

AGENDA

Meeting: Standards Assessment Sub-Committee

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

Date: Thursday 5 December 2024

Time: 1.30 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

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 James Sheppard

Cllr Iain Wallis

Cllr Derek Walters

Cllr Graham Wright

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Bourne Hill, Salisbury
Monkton Park, Chippenham

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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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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 - 10)

To approve the minutes of the meeting held on 5 September 2024.

3 **Declarations of Interest**

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

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

To note the procedure 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: COC50363** (Pages 17 - 66)

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Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 5 SEPTEMBER 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

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

The Democratic Services Officer opened the meeting and called for nominations for Chairman for 2024/25.

It was;

Resolved:

That Councillor Ruth Hopkinson was elected as Chairman for 2024/25.

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

Councillor Ruth Hopkinson in the Chair

The Chairman called for nominations for Vice-Chairman for 2024/25.

It was;

Resolved:

That Councillor Ernie Clark was elected as Vice-Chairman for 2024/25.

24 **Apologies**

There were no apologies.

25 **Minutes of the Previous Meeting**

The minutes of the meeting held on 11 June 2024 were presented for consideration, and it was,

Resolved:

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

26 **Declarations of Interest**

There were no declarations.

27 **Meeting Procedure**

The procedure and criteria were noted.

28 **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 29 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

29 **Assessment of Complaint: COC153376**

A complaint was submitted by Mr Shane Skelhorn, the Complainant, regarding the conduct of Councillor John Dalley, the Subject Member, of Rowde Parish Council.

to the Subject Member's interaction with the Complainant at the Rowde Parish Council allotment site, where it is alleged that the Subject Member prevented the use of a water tap and shouted at the Complainant, making reference to a lawsuit relating to a separate matter between the Complainant and the Parish Council.

During the incident the Subject Member allegedly spoke in an intimidatory voice, referred to another parish councillor as a 'Welsh bitch' and followed the Complainant when he attempted to disengage from the conversation.

The Complainant believes 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 not disclose information which is confidential or where disclosure is prohibited by law.

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 Rowde 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 capacity or could reasonably be perceived to be acting in their capacity as a Member during the alleged actions.

The Sub-Committee also 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 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 noted the Complainant and Subject Member had declined a prior attempt to resolve the complaint through alternative resolution.

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

Discussion

The Sub-Committee considered the summary of allegations as set out in the report, highlighting actions of bullying, disrespect, and the disclosure of information relating to a separate matter between the parish council and the Complainant.

The Complainant alleged that the Subject Member had shouted at him making reference to a lawsuit between the Complainant and Rowde Parish Council, which the Complainant states is not factual. In addition it is alleged that threats of releasing his address details to others in the village who were currently not happy with the Complainant due to a separate matter.

The Complainant alleges that the Subject Member prevented him from using or approaching the water tap on the allotment but let other allotment users present to use the tap with no warning of health and safety risks.

The Sub-Committee considered the Complainant's statement in which he responded to the Subject Member's account of the alleged incident, noting his concern for his safety at the time and since the incident.

The Sub-Committee considered the Subject Member's statement in which he contends the Complainant had approached him and his brother in an aggressive manner, appearing unsteady on his feet.

The Subject Member stated that he did not prevent the Complainant from using the water tap but had asked him not to come any closer due to a hole in the ground near to the water pipe that his brother was in attendance to fix.

The Subject Member stated that he was not in attendance in his capacity as a councillor, but in a personal capacity to meet with his brother, who had been commissioned by the Parish Council to carry out work.

The Subject Member refuted the allegations that he swore or used bad language during the interaction and stated that there were witnesses to the event who had offered to provide statements to support his version of events.

The Sub-Committee noted the advice provided to the Subject Member at the meeting that the council has a statutory responsibility to process every code of conduct complaint received, as it was not within the powers of individual parish or town councils to do so themselves. Regardless of whether a Subject Member believed themselves to be free of blame, the role of the Sub-Committee was to assess the elements of a complaint against the criteria to establish whether it is appropriate to progress the complaint forward for an investigation.

The Sub-Committee considered the guidance as set out in the report.

Conclusion

The Sub-Committee agreed that it was reasonable for it to be perceived that the Subject Member was acting in their official capacity of an elected member during the alleged incident, as the Subject Member was in attendance to oversee the water tap repair work being carried out by the Subject Member's brother, work which had been commissioned by the parish council. In addition, during the exchange between the Complainant and the Subject Member, Parish Council business was referred to by the Subject Member.

The Sub-Committee agreed that, if proven, some of the Subject Member's alleged actions could represent a breach of the relevant Code of Conduct. However, the Sub-Committee agreed that on balance, it was not appropriate to refer the matter for investigation, taking into account the efficient use of public resources. This was because an investigation was unlikely to be able to reach a firm conclusion on the facts of the event in question given the limited available witnesses.

Notwithstanding the reasoning for not referring the matter for investigation, the Sub-Committee wished to advise the Subject Member to consider the language and tone used in exchanges with parishioners more carefully in future to ensure

that it was appropriate to his role and in compliance with the Code of Conduct. They noted the manner in which the Subject Member had spoken at the Sub-Committee meeting when making his statement and agreed that it was disrespectful and aggressive in tone towards themselves and the Complainant.

Although councillors rightly had strong protections on freedom of speech, some speech was capable of crossing the line into behaviours which were in breach of a Code of Conduct, particularly in relation to direct personal attacks unrelated to political debate and expression. In the case of the complaint, although the Sub-Committee had determined not to proceed for the reasons stated above relating to evidentiary issues, if they were ultimately proven to be factual the Subject Member's alleged conduct could have represented a direct personal attack.

The Sub-Committee also wished to reiterate the advice provided at the meeting that the Council has a statutory duty to look into all code of conduct complaints.

The Sub-Committee consulted the Independent Person who was in agreement with the considerations of the Sub-Committee.

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.

30 **Update on Complaint: COC150777**

The Sub-Committee received an update on complaint COC150777, which had been referred for investigation by the Sub-Committee on 21 March 2024. Following an investigation, the complaint had been resolved via alternative resolution by the Monitoring Officer.

(Duration of meeting: 1.30 - 2.15 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

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk

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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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