

AGENDA

Meeting: Standards Assessment Sub-Committee

Place: Kennet Room - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 20 July 2022

Time: 2.00 pm

Please direct any enquiries on this Agenda to Lisa Alexander, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01722 434560 or email lisa.alexander@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 Gordon King
Cllr Sam Pearce-Kearney

Gordon Ball (Non-voting)

Substitutes:

Cllr Allison Bucknell
Cllr Trevor Carbin
Cllr Andrew Davis
Cllr Matthew Dean
Cllr Howard Greenman
Cllr Jon Hubbard
Cllr Mel Jacob
Cllr Kathryn Macdermid

Cllr Dr Nick Murry
Cllr Paul Oatway QPM
Cllr Bill Parks
Cllr Pip Ridout
Cllr Mike Sankey
Cllr Iain Wallis
Cllr Derek Walters
Cllr Graham Wright

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

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 28 June 2022.

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 Complaints COC139676 & COC140276** (Pages 25 - 44)

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Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 28 JUNE 2022 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Gordon King, Cllr Sam Pearce-Kearney, Gordon Ball (non-
voting) and Kathy Barnes (non-voting)

Also Present:

Tony Drew (Independent Person), Frank Cain (Head of Legal Services), Henry
Powell (Democracy and Complaints Manager), Kieran Elliott (Democracy Manager -
Democratic Services), Matthew Hitch (Democratic Services), Paul Jubbie
(Complainant COC134813), Sally Turnham (Complainant COC139420), Gilly Gillian
(Complainant COC149519) and Nathalie Woodward (Senior Complaints Officer)

46 **Election of a Chairman for 2022/23**

It was,

Resolved:

To elect Councillor Ruth Hopkinson as Chairman for the forthcoming year.

47 **Election of a Vice-Chairman for 2022/23**

It was,

Resolved:

To elect Councillor Ernie Clark as Vice-Chairman for the forthcoming year.

48 **Apologies**

There were no apologies.

49 **Minutes of the Previous Meeting**

The minutes of the meeting held on 10 February 2022 were presented for
consideration, and it was,

Resolved:

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

50 **Declarations of Interest**

There were no declarations.

51 **Meeting Procedure and Assessment Criteria**

The procedure and criteria were noted.

52 **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 53 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

53 **Complaint COC134813**

Preamble

A complaint had been submitted by Paul Jubbie, the Complainant, regarding the alleged conduct of Councillor Chris Beaver of Trowbridge Town Council, the Subject Member. The complaint was regarding alleged conflict between the Subject Members role as a councillor and employment as a planning consultant and agent, and the registration and declaration of pecuniary and other interests.

The complaint was initially assessed on 31 July 2021 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 respect of alleged breaches of Part 1 and Part 2A of the Trowbridge Town Council Code of Conduct in relation to a meeting on 13 April 2021, in respect of any declarations in respect of registration and declaration of Beaumont (Bath) Ltd, or an email to a member of the public dated 9 May 2021 following a meeting.

The report concluded there may have been a breach in respect of Part 2A, in relation to the meeting of 21 May 2019 in that the Subject Member had a potential interest that may have activated a need to declare and refrain from participation due to apparent bias. However, for reasons further set out in that report, due to the historical nature of the complaint, the difficulty in drawing the line in respect of such interests, and the Subject Member demonstrating a conscious commitment to comply with the Code of Conduct in respect of

interests, the report concluded that it was not in the public interest to take the matter further.

In consultation with an Independent Person, the Monitoring Officer considered the report and determined to recommend to the Sub-Committee that no further action be taken in respect of the complaint, although he recommended including an advisory note regarding one aspect of the complaint as part of the decision.

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, and the decision notice of the Monitoring Officer to take no further action.

The Sub-Committee also considered a written statement from the Subject Member, who was not in attendance, and a verbal statement from the Complainant, who was in attendance. The verbal statement and accompanying documentation were provided.

Discussion

As noted above the complaint involved a series of alleged actions by the Subject Member involving his employment as a planning consultant and agent and alleged conflict with his role on the Town Council, and the registration and declaration of his pecuniary and other interests at council meetings and elsewhere.

The Subject Member contended throughout that there was no conflict of interest in their actions, with any planning work undertaken legitimately through correct processes, and that they were entitled to defend the reputation of their business interests and that the complaints were politically motivated and vexatious. He disputed the conclusion of the Investigating Officer that there had been any apparent bias in relation to the meeting on 21 May 2019, allegation iv, as there had been no live instruction relating to the site under discussion.

The Complainant considered that the evidence did not support a finding of no breach in relation to any allegation. He highlighted the use of a personal or business email in general for council purposes and that the Subject Member had been acting in his capacity as a councillor at several instances alleged, and in so doing breached the Code. He considered the Subject Member had had an active business interest at the same time as acting as a councillor.

Some of the allegations had related to a potential disclosable pecuniary interest. On that basis, and although the allegations were quite historic, the Sub-Committee had considered in July 2021 that it was in the public interest that the matter be investigated given the seriousness of such an allegation and concurrent presence of a more recent allegation which it had likewise determined should be investigated.

However, it was relevant that both under the arrangements for dealing with Code of Conduct complaints and in respect of the Localism Act 2011, such

historic allegations would not, absent other justifying reasoning, normally be considered for investigation by the Sub-Committee. Accordingly, depending on the conclusion reached, the historic nature of the incidents was also relevant when considering what actions, if any, would be in the public interest should a breach be identified as probable or simply potential.

Conclusion

On balance the Sub-Committee agreed with the recommendation of the Monitoring Officer that it was not in the public interest to take any further action in respect of the complaint.

Although there may have been later developments, at the time of the earliest allegation a disclosable pecuniary interest had not existed, and so there was no possibility of participation being contrary to the Localism Act. Participation in later meetings had been in a personal or business capacity, and appropriate declarations had been made.

However, it was noted that the nature of the Subject Member's business, whilst also offering potential insight into planning issues, was such that actual and potential conflicts had and would continue to arise in relation to that business and his role as a Town Councillor. This required careful and continued consideration in the registration and declarations of interests, and other appropriate action such as withdrawing in his capacity as a councillor. It also required a responsibility to avoid both actual bias and predetermination, and any apparent bias. This was where a fair minded and informed observer, having considered the facts, could reasonably conclude there was a real possibility of bias.

From the Investigating Officer's report, it was clear that the Subject Member took such a responsibility seriously, by seeking advice, making declarations, and maintaining his register of interests. Notwithstanding the Investigating Officer's conclusion that there was a possibility a technical breach may have occurred in respect to a potential interest which might give rise to apparent bias at the meeting on 21 May 2019, it was acknowledged this was not a simple assessment for a Member to make, and the Subject Member's general conduct in respect of registration and declaration of interests indicated a commitment to appropriately separating his professional and council roles.

For that reason, and for the reasons set out by the Investigating Officer accepted by the Monitoring Officer and in particular the very historic nature of the allegation, the Sub-Committee was satisfied to uphold the recommendation to take no further action, and not to convene a Hearing Sub-Committee.

Nevertheless, the Sub-Committee, like the Monitoring Officer, was concerned the Subject Member's use of a personal or business email for council purposes had undermined any genuine attempts to be clear about the capacity in which he was acting, particularly where council, personal and business interests could or might be perceived to intersect. As the Monitoring Officer put it:

Care should be taken when councillors write correspondence that they do not commingle personal, business and council matters as this can be unnecessarily confusing for members of the public. The Town Council should be encouraged to create council email addresses for councillors to use for all formal council correspondence. This will provide clarity for residents and be a helpful reminder to councillors to maintain a clear delineation between council business and other matters that are personal or business related.

Additionally, the Sub-Committee noted that given his potentially conflicting roles as planning agent and town councillor, instances would likely arise again in future where the relationship between those roles was challenged.

Whilst the Subject Member naturally sought to and had a right to defend his personal and business conduct, the email on 9 May 2021 in response to such a challenge about his professional and business roles, whatever its provenance and motivation, had in places been inappropriate. Given the use of a business email for council use, and reference to acting in that council capacity in responding to the issues raised, the tone and content could be argued to approach the level of a breach of the Code of Conduct as it was not purely a professional business matter, as the Subject Member's responses had confirmed. Although the Sub-Committee did not consider that level had been reached on this occasion, the potential for confusion about the role in which the Subject Member was acting, and the significance of planning matters, meant a more respectful discourse from all parties should be adhered to wherever possible.

In summary, the Sub-Committee was satisfied with the recommendation of the Monitoring Officer that no further action be taken in respect of the complaint, and that the Investigation conducted into the complaint was sound. It therefore concluded the matter on the basis of no further action, but felt it important to set out comments on aspects of the complaint and decision as detailed above.

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.

54 **Complaint COC136344**

Preamble

A complaint was submitted by Llew de Souza regarding the alleged conduct of Councillor Owen Gibbs of Brinkworth Parish Council. The complaint was

regarding allegedly using an official role to benefit personal interests, without disclosing those interests.

The complaint was initially assessed on 25 November 2021 where it was determined to refer the matter for investigation. Following that investigation, the Investigating Officer's report concluded that there had not been any breaches of the Code of Conduct.

In consultation with an Independent Person, the Monitoring Officer 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, and the decision notice of the Monitoring Officer to take no further action.

The Sub-Committee also considered written statements from the Subject Member and Complainant. Neither was in attendance.

Discussion

The complaint involved allegations the Subject Member had not properly registered or disclosed relevant interests during council and personal actions concerning the Complainant's ownership of a local business park. There were also allegations regarding a visit made by the Subject Member to businesses in the business park on 18 September 2021, which the Complainant alleged involved the Subject Member using his position as a councillor to further his own personal interests.

The Investigating Officer's report had concluded there had been no evidence of bullying, intimidation or harassment by the Subject Member. It did not consider the threshold criteria of the Parish Council Code of Conduct had been met in respect of a failure to register an interest, and noted that the Subject Member had amended his entry once the matter had been highlighted. It did not consider there had been a breach at the Parish Council and Northern Area Planning Committee meetings, noting the proximity to the relevant parts of the business park from the Subject Member's residential property was in excess of 200m and therefore not related to the disclosable pecuniary interest.

In their statement the Complainant raised the potential issue of trespassing. However, the Sub-Committee considered that any concern relating to trespassing would be a private matter for the landowner, not matter for consideration under the Standards regime. The Subject Member in his statement had also noted he had apologised to the tenant of a unit who had been concerned about his attending the site, and the apology had been accepted.

Conclusion

The Sub-Committee was satisfied with the recommendation of the Monitoring Officer to take no further action in respect of the complaint.

Although the Subject Member should continue to note the importance of maintaining and updating their register of interest and make appropriate declarations at relevant stages, including, where appropriate, personal interests, the Sub-Committee agreed with the Investigating Officer's conclusion that there had been no disclosable pecuniary interest and accordingly no breach of the Code of Conduct. If there was a personal interest a declaration would be appropriate when participating in a council discussion.

In determining to take no further action, the Sub-Committee further noted the suggestion that the Subject member might recuse himself from participation as a parish councillor from matters relating to the business park out of an abundance of caution. It noted this would avoid any appearance or suggestion of inappropriate conduct, and, as a voluntary action, was beyond that which was legally required and so further justified no further action being necessary.

In summary, the Sub-Committee was satisfied with the recommendation of the Monitoring Officer that no further action be taken in respect of the complaint, and that the investigation conducted into the complaint was sound.

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.

55 Assessment of Complaint: COC139519

A complaint was submitted by Councillor Gilly Gillian of Tilshead Parish Council, the Complainant, regarding the conduct of Councillor Deborah Potter, the Subject Member, also of Tilshead Parish Council. The complaint related to communications between the two, amendment of publicised comments and alleged verbal abuse.

Preamble

The Sub-Committee was satisfied the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Tilshead Parish 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 the Code of Conduct. 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 Subject Member, who was not in attendance, and a verbal statement from the Complainant, who was in attendance.

Discussion

The complaint involved communications sent by the Subject Member to the Complainant, the alleged instruction to have article details written by the Complainant amended without their consent, and verbally abusing the Complainant at a parish council meeting.

The Subject Member contends that they had been polite and considerate in their communications, and stated her actions in Chairing the council meeting in question had been reasonable and appropriate. They offered an apology for requesting the editor of the parish newsletter to suggest changes.

The Complainant contended that the Subject Member had escalated matters, and that the changing of her letter, in her name, without permission was unethical. She stated the Chair refused to apologise and abused her verbally at the meeting in question.

Conclusion

The dispute between the parties had initially arisen as a result of a discussion regarding the legality of riding horses on roadside verges, which had then escalated and led to further confrontation. It was noted the Complainant had indicated a desire to avoid escalation in their communications to the Subject Member.

Whatever the catalyst for dispute and disagreement, it was important for communication to be conducted in an appropriate manner. The Sub-Committee did not consider the alleged communication's content or tone to rise to the level which was capable of being a breach of the Code of Conduct.

In respect of the meeting of the parish council, the Sub-Committee noted the differing accounts, but also that the assessment criteria required sufficient information to be provided at the initial stages to enable understanding the substance of complaint, and to justify further consideration of the complaint. Specific details of the alleged abuse had not been provided, and accordingly it could not conclude the alleged behaviour would be capable of breaching the Code of Conduct.

Notwithstanding this, the Sub-Committee noted that the Subject Member had provided an apology for her actions in respect of the amendment of an article of the Complainant's in the parish newsletter. Although this only addressed one aspect of the complaint, the Sub-Committee considered the offering of the

apology, and its view on the other allegations, was such that it was not in the public interest to investigate further.

In summary, the Sub-Committee therefore resolved to take no further action in respect of the complaint.

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.

56 **Assessment of Complaint: COC139420**

A complaint was submitted by Sally Turnham, the Complainant, regarding the alleged conduct of Councillor David Gagen of Clyffe Pypard Parish Council, the Subject Member. The complaint was regarding alleged conflicts of interest and false statements.

Preamble

The Sub-Committee was satisfied the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Clyffe Pypard Parish 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 the Code of Conduct. 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 Subject Member, who was not in attendance, and a verbal statement from the Complainant, who was in attendance.

Discussion

The complaint involved the Complainant's ownership of the Goddard Arms public house, and the Subject Member's alleged actions as a parish councillor and member of a local community group 'Save the Goddard Arms'.

The Complainant contends that the Subject Member had provided inaccurate information in a manner designed to put her at a disadvantage and made offensive comments about her character at public meetings.

The Subject Member stated they had had no intention to mislead and corrected any errors made in respect of comments, about the Plunkett Foundation, at the earliest opportunity. They contended they had mistaken the dates about certain parish council meetings, but that the substance of complaint was incorrect, and that they had been commenting as a member of the public.

Conclusion

The Sub-Committee noted that the Subject Member had acknowledged making some errors of fact, but that he had or will correct these. Even if more care could have been taken on references when submitting comments, they considered a reasonable explanation had been provided and in line with the assessment criteria did not consider the allegations therefore rose to the level where it was in the public interest to investigate further.

The Sub-Committee noted the Subject Member's position on the 'Save the Goddard Arms' ad hoc group was included on his register of interest. They noted it was not unusual or inappropriate for local councillors to belong to many different interest groups. Provided appropriate registrations and declarations had been made, there was no conflict in holding the roles and it was not considered the allegation was capable of breaching the Code of Conduct.

In summary, the Sub-Committee therefore resolved to take no further action in respect of the complaint.

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.

57 **Assessment of Complaints: COC139676 & COC140276**

Due to some of the parties being unwell, the Sub-Committee agreed to defer the complaints until the next meeting.

(Duration of meeting: 10.30 am - 12.35 pm)

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 or email communications@wiltshire.gov.uk

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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