

# AGENDA

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**Meeting:** Standards Assessment Sub-Committee

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

**Date:** Thursday 5 September 2024

**Time:** 1.30 pm

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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](mailto:lisa.alexander@wiltshire.gov.uk)

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## **Membership**

Cllr Ruth Hopkinson

Cllr Ernie Clark

Cllr Richard Britton

Cllr Gordon King

Cllr Sam Pearce-Kearney

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## **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](#).

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# AGENDA

## Part I

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

1 **Election of a Chairman for 2024/25**

To receive nominations for Chairman for 2024/25.

2 **Election of a Vice-Chairman for 2024/25**

To receive nominations for Vice-Chairman for 2024/25.

3 **Apologies**

To receive any apologies or substitutions for the meeting.

4 **Minutes of the Previous Meeting** (*Pages 5 - 10*)

To approve the minutes of the meeting held on 11 June 2024 (As attached).

5 **Declarations of Interest**

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

6 **Meeting Procedure** (*Pages 11 - 16*)

To note the procedure for the meeting.

7 **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 8 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.*

8      **Assessment of Complaint: COC153376** *(Pages 17 - 54)*

To consider Code of Conduct complaint COC153376.

9      **Update on Complaint: COC150777** *(Pages 55 - 108)*

To receive a report regarding complaint COC150777.

## Standards Assessment Sub-Committee

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**MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING  
HELD ON 11 JUNE 2024 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 and Cllr Sam Pearce-Kearney

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15 **Apologies**

There were no apologies.

16 **Minutes of the Previous Meeting**

The minutes of the meeting held on 21 March 2024 were presented for consideration, and it was,

**Resolved:**

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

17 **Declarations of Interest**

There were no declarations of interest.

18 **Meeting Procedure and Assessment Criteria**

The procedure and criteria were noted.

19 **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 20 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***

20 **Assessment of Complaint: COC151643**

In considering the complaint, 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 the period of allegations 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 some aspects of the various alleged actions.

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 and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered a verbal statement from the Subject Member and a written statement from the Complainant provided at the Assessment Sub-Committee meeting.

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.**

21 **Assessment of Complaint: COC151827**

A complaint was submitted by Alison Lucinda McLean-Crawford, the Complainant, regarding the conduct of Councillor Sarah Hill-Wheeler, the Subject Member, of Lydiard Millicent Parish Council.

The complaint related to a disagreement between the two parties regarding the location of the boundary of the village green and the Complainant's property.

The Complainants believed the Subject Member to have breached the following sections of the Code:

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.

### Preamble

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 Lydiard Millicent Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that the Subject Member was acting in their official capacity during the alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that 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 or alternative resolution.

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 the verbal statements made by the Complainant and the Subject Member who were both in attendance at the Assessment Sub-Committee meeting.

### Discussion

The complaint involved allegations that the Subject Member visited the Complainant's property and behaved in an aggressive manner, having removed some metal pins and tape which were marking the boundary line between the Complainant's property and the village green. Furthermore, it was alleged that when the Complainant and her husband asked the Subject Member to leave, they were threatened by the Subject Member who allegedly said that they were being taken to court by the parish council and should "look out" for what was coming.

The Complainant also alleged that when they asked the Subject Member to return their metal pins, the Subject Member refused due to not having seen any land registry papers which confirmed the land belonged to the Complainant. In addition, when the Complainant advised the Subject Member that they would call the police if she did not leave, the Subject Member refused to leave and encouraged her to call the police, at which point the Subject Member was alleged to have started filming the Complainant and her husband with her mobile phone, until the Subject Member's husband arrived to escort her away.

The Complainant believed that the Subject Member's behaviour was aggressive, and her actions were volatile and unreasonable.

The Complainant believed the Subject Member to be acting in her capacity as a Parish Councillor because during the incident she allegedly threatened legal action the Parish Council would take against the Complainant and referenced issues relating to the village green.

The Complainant also made allegations relating to bullying, intimidation, and harassment. Due to previous incidents, she suggested that the latest incident had been a personal attack by the Subject Member, as other neighbours who had also encroached on to the village green had been treated differently with no action being taken, which the Complainant believed was due to them being friends of the Subject Member.

The Complainant noted that she had previously witnessed the Subject Member at the rear of her property, straying from the public right of way to stand right behind her fence looking into the Complainant's property, sometimes taking photos or videos.

The Subject Member contends that the Complainant had a history of encroaching on to the village green and that the matter was the subject of a legal dispute, having been drawn to the Parish Council's attention 2 years previously.

The Subject Member stated that, at the time of the visit, she did not consider herself to be acting on behalf of the Parish Council, rather as a concerned resident. Noting that this distinction may not have been as clear as it could have been, the Subject Member stated that in hindsight she would have done things differently.

The Subject Member believed that during her visit to the Complainant's property, whilst her approach may have been firm and robust, she had not been aggressive or intimidatory, and that she had placed the pins and tape by the Complainant's door in a normal manner.

The Subject Member refuted saying any of the alleged quotes submitted by the Complainant and believed that the complaint was very much embellished to suit the Complainant's agenda.

The Subject Member stated that her husband did not arrive to escort her off of the Complainant's property and that she did not shout abuse or threaten legal action the Parish Council would take, though she did reference issues relating to the village green and plans which had been provided to the 'Village Green Working Group' of the Parish Council, detailing the extent of the village green.

The Subject Member stated that she did not consider herself a friend of the neighbour referred to by the Complainant that the allegations of having singled the Complainant out unfairly were untrue.



The Subject Member stated that she believed her actions to have been inappropriate and her words had not been chosen carefully, for which she apologised.

### Conclusion

The Sub-Committee noted that the purpose of the Subject Member's visit was connected to the ongoing work of the 'Village Green' sub-group of the Parish Council, which the Subject Member previously led. It was further noted that the plans and issues regarding the village green referenced by the Subject Member during the visit would have only been available to the Subject Member due to her role on the Parish Council.

It was therefore reasonable for a member of the public with knowledge of all of the facts to believe that the Subject Member was acting in their capacity as a Parish Councillor at the time of the incident. It was noted that the onus was on the elected member to make clear their intentions when interacting with members of the public and to state in which capacity they were acting to prevent misunderstandings.

The Sub-Committee noted the differing accounts of the incident and agreed that it was unlikely that an Investigation would be able to establish the exact discussion and actions due to the absence of impartial witnesses.

The Sub-Committee agreed that it had been a poor decision for the Subject Member to visit the Complainant's home, noting that actions of the Parish Council should not be taken on by an individual councillor, but instead processed by the clerk following a collective decision being formally recorded at a council meeting.

The Sub-Committee took into account the Subject Member's statement in which she noted that in hindsight, she should have approached things differently and that her words had not been well chosen for which she apologised.

The Sub-Committee agreed that, if proven, some of the Subject Member's alleged actions could potentially represent a breach of the relevant Code of Conduct. However, the Sub-Committee agreed that on balance, it was not appropriate under the Local Assessment Criteria to refer the matter for investigation, taking into account the efficient use of public resources, the likely difficulty any investigation would face in establishing the actual events on the balance of probabilities and the apology provided by the Subject Member.

However, the Sub-Committee wished to advise the Subject Member to consider their approach to addressing local matters connected with council business more carefully in future to provide more clarity regarding the role they are acting in and to avoid potential breaches of the Code of Conduct.

Taking all of the factors set out above into account, the Sub-Committee 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.**

(Duration of meeting: 1.30 - 2.30 pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail [lisa.alexander@wiltshire.gov.uk](mailto:lisa.alexander@wiltshire.gov.uk)

Press enquiries to Communications, direct line 01225 713114 or email [communications@wiltshire.gov.uk](mailto: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 the Assessment of a complaint by the Sub-Committee:

- **'Subject Member'** means a member of Wiltshire Council, or of a parish, town or city council within the Wiltshire Council area, against whom a complaint has been made under the relevant council's Code of Conduct.
- **'Complainant'** means the person(s) who has 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 Subject Member about the complaint.

- **Assessment** means a review of the complaint, any written response by the Subject Member and other relevant information to consider what action, if any, is appropriate as set out in Protocol 11.
- **'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.
- **'Party'** means the Subject Member and the Complainant
- The **'Assessment Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to make determinations under section 6 of the arrangements in Protocol 11. This can include voting and co-opted non-voting members of the Standards Committee.
- The **'Hearing Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to determine complaints of member misconduct under section 9 of the arrangements in Protocol 11.
- The **'Constitution'** means the Constitution of Wiltshire Council, which includes rules on public participation at committees and the code of conduct complaints procedure.
- **Protocol 11** means Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints, in Wiltshire Council's Constitution.

### 3. The Assessment

- 3.1. The Assessment is dealt with on the information presented to the Assessment Sub-Committee and is not to be treated as a hearing of the complaint itself, which is undertaken by the Hearing Sub-Committee and can only be convened after an investigation has been concluded and a decision has been made under paragraphs 8.4 and 8.7 of Protocol 11 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 Assessment, 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 the parties will be informed of the decision subsequently.
- 4.3. If a party has informed the Council that they do not intend to attend the Sub-Committee meeting, or have not indicated whether or not they will attend, the

assessment will proceed in their absence. As the Assessment of a complaint is undertaken primarily on the written evidence provided to the Sub-Committee, 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 a 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 being 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, or refer for alternative resolution.
- 5.5. The reports will also include 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 accepted and taken into account if it 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. To be considered under Protocol 11, a complaint must meet the tests set out under paragraph 3.4:
- a) *“The complaint is regarding a member of the Council, or a member of a Parish Council within the area of Wiltshire Council;*
  - b) *They were a member, and were acting in their official capacity (rather than in their private capacity), at the time of the incident giving rise to the complaint;*
  - c) *The Subject Member remains a member of the relevant council, or, if not, there are exceptional circumstances to justify a decision that it is in the public interest to consider the complaint;*
  - d) *A Code of Conduct for the relevant council is in force.”*

5.11. Complaints will be dismissed if the tests set out under paragraph 4.2 of Protocol 11 are met:

- a) *“The complaint is ‘out of time’ (see paragraph 3.2);*
- b) *Insufficient information has been provided to assess whether a breach of the Code of Conduct has potentially occurred (see paragraph 3.3);*
- c) *The complaint does not meet one or more of the initial tests set out at paragraph 3.4;*
- d) *The complaint is submitted anonymously but the allegations are not exceptionally seriousness in nature (see paragraph 3.6);*
- e) *The Complainant requests that their identity be withheld from the Subject Member, but a serious risk to the Complainant’s safety has not been demonstrated (see paragraph 3.7);*
- f) *The same, or substantially the same, incident has been the subject of a previous Code of Conduct complaint that has either been determined or has been referred to the Assessment Sub-Committee;*
- g) *The complaint is essentially regarding the actions of the relevant council as a whole, rather than about an individual members’ conduct;*
- h) *It would not be in the public interest to proceed as defined under paragraph 4.4.”*

*4.4 The Monitoring Officer may decide not to take any further action on a complaint where, on the available information, it appears to be vexatious, malicious, politically motivated, retaliatory or if proven it would **not** reach the threshold of breaching of the Code of Conduct, and it would therefore not be in the public interest to take further action having mind to the efficient use of resources.*

5.12. Following the application of those tests by the Monitoring Officer, the Sub-Committee will consider whether, if proven, the alleged conduct would **not** reach the threshold of breaching of the Code of Conduct, and it would therefore **not** be in the public interest to take further action having mind to the efficient use of resources.

5.13. The Assessment Sub-Committee will take into account paragraph 6.3 of Protocol 11:

*“6.3 Complaints will not normally be referred for investigation where the Subject Member has offered an apology, a reasonable explanation of the issues, or where the Assessment Sub-Committee considers that the matter can reasonably be addressed by other means. Investigation is normally reserved for serious complaints where alternative options for resolution are not considered appropriate. Investigation may not be appropriate where the Subject Member is seriously ill.”*

5.14. If the Sub-Committee is **not** satisfied that the criteria above are met, it will determine that no further action should be taken on the complaint.

5.15. If the Sub-Committee **is** satisfied that the criteria above are met, it will determine:

- a) That no further action should be taken on the complaint;
- b) To refer the complaint to the Monitoring Officer for investigation;
- c) To refer the complaint to the Monitoring Officer for alternative resolution (except where this has already been attempted).

5.16. 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 the investigation of a complaint under paragraph 7 of Protocol 11, 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 will present a report for each complaint requiring assessment.

Taking into consideration the evidence, namely the original complaint, response of the Subject Member and any relevant additional material submitted, the Sub-Committee will then apply the tests set out above.

6. Having considered if these criteria are met, the Sub-Committee will decided
  - a) That no further action should be taken on the complaint;
  - b) To refer the complaint to the Monitoring Officer for investigation;
  - c) To refer the complaint to the Monitoring Officer for alternative resolution (except where this has already been attempted).
7. The Sub-Committee will request and receive the views of an Independent Person in person or in writing at the beginning of their discussion.



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

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