

# AGENDA

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**Meeting:** Standards Assessment Sub-Committee

**Place:** [Access the online meeting here](#)

**Date:** Thursday 25 March 2021

**Time:** 10.00 am

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Please direct any enquiries on this Agenda to Kieran Elliott of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225) 713114/713115.

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## Membership:

Cllr Ruth Hopkinson (Chairman)  
Cllr Ernie Clark (Vice-Chairman)  
Cllr Richard Britton

Cllr Fred Westmoreland  
Cllr Stuart Wheeler

## Non-Voting Membership (Up to 2 per meeting):

Mr Richard Baxter  
Mr Philip Gill MBE

Mr Michael Lockhart  
Miss Pam Turner

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## Substitutes:

Cllr Derek Brown OBE  
Cllr Andrew Bryant  
Cllr Trevor Carbin  
Cllr Peter Evans  
Cllr Sue Evans  
Cllr Nick Fogg MBE  
Cllr Peter Fuller  
Cllr Howard Greenman  
Cllr Jon Hubbard

Cllr Chris Hurst  
Cllr Peter Hutton  
Cllr George Jeans  
Cllr Gordon King  
Cllr Brian Mathew  
Cllr Paul Oatway QPM  
Cllr Fleur de Rhé-Philippe MBE  
Cllr Graham Wright

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# AGENDA

## Part I

*Items to be considered when the meeting is open to the public*

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (Pages 5 - 14)

To approve the minutes of the meeting held on 11 February 2021.

3 **Declarations of Interest**

To receive any declarations of disclosable interests, or dispensations granted by the Standards Committee.

4 **Meeting Procedure and Assessment Criteria** (Pages 15 - 24)

To note the procedure and assessment criteria for the meeting.

5 **Exclusion of the Public**

To consider passing the following resolution:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Agenda Item Numbers 6 onwards, because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

*Paragraph 1 - information relating to an individual*

## Part II

*Items during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed.*

6 **Assessment of Complaint: COC129218** (Pages 25 - 74)

7 **Assessment of Complaint: COC132864** (Pages 75 - 114)

8 **Assessment of Complaint: COC133045** (Pages 115 - 136)

9 **Assessment of Complaint: COC133272** (Pages 137 - 160)

10 **Assessment of Complaint: COC133164** (Pages 161 - 188)

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### Standards Assessment Sub-Committee

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#### MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 11 FEBRUARY 2021 AT ONLINE MEETING.

##### Present:

Cllr Ruth Hopkinson (Chairman), Cllr Richard Britton, Cllr Fred Westmoreland,  
Cllr Stuart Wheeler and Mr Richard Baxter

##### Also Present:

Paul Barnett (Public Law and Compliance), Stuart Middleton (Independent Person),  
Lisa Moore (Democratic Services), Kieran Elliott (Democratic Services)

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#### 8 Apologies

Apologies were received from Councillor Ernie Clark and Mr Philip Gill MBE.  
Councillor Clark was substituted by Councillor Jon Hubbard.

#### 9 Minutes of the Previous Meeting

The minutes of the meeting held on 21 January 2021 were presented for  
consideration, and it was,

##### Resolved:

**To approve and sign the minutes as a true and correct record.**

#### 10 Declarations of Interest

There were no declarations.

#### 11 Meeting Procedure and Assessment Criteria

The meeting procedure and assessment criteria were noted.

#### 12 Exclusion of the Public

It was,

##### Resolved:

**To agree that in accordance with Section 100A(4) of the Local Government  
Act 1972 to exclude the public from the meeting for the business specified  
in Minute 13 onwards, because it is likely that if members of the public  
were present there would be disclosure to them of exempt information as  
defined in Paragraph 1 of Part I of Schedule 12A to the Act and the public**

**interest in withholding the information outweighs the public interest in disclosing the information to the public.**

13 **Assessment of Complaint: COC132261**

Preamble

A complaint was received from Michael Booley (the Complainant) regarding the conduct of Councillor Marliyn Ty (the Subject Member), a Member of Box Parish Council.

The complaint was centred around the publication of a Facebook post to a community site, which had been uploaded by the Complainant and detailed a photo of a Beefeater with a reference to 'taking the knee'. The Complainant stated that the Subject Member breached the Box Parish Council Code of Conduct when she removed the post from the site and thereafter not responded to messages.

It was alleged that as a result the Subject Member had breached the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership has also breached the relevant code under paragraphs 1, 2, 3 and 4.

The Subject Member contended that they were not acting in their capacity of a Parish Councillor, but instead as the administrator of a community run Facebook group, which was not political or affiliated with the parish council.

Discussion

The Sub-Committee were satisfied that although the complaint had been received beyond the 20 day period from when the complainant first became aware of the matters giving rise to complaint, as this was the result of approaches to other parties for resolution and to technological issues not the fault of the complainant, the complaint should be considered under Protocol 11.

It was not considered, however, that the initial tests of the assessment criteria had been met, in that the Sub-Committee considered that on the available evidence the Subject Member had not been acting in her capacity as a member of Box Parish Council at the time of the alleged actions, but as a member of the community in her capacity as an administrator of the Facebook site mentioned.

The Facebook site in question was an open community site, set up by the Box Parish Discussion Group, as opposed to a restricted site which a Parish Council or parish councillor might operate. It was identified that followers of the site were able to upload posts initially without any restrictions or control and that whilst members of the Parish Council had used the site on occasion in the past to comment on local matters as the complainant had noted, the site was not managed on behalf of the Parish Council, which had been further clarified on the site.

Accordingly, whilst the Subject Member might act in her capacity as a parish councillor on the site occasionally, this did not mean that every action as a site administrator was itself taken in that capacity.

The Sub-Committee therefore decided that as the Subject Member was not acting in her capacity as a Member of Box Parish Council in this instance, the Code of Conduct could not be applied, and therefore the Complaint was dismissed.

They did not consider the allegation of a failure to respond to communications, would itself rise to a level of a breach of the Code.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered a written statement from the Complainant provided prior to the Assessment Sub-Committee meeting on 11 February 2021. Neither party was in attendance.

### Conclusion

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged actions of the Subject Member were carried out in her capacity as a Parish Councillor and as such the Code of Conduct could not be applied.

Therefore, it was,

### Resolved:

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.**

## 14 Assessment of Complaint: COC132602

### Preamble

A complaint was received from Jennifer Cowley (The Complainant) regarding the conduct of Councillor Adrian Andrews (The Subject Member), a Member of Stanton St Quinton Parish Council.

The Complainant alleges that within a response submitted, by the subject member, to Wiltshire Council (rights of way and definitive map team) on 10 December 2020 in respect of a Village Green application the subject member has libelled the complainant and her siblings.

It was alleged that as a result of his actions, the Subject Member had breached

the Council's Code of Conduct by:

- a) not promoting or supporting high standards in his public office (localism Act 2011 and general principles), and/or
- b) Failing to have regard to the Nolan Principles and in particular integrity, honesty objectivity and Leadership.
- c) Behaved in such a way that a reasonable person would consider as disrespectful (Article 1).
- d) Behaved in such a way that a reasonable person would consider as bullying (Article 2)
- e) Sought to improperly confer a disadvantage on the complainant and his family (Article 3).
- f) Failed to use the resources of the Council in accordance with its requirements (Article 4).

### Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Stanton St Quinton Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered a written statement from the Complainant provided in advance of the Assessment Sub-Committee meeting. Neither party was in attendance.

The Complaint was considered alongside Complaints COC132602 and COC132720, which involved the same Subject Member and alleged facts.

The Sub-Committee noted that the complainant alleged that a libel had been committed against her by the Subject Member. Whilst it was not a matter for the Sub Committee to determine if a libel had occurred, it was for the Sub-Committee to consider whether, if the alleged circumstances giving rise to such a claim of libel were proven, these would amount to a breach of the Code of Conduct.



The Sub-Committee-considered the subsequent actions of the Subject Member following the alleged incidents, in that upon reflection he had acknowledged that some of his comments were ill-judged and had amended his Village Green submission by removing text and photographs which had caused upset. In addition, he had made a public apology at the meeting of the Parish Council on 13 January 2021, which was published in the minutes.

The Subject Member had therefore acknowledged his words and actions may have been inappropriate and issued a public apology, albeit that apology had been directed to only the complainant for this complaint, rather than all three complainants individually. The Sub-Committee noted the Subject Member had stated in response to the complaint that his apology was to 'the complainants (and anyone else affected)' and that this acknowledgement and apology would be publicly available through this decision notice.

The Sub-Committee noted that the Subject Member had already carried out actions that may have been requested upon the outcome of an Investigation or hearing, and therefore did not consider it was in the public interest to refer the matter for investigation

It was therefore,

**Resolved:**

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.**

15 **Assessment of Complaint: COC132564**

**Preamble**

A complaint was received from Malcolm Reeves (The Complainant) regarding the conduct of Councillor Adrian Andrews (The Subject Member), a Member of Stanton St Quinton Parish Council.

The Complainant alleged that within a response submitted, by the subject member, to Wiltshire Council (rights of way and definitive map team) on 10 December 2020 in respect of a Village Green application the subject member, "put into the public domain and public record, and have distributed at the public expense, lies, untruths, and false information about him and his family. These lies amount to libel and harassment and incitement to hatred".

It was alleged that as a result of his actions, the Subject Member had breached the Council's Code of Conduct by:

- a) not promoting or supporting high standards in his public office (localism Act 2011 and general principles), and/or

- b) Failing to have regard to the Nolan Principles and in particular integrity, honesty objectivity and Leadership.
- c) Behaved in such a way that a reasonable person would consider as disrespectful (Article 1).
- d) Behaved in such a way that a reasonable person would consider as bullying (Article 2)
- e) Sought to improperly confer a disadvantage on the complainant and his family (Article 3).
- f) Failed to use the resources of the Council in accordance with its requirements (Article 4).

### Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Stanton St Quinton Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered a written statement from the Complainant provided in advance of the Assessment Sub-Committee meeting. Neither party was in attendance.

The Complaint was considered alongside Complaints COC132602 and COC132720, which involved the same Subject Member and alleged facts.

The Sub-Committee noted that the complainant alleged that a libel had been committed against him by the Subject Member. Whilst it was not a matter for the Sub Committee to determine if a libel had occurred, it was for the Sub-Committee to consider whether, if the alleged circumstances giving rise to such a claim of libel were proven, these would amount to a breach of the Code of Conduct.

The Sub-Committee considered the subsequent actions of the Subject Member following the alleged incidents, in that upon reflection he had acknowledged that some of his comments were ill-judged and had amended his Village Green submission by removing text and photographs which had caused upset. In

addition, he had made a public apology at the meeting of the Parish Council on 13 January 2021, which was published in the minutes.

The Subject Member had therefore acknowledged his words and actions may have been inappropriate and issued a public apology, albeit that apology had been directed to only one complainant, rather than all three complainants individually. The Sub-Committee also noted the Subject Member had stated in response to the complaint that his apology was to 'the complainants (and anyone else affected)' and that this acknowledgement and apology would be publicly available through this decision notice.

The Sub-Committee noted that the Subject Member had already carried out actions that may have been requested upon the outcome of an Investigation or hearing, and therefore did not consider it was in the public interest to refer the matter for investigation even if the alleged incident of libel was, if proven, considered to be a breach.

The Sub-Committee noted the complaint included a number of matters regarding the town or village green application process. However, this remained ongoing and they suggested that any concerns regarding it should be raised as part of that process and not within these proceedings. The Sub-Committee also noted allegations of illegal conduct raised in the complainant's statement which they indicated could be reported to the police in the first instance.

It was therefore,

**Resolved:**

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.**

16 **Assessment of Complaint: COC132720**

Preamble

A complaint was received from James Reeves (The Complainant) regarding the conduct of Councillor Adrian Andrews (The Subject Member), a Member of Stanton St Quinton Parish Council.

The Complainant alleges that within a response submitted, by the subject member, to Wiltshire Council (rights of way and definitive map team) on 10 December 2020 in respect of a Village Green application the subject member has libelled the complainant and his siblings.

It was alleged that as a result of his actions, the Subject Member had breached the Council's Code of Conduct by:

- a) not promoting or supporting high standards in his public office (localism Act 2011 and general principles), and/or
- b) Failing to have regard to the Nolan Principles and in particular integrity, honesty objectivity and Leadership.
- c) Behaved in such a way that a reasonable person would consider as disrespectful (Article 1).
- d) Behaved in such a way that a reasonable person would consider as bullying (Article 2)
- e) Sought to improperly confer a disadvantage on the complainant and his family (Article 3).
- f) Failed to use the resources of the Council in accordance with its requirements (Article 4).

### Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Stanton St Quinton Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered a written statement from the Complainant provided in advance of the Assessment Sub-Committee meeting. Neither party was in attendance.

The Complaint was considered alongside Complaints COC132602 and COC132564, which involved the same Subject Member and alleged facts.

The Sub-Committee noted that the complainant alleged that a libel had been committed against him by the Subject Member. Whilst it was not a matter for the Sub Committee to determine if a libel had occurred, it was for the Sub-Committee to consider whether, if the alleged circumstances giving rise to such a claim of libel were proven, these would amount to a breach of the Code of Conduct.

The Sub-Committee-considered the subsequent actions of the Subject Member following the alleged incidents, in that upon reflection he had acknowledged that some of his comments were ill-judged and had amended his Village Green

submission by removing text and photographs which had caused upset. In addition, he had made a public apology at the meeting of the Parish Council on 13 January 2021, which was published in the minutes.

The Subject Member had therefore acknowledged his words and actions may have been inappropriate and issued a public apology, albeit that apology had been directed to only one complainant, rather than all three complainants individually. The Sub-Committee noted the Subject Member had stated in response to the complaint that his apology was to 'the complainants (and anyone else affected)' and that this acknowledgement and apology would be publicly available through the decision notice of the complaint.

The Sub-Committee noted that the Subject Member had already carried out actions that may have been requested upon the outcome of an Investigation or hearing, and therefore did not consider it was in the public interest to refer the matter for investigation even if the alleged incident of libel was, if proven, considered to be a breach.

It was therefore,

**Resolved:**

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.**

(Duration of meeting: 10.00 - 10.55 am)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

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## STANDARDS COMMITTEE

### PROCEDURAL RULES FOR THE ASSESSMENT SUB-COMMITTEE

#### 1 Purpose

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

#### 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 an 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.
  - **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 **'Assessment Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to make determinations under sections 4 and 6 of 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 Assessment**

- 3.1. The Assessment 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 6.1 of the arrangements for dealing with Code of Conduct Complaints referring the matter for hearing.

### **4. Attendance at Meetings**

- 4.1. The Assessment 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 Assessment, 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.
- 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 Assessment 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 Assessment will proceed in their absence. As it is an 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 Assessment 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 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.

## **5. Procedure**

- 5.1. 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.
- 5.2. 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
- 5.3. The Monitoring Officer will provide reports on any complaint that is to be assessed.
- 5.4. 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 options on whether to refer the complaint for investigation, dismiss the complaint, refer for alternative resolution, with reasoning for any recommended outcome.
- 5.5. The reports will also include in full any relevant material and supporting evidence provided by the complainant or subject member
- 5.6. 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 Assessment
- 5.7. The Sub-Committee may take into account written representations made by, or correspondence from, a party that have been received since the publication of the agenda, where it is considered that this will assist the Assessment.
- 5.8. 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
- 5.9. Following any statements by the parties, the Assessment Sub-Committee will normally withdraw, with the Independent Person(s) if in attendance, and relevant officers, to consider the case.
- 5.10. Taking into consideration the documents provided, namely the original complaint, response of the Subject Member and any relevant additional material, 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.

5.11. 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.

5.12. 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.

5.13. Before making any decision, the sub-committee will have regard to the views of an Independent Person. The Independent Person, if in attendance, may contribute to the discussion of the Sub-Committee at any time

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

## Assessment Sub-Committee Meeting Procedure Summary

1. If appropriate, the Chairman invites those present to introduce themselves.
2. The Chairman outlines the 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. 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.
5. The Monitoring Officer presents a report for each complaint requiring assessment.
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.
7. If the criteria in 6 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.
8. The Sub-Committee will request and receive the views of an Independent person in person or in writing at the beginning of their discussion.

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## **STANDARDS COMPLAINTS ASSESSMENT CRITERIA**

The Monitoring Officer and Assessment Sub-Committee will adopt the approach and apply the criteria set out below in the assessment of complaints under locally adopted Codes of Conduct for Members.

### **1. Relevance**

1.1 The criteria and procedures set out in this document only apply to complaints made against individual members that fall within the relevant code of conduct. It is likely that complaints will be received by the Monitoring Officer which do not relate to local codes of conduct for members. These might include complaints relating to the provision of services by councils; matters relating to the council as a corporate body (including decisions made by the council); or matters which should be dealt with under a council's complaints procedure. They may be complaints relating to council employees, other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee.

1.2 Where complaints are received that are outside the scope of these procedures, the Monitoring Officer will advise the complainant that they cannot proceed under local codes of conduct, but that the complainant should contact the relevant council in order to bring a complaint under the appropriate alternative complaints procedure, where available.

### **2. Alternative resolution**

2.1 The Monitoring Officer or Assessment Sub-Committee will always consider whether an alternative means of resolving the complaint would be appropriate.

### **3. Initial Tests**

3.1 Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that:

- 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.

3.2 If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

#### **4. Sufficiency of information**

4.1 As any assessment will be conducted solely on the papers provided, it is essential that the complainant provide sufficient information to enable the subject member and those responsible for assessing the complaint to understand the substance of the complaint. If insufficient information is provided, the Monitoring Officer will not normally proceed with consideration of the complaint. It is the responsibility of the complainant to provide any supporting evidence for their complaint to justify a full investigation.

4.2 If the complaint meets the criteria set out in 3. a-e above, and the complainant has provided sufficient information to enable the issues complained of to be understood, the Monitoring Officer will send a copy of the complaint to the subject member and ask for the subject member's comments. When these have been received, the Monitoring Officer will consider the complaint and provide a report and recommendation on it to the Assessment Sub-Committee, together with copies of the original complaint ( and any supporting documentation) and the Subject Member's response.

4.3 At this assessment stage, the Assessment Sub-Committee will not normally consider any further representations or correspondence from either the complainant or subject member.

#### **5. Seriousness of the Complaint**

5.1 A complaint will not be referred for investigation if, on the available information, it appears to the Assessment Sub-Committee to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

5.2 A complaint will not normally be referred for investigation if the subject member has offered an apology, a reasonable explanation of the issues, or if the Assessment Sub-Committee takes the view that the complaint can reasonably be addressed by other means.

5.3 Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer or Assessment Sub-Committee to be appropriate, particularly in

cases where a subject member is no longer a member of a relevant council.

## **6. Length of Time Elapsed**

6.1 A complaint will not be referred for assessment when it is made more than 20 working days from the date upon which the complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint. Any such complaint will be dismissed by the Monitoring Officer, and will not be referred to the Assessment Sub-Committee, although the Monitoring Officer retains the discretion to refer a complaint for assessment that would otherwise be out of time, in exceptional circumstances.

6.2 In any event, the Assessment Sub-Committee may decide not to refer a complaint for investigation where, in their opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interests of justice to proceed.

## **7. Anonymous Complaints**

7.1 Anonymous complaints will not be accepted for consideration unless the Monitoring Officer is satisfied that there would otherwise be a serious risk to the complainant's personal safety, in which case the Monitoring Officer will decide how the complaint should be taken forward.

## **8. Multiple Complaints**

8.1 A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Assessment Sub-Committee at the same time. Each complaint will, however, be considered separately. If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

## **9. Confidentiality**

9.1 All information regarding the complaint will remain confidential to the parties until determined otherwise by the Monitoring Officer, Assessment Sub-Committee or Hearing Sub-Committee.

## **10. Withdrawing Complaints**

10.1 A complainant may ask to withdraw their complaint before it has been assessed.

10.2 In deciding whether to agree the request the Monitoring Officer will consider:

- a) the complainant's reasons for withdrawal;
- b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it;
- c) whether action, such as an investigation, may be taken without the complainant's participation.



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