

Wiltshire Council

Standards Committee

15 June 2021

Code of Conduct Complaints - Status Report

Statutory Background

1. 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
2. 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 parish council within the council area, has failed to comply with the relevant Code of Conduct.

Council Structure and Procedures

3. 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.
4. On receipt of such a complaint the Monitoring Officer will consider the complaint and 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.
5. All valid code of conduct complaints are now 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.
6. If the sub-committee determine 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.
7. This 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.

8. There is no right of appeal of the decision of the Assessment Sub-Committee or the Hearing sub-committee.
9. 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

10. In line with other committees of the council, during the coronavirus situation meetings of the Standards Committee, Review Sub-committee and Assessment sub-committee have taken place online. The last Standards Committee took place on 14 April 2021. This was a single agenda item meeting to recommend to Council the appointment of three Independent Persons (Patricia Bunche, Tony Drew, Damian Kearney) following a selection process undertaken by the committee.
11. The last full agenda meeting of the Standards Committee was on 4 February 2021. Since that meeting there have been three online meetings of the Standards Assessment sub-committee. There has also been one online meeting of the Standards Review Sub-Committee and two online meetings of the Standards hearing Sub-Committee. The outcome of these meetings was as follows:

Standards Assessment Sub Committee

- 11 February 2021 - Two matters were dealt with. One matter was determined No Further Action on the recommendation of the Monitoring Officer following his consideration of an Investigation Report. With the other matter the committee noted the determination of the Monitoring Officer that it could be dealt with by way of alternative resolution (training);
- 25 March 2021 – Four matters were determined No Further Action and one matter was referred for Investigation;
- 22 April 2021 – One matter was dealt with. The committee determined that it was not in the public interest to investigate the matter so referred at the 25 March committee meeting and it was therefore determined to take No Further Action in respect of that complaint;

Standards Review Sub-Committee

- 11 February 2021 – One matter was considered. As there had been a material change in circumstances (the subject member had resigned) the committee reviewed their decision of 10 December 2020 to refer the matter to a hearing sub-committee. However, the committee determined that it remained in the public interest to refer the complaint to the Hearing Sub-Committee.

Standards Hearing Sub-Committee

- 17 March 2021 – The above matter (11 February 2021) was heard. The committee determined that although it considered that a breach of the Code of Conduct had occurred, no further action be taken. The reasoning for this was that the subject member had resigned and had previously made expressions of apology. The Hearing Sub-Committee considered that the Subject Member had in effect met or exceeded any possible available sanctions which might be recommended to the Parish Council. It was therefore not appropriate or proportionate to recommend any further sanction be upheld by the Parish Council.

- 7 April 2021 – One matter was considered, and the committee determined to take No Further Action in respect of the complaint.

12. Summary of complaints received since 4 February committee meeting (some of which will have been included above)

Between 4 February 2020 and 1 June 2020, the Monitoring Officer received 19 complaints under the Code of Conduct. A summary of the number of cases received each month is attached at **Appendix 1**.

13. Of the 19 cases received 3 were discontinued as they did not amount to complaints, 13 were determined as No Further Action, 2 cases are pending completion of the Assessment Report and one is pending assessment by the Assessment Committee itself. None were referred for investigation.

Determinations on matters received since 4 February 2021

I. Matters determined by Monitoring Officer under Paragraph 4.6 (trivial, vexatious, malicious or politically motivated)

In the period since the last meeting eleven matters have been so determined by the Monitoring Officer or his representatives.

II. No Further Action

In the period since the last meeting, the Assessment sub-committee have determined that no further action be taken on 2 matters (from February 2021).

III. Investigations

In the period since the last meeting, there have been no determinations by the Assessment Sub-Committee that investigations should take place.

14. Members should also note that out of a total of eighty-nine complaints received between January 2020 and May 2021 thirty-one have been resolved by the screening process under 4.6. This amounts to 34.83 % of complaints. A further 20 have been withdrawn, discontinued or have not amounted to Code of Conduct complaints.

Types of Complaint

15. The 19 complaints received since 4 February 2021 can be broken down as follows:

- 8 matters were complaints against Wiltshire Councillors – these complaints consisted of 2 regarding electioneering practices (found NFA by MO), one regarding non-attendance at parish council meetings (found NFA by ASC), one regarding failure to respond to emails (found NFA by MO), one regarding misleading information given at a meeting (found NFA by MO), one regarding bias over a planning issue (at assessment report stage) and 2 regarding the behaviour of members in relation to a planning matter (not pursued);
- 4 were complaints against Town Councillors – these complaints consisted of 2 regarding social media posts (found NFA by MO), one regarding lack of consultation on a planning matter (out of time) and one concerning the tone taken in an email (at assessment report stage);
- 7 were complaints against Parish Councillors – these consisted of 3 regarding entries on the Register of interests (found NFA by MO), one regarding election practises (found NFA by MO), one regarding the misspelling of a person's name (found NFA by MO), one regarding bias and victimisation in respect of planning

applications (awaiting ASC), and one regarding false and misleading statements being made in a meeting (found NFA by ASC).

Dip Sampling

16. A table of current cases was provided to the committee chair at the end of April for a dip sample of cases to be undertaken to enable oversight. It is hoped that now the election period has passed this can be taken forward by the new chair and repeated on a regular basis. Future status reports will report on the outcome of this dip sampling.

Proposal

17. The Committee are asked:
 - a. To note the current position on Code of Conduct Complaints
 - b. To consider whether there is any further or different information that they would wish to see in future updates

Perry Holmes, Monitoring Officer

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Appendix 1 – Summary of Complaints

Appendix 1 – Summary of complaints

Monthly Code of Conduct Cases 2020

	Cases received	Assessed by Assessment Sub Committee - Investigation	Assessed by Assessment Sub Committee - no further action	Alternative Resolution/complaint withdrawn	Pending assessment by Assessment Sub Committee (*assessed & decision notice being Finalised)	Other	Complaints Determined by MO under Paragraph 4.6
January	4	0	0	1	0	0	3
February	4	0	0	1	0	1	2
March	2	2	0	0	0	0	0
April	5	2	0	2	0	0	1
May	3	2	0	1	0	0	0
June	5	1	3	0	0	0	1
July	4	0	2	0	0	1	1
August	10	0	6	3	0	0	1
Sept	12	0	5	0	0	4	3
Oct	6	2	0	0	0	0	4
Nov	4	0	2	0	0	1	1
Dec	3	0	0	0	0	2	1

Monthly Code of Conduct Cases 2021

	Cases received	Assessed by Assessment Sub Committee - Investigation	Assessed by Assessment Sub Committee - no further action	Alternative Resolution/complaint withdrawn	Pending assessment by Assessment Sub Committee (*assessed & decision notice being Finalised)	Other	Complaints Determined by MO under Paragraph 4.6
January	7	0	5	0	0	0	2
February	4	0	3	0	0	0	1
March	9	0	0	0	1	2	6
April	1	0	0	0	0	0	1
May	6	0	0	0	0	3	3