

AGENDA

Meeting: Standards Assessment Sub-Committee

Place: [Access the online meeting here](#)

Date: Tuesday 15 December 2020

Time: 12.30 pm

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

Mr Richard Baxter (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 - 16)

To approve the minutes of the meeting held on 19 November 2020.

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 17 - 26)

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: COC131319** (Pages 27 - 116)

7 **Assessment of Complaint: COC132107** (Pages 117 - 128)

8 **Assessment of Complaint: COC132109** (Pages 129 - 140)

9 **Assessment of Complaint: COC131113** (Pages 141 - 158)

10 **Assessment of Complaint: COC131238** (Pages 159 - 174)

11 **Assessment of Complaint: COC131239** (Pages 175 - 220)

12 **Assessment of Complaint: COC131240** (Pages 221 - 266)

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Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 19 NOVEMBER 2020 AT .

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Fred Westmoreland, Cllr Stuart Wheeler, Mr Philip Gill MBE
(non-voting) and Mr Michael Lockhart (non-voting)

Also Present:

Caroline Baynes (Independent Person, COC131110), Tony Drew (Independent
Person, COC131452, COC130429, COC130430, COC130432, COC130433), Frank
Cain (Head of Legal Services), Kieran Elliott (Senior Democratic Services Officer),
Cllr Andrew Davis (Subject Member COC131110), Fiona Fox (Complainant
COC131110)

36 **Apologies**

There were no apologies.

37 **Minutes of the Previous Meeting**

The minutes of the meeting held on 21 October 2020 were presented for
consideration, and it was,

Resolved:

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

38 **Declarations of Interest**

Councillors Ruth Hopkinson, Ernie Clark, Richard Britton, Stuart Wheeler and
Fred Westmoreland noted that they were acquainted with the Subject Member
for complaint COC131110, the complainant for complaint COC131452 and the
Subject Member for complaint COC 130433, by virtue of them also being
Wiltshire Councillors.

Councillor Hopkinson further declared that she was known to the parties for
complaints COC131452, COC130429, COC130430, COC130432 and 130433.

Councillor Britton further declared that he was a member of the same political
group as the Subject Member for Complaint COC131110.

39 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria for the meeting were noted.

40 **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 41-46, 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

41 **Assessment of Complaint: COC131110**

Preamble

A complaint was received from Fiona Fox (The Complainant) regarding the conduct of Councillor Andrew Davis (The Subject Member), a Member of Warminster Town Council. It was alleged that the Subject Member had breached the Code of Conduct through unprofessional demeaning, undermining and inappropriate behaviour at a public event in May 2019. The Complainant is the town clerk of Warminster Town Council.

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 Warminster Town Council, and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee considered that it was unclear whether the Subject Member had been acting in their capacity as a Member of Warminster Town Council at the event at which the incident giving rise to the complaint occurred, or might be perceived to have been acting in that capacity particularly through the specific interactions with the Complainant, who is the clerk to the Town Council. Notwithstanding this, for the avoidance of doubt, the Sub-Committee progressed with 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. 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 verbal statements from both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020.

Conclusion

The complaint involved a discussion and interaction between the Subject Member and the Complainant at a local event, which by both accounts became heated and confrontational. The parties disagreed on the nature and tone of various elements of the confrontation and who was responsible, however neither disputed that a heated confrontation had occurred.

The Subject Member is both a Warminster Town Councillor and Wiltshire Councillor, and the Complainant is the clerk to the Town Council, and the context of that relationship on any alleged incident was of relevance.

The relevant Code of Conduct did not contain specific references to disrespect or bullying, however, if the Subject Member was acting in their capacity as a Member, it would need to be considered if the alleged behaviour, stated by the Complainant to be 'unprofessional, demeaning, undermining and totally inappropriate', if proven, would be a breach of the Code through a failure to promote high standards of conduct or uphold the principles within the Code.

It was also noted that the complaint was submitted by the Complainant to the Town Council within 20 days of the incident in May 2019, but that due to errors in process by the Town Council it was not provided to Wiltshire Council to assess and determine until August 2020. It was also noted that the Complainant had been on long term sickness for an extended period sometime after submission of the complaint to the Town Council.

In the first instance, the Sub-Committee did not consider that mediation would be appropriate in the circumstances given the stated positions of the parties, and noted that whatever the outcome of the complaint both would need to continue to work together through the Town Council.

The Sub-Committee noted that the confrontation giving rise to complaint had occurred at a public event which, in the circumstances, would mean both parties were under an amount of pressure. The alleged behaviour, if proven, would not reflect well on the Subject Member even in that circumstance, though whether they were attending and acting in an official capacity was relevant when considering if that behaviour, even if causing distress to the Complainant, was capable of rising to the level of a breach of the Code.

Although arising from a procedural error by the Town Council, the delay in consideration of the complaint was also of relevance. Regardless of responsibility for that error, the Sub-Committee noted that the considerable time since the incident giving rise to complaint could make it difficult for any investigation to establish the facts from and beyond the contradictory contemporaneous accounts.

In combination with the uncertainty around the capacity in which the Subject Member had been acting, and the delays that had occurred that would make establishing the facts difficult, the Sub-Committee therefore determined that whilst the alleged behaviour of the Subject Member, if proven, would not be appropriate, it would not be in the public interest for there to be an investigation.

It was therefore resolved,

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.

42 **Assessment of Complaint: COC131452**

In considering complaint COC131452 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 and supporting information, the response of the Subject Member, and the report of the Monitoring Officer. The Sub-Committee also received written statements from the Complainant and Subject Member. Neither party 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.

43 **Assessment of Complaint: COC130429**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Adrienne Westbrook (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity,

objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about her decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

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 Melksham 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 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.

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 both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130430, COC130432 and COC130433 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, 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.

44 **Assessment of Complaint: COC130430**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Geoff Mitcham (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity, objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about his decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

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 Melksham 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 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.

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 both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130429, COC130432 and COC130433 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, 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.

45 **Assessment of Complaint: COC130432**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Vanessa Fiorelli (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity, objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about her decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

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 Melksham 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 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.

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 both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130429, COC130430 and COC130433 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, 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.

46 **Assessment of Complaint: COC130433**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Pat Aves (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity, objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about her decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

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 Melksham 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 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.

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 at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130429, COC130430 and COC130432 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, 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.

(Duration of meeting: 10.00 - 11.00 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

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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