

## **WILTSHIRE COUNCIL**

### **STANDARDS COMMITTEE**

**21 July 2010**

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## **ARRANGEMENTS FOR MEDIATION**

### **Purpose of Report**

1. To consider the use of mediation as a means of preventing or resolving complaints under the Code of Conduct.

### **Background**

2. Wiltshire Council assumed responsibility for considering Code of Conduct complaints made against members of town and parish councils in Wiltshire when it became a unitary authority in April 2009.
3. During that time, the Monitoring Officer has received a number of Code of Conduct complaints, some of which have resulted in investigations, some of which have not, concerning several members of the same authorities. He has also been approached for advice about some councils which appear to have become almost dysfunctional as a result of a failure of governance issues.
4. The common denominator in many of these cases seems to have been a breakdown in relationships between council members.
5. Guidance on 'other action' from Standards for England refers to situations of this kind, and states that, upon receipt of a complaint, it may be appropriate to consider referring the matter to the Monitoring Officer for other action as an alternative to investigation when, for example, there is evidence of:
  - a) a pattern of allegations of disrespect, bullying or harassment;
  - b) factionalised groupings within the authority;
  - c) a series of 'tit-for-tat' allegations;
  - d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures.
6. Dealing with such cases by way of investigation is unlikely to get to the root cause of the problems in councils that exhibit patterns of behaviour of this kind. Furthermore, there are several councils where no complaint has been brought under the Code, but the councils with these problems require a disproportionate amount of officer time, particularly from members of the Governance Service and Member and Democratic Services. There is also

some evidence that where relationships in town and parish councils have become particularly strained, there is a negative impact on public confidence.

7. For these reasons, it would be desirable to consider taking alternative action to attempt to resolve these difficulties, preferably before they give rise to complaints. Mediation is likely to be an approach that could offer a solution in some cases. Clearly, mediation has, as a prerequisite, a requirement that all parties be willing actively to engage in the process. It is not a quick fix, since it requires what might be a relatively significant commitment in terms of time from all the parties, not least the mediator. Nonetheless, this investment of time is likely to be cost effective in terms of preventing complaints, reducing ad hoc requests for support and intervention from officers, and in promoting good governance.
8. The current framework for assessment of complaints under the Code allows for mediation as an alternative to investigation, but does not permit any referral back for investigation if the mediation fails. This may be seen as a shortcoming in the present system in so far as it does not provide any real incentive for the subject member to engage in mediation and commit to making it work.
9. Currently the Council does not have any trained mediators who would be available for town and parish council mediation. The Monitoring Officer and the Head of Governance propose, subject to the availability of funding, to attend mediation training, after which they would be able to offer mediation in cases where that would appear to be an appropriate remedy.

### **Recommendation**

10. The Committee is asked to note the contents of this report.

### **Training and Communications Issues Arising**

11. There are no training or communications issues arising from the proposals made in this report that would require the formation of a task and finish group of the Standards Committee.

### **Risks**

12. There are no risks associated with the recommendation made in this report.

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**The following unpublished documents have been relied on in the preparation of this Report:** None