

Code of Conduct Complaints – Status Report

Purpose

1. To provide an update on the Code of Conduct complaints received by the council since the Committee's last meeting.

Statutory background

2. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
 - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
 - The registration and disclosure of pecuniary and other interests.
3. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a town or parish council within the council area, has failed to comply with the relevant code of conduct.

Council Code of Conduct procedures

4. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 11 to the Constitution, the procedure having changed with effect from 1 January 2020.
5. On receipt of such a complaint the Monitoring Officer will consider the complaint and, if appropriate, prepare a report for the Assessment Sub-Committee (ASC). The Monitoring Officer (MO) may at this point decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest, including particularly the efficient use of resources, to proceed.
6. Valid code of conduct complaints are determined by the Assessment Sub-Committee, following receipt of the report from the Monitoring Officer. The Assessment Sub-Committee may conclude that no further action should be taken, it may refer the complaint for investigation, or it may recommend that an alternative resolution be explored with the parties.
7. If the Assessment Sub-Committee determines that a formal investigation should be undertaken, an Investigating Officer is appointed by the Monitoring Officer. If the

recommendation of the Investigating Officer is that there has been a substantial breach of the Code of Conduct, and that alternative resolution is not appropriate, then the Monitoring Officer, after consultation with the Independent Person, will refer the matter to a Standards Hearing Sub-Committee.

8. The Standards Hearing Sub-Committee will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member (the councillor who is the subject of the complaint). If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.
9. There is no right of appeal of the decision of the Assessment Sub-Committee or the Hearing Sub-Committee.
10. The Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

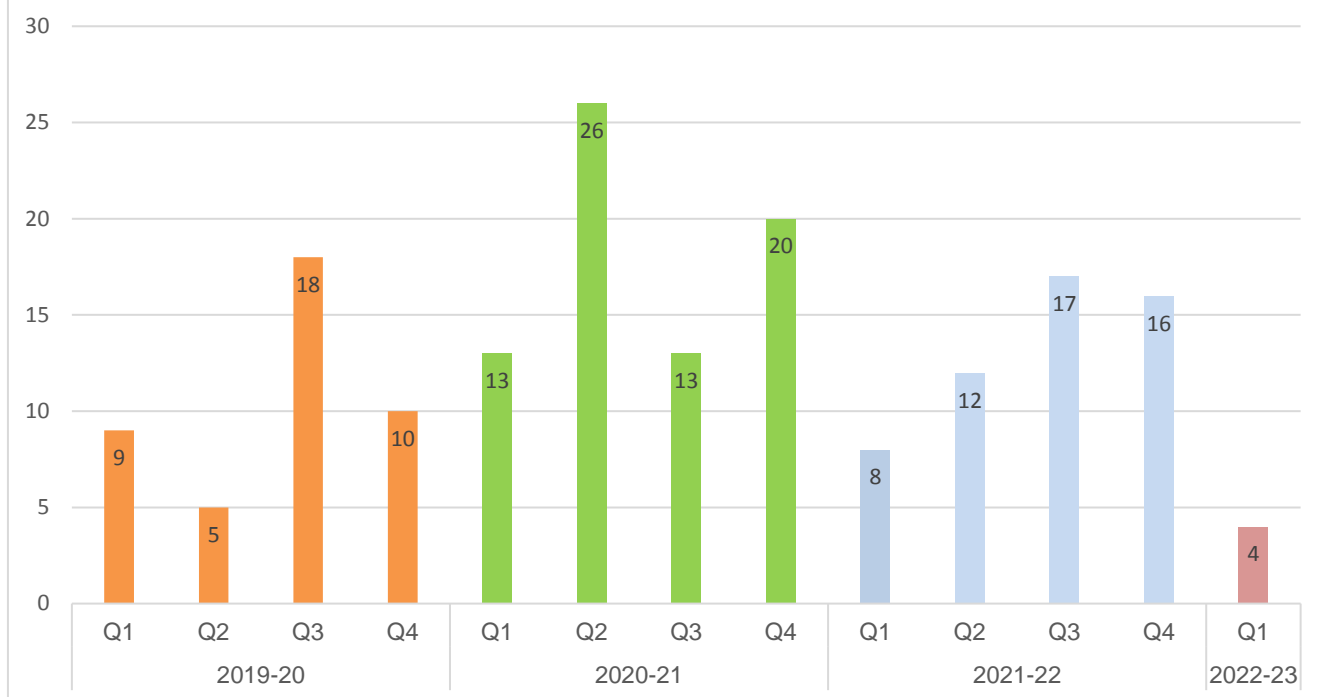
Summary of committee meetings

11. The last Standards Committee meeting took place on 20 April 2021. Since that meeting there have been:
 - 0 meetings of the Standards Assessment Sub-Committee.
 - 0 meetings of the Standards Hearing Sub-Committee.
12. The next meeting of the Standards Assessment Sub-Committee is scheduled for 28 June 2022.

Summary of complaints received since 12 April 2022 (following publication of the 20 April 2022 committee meeting agenda)

13. Between 12 April and 7 June 2022, the Monitoring Officer received 3 complaints under codes of conduct:
 - 3 are scheduled to be assessed by Assessment Sub-Committee on 28 June 2022.
 - 0 were determined No Further Action by the Monitoring Officer.
14. The Monitoring Officer can determine No Further Action under paragraph 4.6 of Protocol 11 – Arrangements for dealing with Code of Conduct Complaints. This is applied where the Monitoring Officer determines that, on the information available, the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest for further action to be taken, including particularly the efficient use of resources.
15. **Chart 1** shows the code of conduct complaints received since 2019:

Chart 1 - Code of Conduct complaints received 2019-22



Quarterly average: 11
2019-20 total: 42

Quarterly average: 18
2020-21 total: 72

Quarterly average: 13
2021-22 total: 52

Types of complaint

14. The 3 code of conduct complaints received between 12 April and 7 June 2022 can be broken down as follows:

(NFA = No Further Action MO = Monitoring Officer ASC = Assessment Sub-Committee)

- 0 were complaints against **Wiltshire Councillors**:
- 1 was a complaint against a **town councillor**:
 - 1 regarding abusive behaviour (to be considered by ASC)
- 2 were complaints against **parish councillors**:
 - 1 primarily regarding conduct in a meeting (to be considered by ASC)
 - 1 regarding misleading information and comments on a planning application (to be considered by ASC)

Complaint resolution speed

16. Under Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints, the council aims to assess all such complaints within **5 working days** of receiving the subject member's response. This is a challenging target as complaints can be complex, require legal input and include a large amount of background information that must be reviewed.

17. During this period, no complaints have been assessed by the Monitoring Officer.

18. Complaints referred to Assessment Sub-Committee cannot usually meet the 5 working day timescale due to the need for a scheduled meeting. However, of the 3 complaints scheduled to be assessed by Assessment Sub-Committee, all will be assessed at the next scheduled Assessment Sub-Committee meeting (28 June 2022).

19. No complaints were referred for investigation during this period. Future reports will include data regarding the time taken to conclude investigations where appropriate.

Dip Sampling

15. A table of current cases was provided to the Chairman of Standards Committee on 11 May 2022 for a dip sample to be undertaken to enable oversight.

Proposal

16. The Committee are asked to note the current position on code of conduct Complaints

Perry Holmes, Director of Legal & Governance and Monitoring Officer

Report Author: Henry Powell, Democracy and Complaints Manager,
complaints@wiltshire.gov.uk

Appendices

None.