

AGENDA

Meeting: Standards Assessment Sub-Committee

Place: [Access the online meeting](#)

Date: Thursday 22 April 2021

Time: 10.30 am

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

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

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Ruth Hopkinson (Chairman)
Cllr Ernie Clark (Vice-Chairman)
Cllr Richard Britton
Cllr Fred Westmoreland
Cllr Stuart Wheeler

Up to 2 of the following
Mr Richard Baxter (non-voting)
Mr Philip Gill MBE (non-voting)
Mr Michael Lockhart (non-voting)
Miss Pam Turner (non-voting)

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 25 March 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: COC133045** (Pages 25 - 28)

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Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 25 MARCH 2021 AT ONLINE MEETING.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Fred Westmoreland, Mr Richard Baxter (non-voting) and
Mr Michael Lockhart (non-voting)

Also Present:

Paul Barnett (Public Law and Compliance), Frank Cain (Head of Legal Services),
Tony Drew (Independent Person COC133164, COC133272), Caroline Baynes
(Independent Person COC129218, COC132864, COC133045), Kieran Elliott
(Democratic Services), Lisa Moore (Democratic Services), Complainant COC133045,
Jane Brentor (Subject Member COC133272), Bev Cornish (Complainant
COC133272), Antonio Piazza (Subject Member COC129218), Tom Patterson
(Subject Member COC132864)

17 Apologies

Apologies were received from Councillor Stuart Wheeler.

18 Minutes of the Previous Meeting

The minutes of the meeting held on 11 February 2021 were presented for
consideration, and it was,

Resolved:

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

19 Declarations of Interest

Councillor Richard Britton declared that he had met the Complainant and
Subject Member for complaint COC133272, who had each attended meetings
of the Southern Wiltshire Area Board. He declared that this would not prevent
him considering the matter with an open mind and would participate in any
debate and vote.

Councillor Ruth Hopkinson declared that she had met the Subject Member for
complaint COC133045, but that this would not prevent her considering the
matter with an open mind and would participate in any debate and vote.

20 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria were noted.

21 **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 Numbers 22 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.

Prior to consideration of the complaints Frank Cain, Head of Legal Services, provided an update in relation to comments received for COC129218 and COC133164.

22 **Assessment of Complaint: COC129218**

Preamble

A complaint was received from Councillor Stewart Palmen of Trowbridge Town Council (the Complainant) regarding the conduct of Councillor Antonio Piazza of Trowbridge Town Council (the Subject Member).

It had been alleged that the Subject Member had publicly reprimanded an officer of the Town Council and failed to be supportive, contrary to clause 2.5 and 5.4 of the Town Council's Protocol on Member/Officer relations, and that in accordance with clause 1.5 of that protocol this could amount to a breach of the Code of Conduct for the Town Council.

The comments alleged to be in breach had been part of a Facebook discussion involving the Subject Member and others in relation to council business.

Assessment

The complaint had received an initial assessment on 18 August 2020 where it was determined to refer the matter for investigation. Following that investigation, the Investigating Officer's report concluded that the threshold for a breach of the Code of Conduct had not been reached. In consultation with an Independent Person, the Monitoring Officer had considered the report and determined to recommend to the Sub-Committee that no further action be taken in respect of the complaint.

In reaching its decision, the Sub-Committee took into account the Investigating Officer's report and supporting documentation, which included the original complaint, the response of the Subject Member, the initial assessment decision,

other evidence provided during the investigation, comments on the report itself from both parties, and the decision notice of the Monitoring Officer to take no further action. The Sub-Committee also considered a written statement from the Complainant, who was not in attendance. The Subject Member was in attendance but did not make a verbal statement.

Conclusion

The Sub-Committee accepted the recommendation of the Monitoring Officer in upholding the reasons and conclusions of the Investigating Officer that the threshold of a breach had not been reached, and the process followed was sound.

In particular, the Monitoring Officer considered the statements made by the Subject Member in the context of the right to freedom of expression under Article 10 of the European Convention on Human Rights, with enhanced protections in respect of political speech, and that under Section 6 of the Human Rights Act 1998 it was unlawful for a public authority to act in a way that is incompatible with human rights.

The Sub-Committee was satisfied that there had been a fair and comprehensive investigation into the complaint and found no reason to overturn the recommendation of the Monitoring Officer. Particularly in consideration of issues of freedom of expression, it was considered that the conclusion, that the alleged comments had not risen to the level of a breach, was reasonable.

The Sub-Committee noted the concerns expressed by the Complainant regarding the Standards process generally. It noted that while Codes could be made more specific or procedures amended and this would be relevant to determination of potential breaches, legal considerations such as free speech would apply irrespective of the precise content of a Code or specific standards procedures, and that promotion of high standards of conduct could never entirely restrict the rights of Members.

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.

23 **Assessment of Complaint: COC132864**

Preamble

A complaint was received from Martin Lansdown (the Complainant) regarding the conduct of Councillor Tom Patterson (the Subject Member), a Member of Royal Wootton Bassett Town Council.

The complaint alleged that in various actions relating to a campaign to replace a memorial sculpture in the Town of Royal Wotton Bassett the Subject Member has acted with self-interest rather than in the best interests of the residents of the Council.

The Complainant also alleges that a committee of the Council that the Subject Member chairs in respect of the campaign has not been as open as possible about the decisions and actions that it has taken under his stewardship.

The Complainant also alleges that there is little to suggest that the actions carried out by the Subject Member were done with the full knowledge and agreement of the residents' Poppy Committee.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was a member for at least some of the period of allegations and remains a member of Royal Wootton Bassett Town 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, who was not in attendance, provided in advance of the Assessment Sub-Committee meeting, and a verbal statement from the Subject Member.

The background to and detail of the various allegations in relation to actions involving the Subject Member, Complainant, and others in respect of replacement of a poppy sculpture, working groups and trademarks such as Forever Poppy, involved a great deal of complexity. The Subject Member had not been a member of the Town Council for the entire background period relevant to the complaint but had become a member in February 2020.

In considering whether the actions alleged would, if proven, amount to a breach of the Town Council Code of Conduct, the Sub-Committee also considered whether it would be in the public interest to investigate the matter purely in relation to a possible standards breach. It was clear from the documentation provided by the parties that there was a broader matter of dispute between the parties which was having a detrimental impact upon the community, and it was

the view of the committee that this would not be resolved through a narrowly focused investigation into individual standards.

The Sub-Committee also considered that both parties appeared to be hard working individuals seeking to aid the community.

On balance, and after considering all the information provided, the Sub-Committee was not persuaded that the specific alleged actions as part of the more complex dispute, would, if proven, rise to a level of a breach of the Code of Conduct. Moreover, even were it the case that they did, it was not persuaded that it was in the public interest for the matter to be investigated under the standards regime, noting the broader issues referenced within the complaint which were distinct from any issue of individual standards.

Conclusion

It was therefore resolved to take no further action in respect of the complaint. However, the Sub-Committee recognised that both parties had been working in various capacities with the best interests of the community in mind, which the present dispute was disrupting.

Therefore, although it was not felt that the standards regime was the appropriate method for resolving the dispute, the Sub-Committee urged the parties to consider some form of mediation to achieve a resolution and prevent escalation of the dispute to disadvantage the community benefit each was seeking to achieve

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.

24 Assessment of Complaint: COC133045

In considering complaint COC133045 the Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of the relevant Council, and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, whether it was still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original Complaint, supporting information, and the report of the Monitoring Officer. The Sub-Committee also considered a written statement from the Subject Member provided at the meeting, and a verbal statement from the Complainant, who was in attendance.

After discussion, 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 refer the complaint for investigation.

25 **Assessment of Complaint: COC133272**

Preamble

A complaint was received from Bev Cornish (the Complainant) regarding the conduct of Councillor Jane Brentor (the Subject Member), a Member of Downton Parish Council.

The Complainant, who is clerk to the parish council, alleges that at a meeting of the council held on 25 January 2021 the Subject Member misrepresented the complainant's advice to the Council. It was alleged that she had thereby failed to promote and support high standards of conduct when serving in her public post and in particular has failed to have regard to the Nolan principles of integrity, honesty, openness and leadership and has consequently breached the Council's code of conduct.

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 Downton 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 supporting information, and the report of the Monitoring Officer.

The Sub-Committee also considered statements from the Complainant and the Subject Member, who were both in attendance

The Complainant is the clerk and responsible financial officer of the parish council. Following an email exchange between the parties in respect of maintenance services provided to the council, the issue was discussed at a meeting of the parish council. The Complainant was not present as a result of work-related stress.

The allegation is that the Subject Member misrepresented the contents of the email exchanges and advice from the complainant, and in doing so impugned the professional reputation of the Complainant

From the documentation and statements provided to the Sub-Committee it appeared that there had been a breakdown of trust between the Complainant and Subject Member. Whilst councils and councillors could take action other than as advised, it was important that advice be able to be received and transmitted accurately.

It was accepted by the Subject Member that the intended meaning of the advice provided by the Complainant may not have been entirely accurately represented by the Subject Member in her statement to the parish council. She stated that any misrepresentation perceived was not intentional and that she had made the points as she had understood and believed them to be.

The Subject Member further stated that she was willing to publicly state in an apology that the Complainant had intended a different meaning to that which the Subject Member had previously suggested at the meeting.

The Sub-Committee took into account paragraph 5.2 of the Assessment Criteria, namely that: *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.*

Accordingly, given the Subject Member had offered a reasonable explanation that she had misunderstood the advice received, and had offered to make a public apology to clarify that she had been mistaken as to the Complainant's intended advice, it was not considered in the public interest to refer the matter for investigation.

In particular, a public acknowledgement of having misrepresented the Complainant would address the concerns regarding perceptions of the professional conduct of the Complainant.

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.

26 **Assessment of Complaint: COC133164**

Preamble

A complaint was received from Ian Whittaker-Axon (the Complainant) regarding the conduct of Councillor Anna Cuthbert (the Subject Member), a Member of Wiltshire Council.

The Complainant alleged that Rowde Parish Council has not seen or heard from the subject member since February 2020 and that she has only attended two Parish Council meetings since May 2019. It was alleged she had thereby failed to promote and support high standards of conduct when serving in her public post and in particular had failed to have regard to the Nolan principles and as a result has breached the Council's code of conduct.

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 Wiltshire 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 written statements from the Complainant and the Subject Member. Neither party was in attendance.

The Complainant had been a member of the parish council at the time of submitting the complaint and had taken the action at the behest of the parish council. However, he had subsequently resigned from the parish council and had therefore sought the views of the parish council following publication of the agenda. As a result of those views he confirmed that he wished to withdraw the complaint.

Prior to that confirmation by the Complainant, the Subject Member had responded and disputed the suggestion that her actions in how she engaged or did not engage with a parish council within her Unitary Division area had been capable of breaching the Code of Conduct. However, she had also confirmed that she was not standing for re-election and so would cease to be a Member of Wiltshire Council in May 2021.

Given the limited period in which the Subject Member would remain a Unitary Councillor, and considering the statement of the Complainant seeking to withdraw the complaint, the Sub-Committee did not consider it was in the public interest to refer the complaint for investigation, even were it considered that a breach, if proven, may have occurred.

The Sub-Committee did note that where there were difficulties between a parish council and the local Unitary Member, other approaches such as communication to political groups would be open to the parish council. It noted that Unitary Members necessarily would have different approaches to how they engaged with parish councils and others in their communities. It did not, therefore, in any case consider that a breach would have occurred, had the allegations been proven.

The Sub-Committee noted the suggestion of the Subject Member in her statement that officers may have been influenced to reformulate or otherwise treat differently the complaint in part as a result of direction from the Executive of Wiltshire Council. However, the Sub-Committee was assured and accepted that the complaint had been processed in accordance with constitutional procedures at all times, and there was no suggestion either of Executive involvement within the Standards process for any complaint, or any impact upon neutrality of officers.

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 - 11.55 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

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.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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