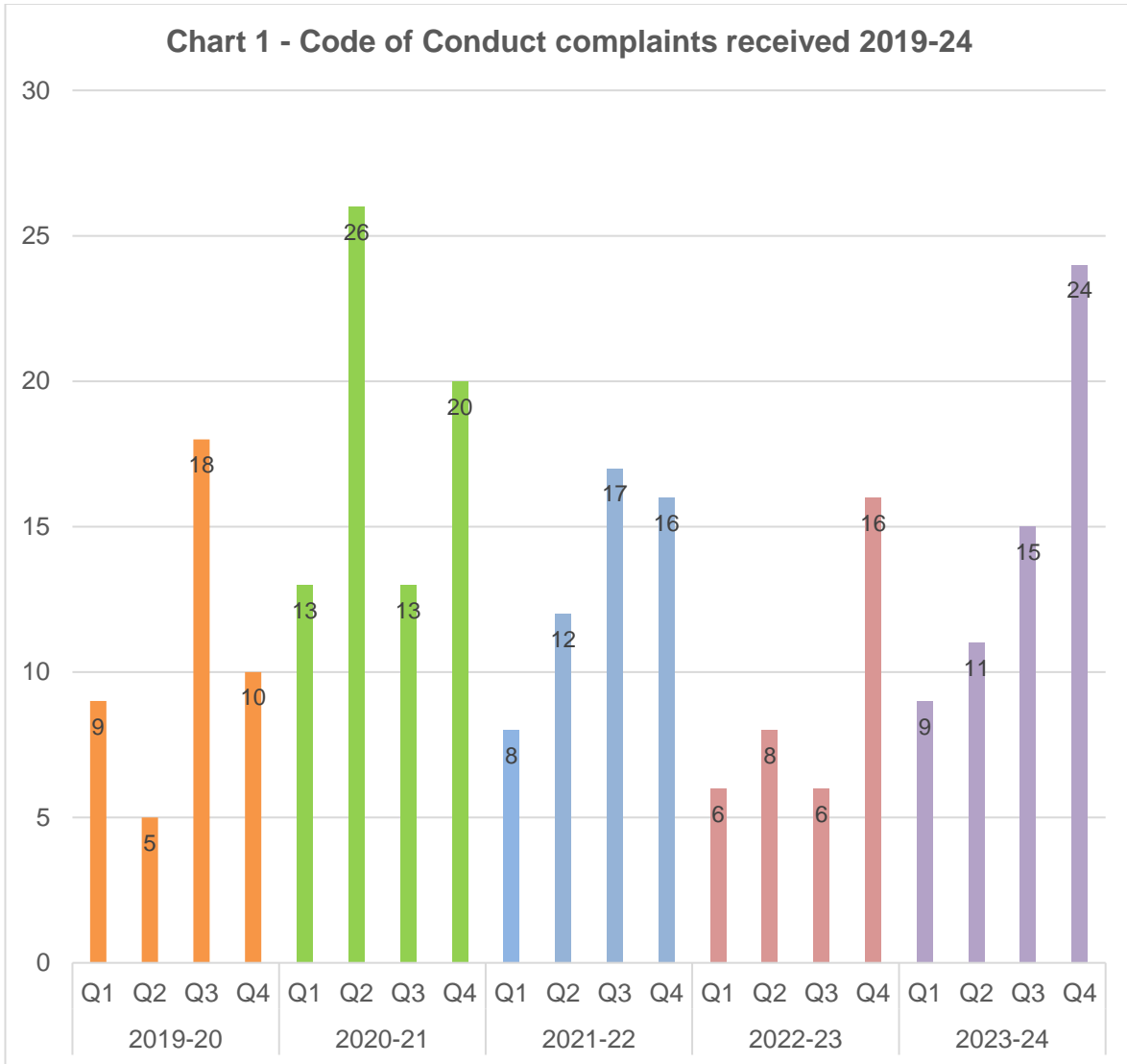
11. The last Standards Committee meeting took place on 3 October 2023. Since that meeting (and at the time of publication) there have been:
 - 3 meetings of the Standards Assessment Sub-Committee;
 - 3 meetings of the Standards Hearing Sub-Committee.
12. The next meeting of the Standards Assessment Sub-Committee is scheduled for 14 May 2023.

Summary of complaints received since 23 September 2023 (following publication of the 3 October 2023 meeting agenda)

13. Between 23 September 2023 and 8 April 2024, the Monitoring Officer received **44 complaints** under codes of conduct:
 - 4 were unable to proceed due to insufficient information being provided by the Complainant;
 - 2 were withdrawn by the Complainant;
 - 31 were determined as requiring No Further Action by the Monitoring Officer;
 - 1 was dismissed as 'out of time' by the Monitoring Officer;
 - 1 was resolved through Informal Resolution;
 - 2 were determined as requiring No Further Action by the Assessment Sub-Committee;
 - 3 were referred to the Monitoring Officer for Investigation, by the Assessment Sub-Committee.
14. The Monitoring Officer can determine No Further Action under paragraph 4.6 of Protocol 11 – Arrangements for dealing with Code of Conduct Complaints. This is applied where the Monitoring Officer determines that, on the information

available, the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest for further action to be taken, including particularly the efficient use of resources.

15. **Chart 1** shows the code of conduct complaints received since 2019:



Quarterly avg: 11 Quarterly avg: 18 Quarterly avg: 13 Quarterly avg: 9 Quarterly avg: 15
 2019-20 total: 42 2020-21 total: 72 2021-22 total: 52 2022-23 total: 36 2023-24 total: 59

Types of complaint

14. The 44 code of conduct complaints received during the reported timeframe can be broken down as follows (some containing multiple allegations):

- 15 were against **parish councillors**:
 - 9 x conduct on social media
 - 3 x lying
 - 3 x comments in an email/message
 - 3 x non-disclosure of interests

- 3 x making derogatory remarks
 - Disclosure of personal data
 - Trespass
 - Not replying to emails
 - Refusing to address parishioner concerns
 - Making threats
 - Bullying a fellow councillor
- 12 were against **town councillors**
 - 6 x conduct on social media
 - 2 x inappropriate comments in a meeting
 - Physical altercation
 - Refusing to address parishioner concerns
 - Self-referral complaint
 - Non-disclosure of interests
- 7 were against **city councillors**
 - 6 x conduct on social media
 - Inappropriate comments in an email
- 10 were against **unitary councillors**
 - 4 x inappropriate comments on internet
 - Inappropriate comments in a local newsletter
 - Non-disclosure of an interest
 - Bad-mouthing complainant to a neighbour
 - Leaving a meeting early
 - Slander

15. Of the three complaints referred by the Assessment Sub-Committee for investigation, all three related to comments made on social media.

Breaches of the Code of Conduct

16. Of the three complaints where the Investigating Officer concluded that a breach of the Code of Conduct had occurred, the Hearing Sub-Committee reached the findings and recommended the sanctions below. Minutes of Hearing Sub-Committee meetings are available to view on the council website [here](#).

Hearing 1

Findings:

2.1 I do not bully any person – BREACH

5.1 I do not bring my role or local authority into disrepute – BREACH

8.2 I cooperate with any Code of Conduct investigation and/or determination – NO BREACH

Recommended sanctions:

- a) That the Parish Council arrange training for the Subject Member regarding Code of Conduct matters, in particular relating to the role of a Councillor and when they could be considered acting in an official capacity, and regarding interactions with the media.
- b) That the Subject Member not be appointed to or remain on any planning related sub-committees or working groups established by the Parish Council, until such training has taken place.
- c) That the Parish Council publish the findings of the Hearing Sub-Committee, in the form of the decision notice, in the minutes of the next Parish Council meeting.

Hearing 2

Findings:

5.1 I do not bring my role or local authority into disrepute – BREACH

Recommended sanctions:

Noting the mitigating factors in this case, the Sub-Committee recommended no sanctions.

Hearing 3

Findings:

1.1 He/she shall behave in such a way that a reasonable person would regard as respectful – BREACH

2.1 He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory – BREACH

Recommended sanctions:

- a) To recommend the Censure of the Subject Member.
- b) To recommend the Hearing Sub-Committee minutes be published for information on the next Parish Council meeting agenda.

Complaint resolution speed

16. Under Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints, the council aims to assess all such complaints within **5 working days** of receiving the subject member's response. This is a challenging target as complaints can be complex, require legal input and include a large amount of background information that must be reviewed.

17. During the period reported, **32 complaints** were assessed by or on behalf of the Monitoring Officer (excluding those where insufficient evidence was provided) and this took an average of **5.8 working days**.

18. Complaints referred to Assessment Sub-Committee cannot usually meet the 5 working day timescale for assessment due to the need for a scheduled meeting. However, the council endeavours to inform complainants and subject members that the complaint will be assessed in this way, and of the Sub-Committee meeting date, as quickly as possible. During the period reported, **5 complaints** have been assessed or allocated for assessment by the Assessment Sub-Committee, with the parties informed of the Assessment Sub-Committee meeting date after an average of **1.6 working days** from the Subject Member's response being received or from the expiry of the deadline for providing one.

19. All of the complaints assessed by Assessment Sub-Committee were considered at the next scheduled meeting after the Subject Member's response was received (taking into account the required notice period regarding agenda publication).

20. **3 complaints** were referred for investigation by the Assessment Sub-Committee during this period.

21. Under Protocol 11, the council aims to complete Code of Conduct investigations within a total of 45 working days. This comprises 35 working days for the investigation report and a further 10 working days for the parties to submit their comments on it. The table below sets out the time taken for investigations commenced or completed since the last meeting:

Complaint reference (completion date)	Investigator assigned Target: 5 working days	Investigator's report sent to parties Target: 35 working days	Investigator's report sent to Monitoring Officer Target: 10 further working days	Investigator's report completed – total Target: 45 working days
COC144873 (27 Sep 2023)	6	82	9	91
COC145647 (19 Sep 2023)	6	48	5	53
COC146700 (9 Jan 2024)	3	37	10	47
COC149256 (5 April 2024)	4	42	6	48
COC150777 (in progress)	6	In progress	-	-

22. The Committee will note that completing investigations within the prescribed timescales has been challenging. This is due to their complexity, together with wider work pressures. Overall, the trajectory is positive with timescales for completion gradually reducing. As reported to the previous meeting, the Complaints team has significantly improved performance in completing corporate complaint investigations within set timescales, rising from 60% completed on time in 2021-22 to 92% in 2023-24.

Dip Sampling

17. A table of current cases was provided to the Chairman of Standards Committee on 15 January 2024. The next session is scheduled for 8 May 2024.

Proposal

18. The Committee are asked to note the current position on code of conduct complaints.

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Appendices

None.