

Briefing Note No. 19-025

Changes to arrangements for dealing with Code of Conduct Complaints

Service: Governance Services
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Date Prepared: 9 September 2019
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Background

1. The Localism Act 2011 introduced new arrangements for the standards regime for local authorities, which deals with conduct complaints against elected and coopted members of town and parish councils as well as principal authorities. All Councils are required to adopt a Code of Conduct.
2. As the principal authority Wiltshire Council on 26 June 2012 adopted arrangements for resolving Code of Conduct complaints in accordance with the 2011 Act. These came into effect on 1 July 2012.
3. At its meeting on 9 July 2019 the Council, following a review by the Standards Committee involving comparison with the arrangements of other authorities, made changes to the arrangements.
4. Those changes are the subject of this briefing note, to inform town and parish councils of the changes ahead of their implementation on 1 January 2020.

Existing Arrangements

5. Under the [present arrangements](#) complaints are initially assessed by the Monitoring Officer of Wiltshire Council in accordance with the arrangements and the local [assessment criteria](#) approved by the Standards Committee
6. Following that initial assessment either the complainant or subject member may request a review of that decision. Such a review is carried out by a Standards Review Sub-Committee, a Sub-Committee of the Standards Committee, which may uphold the decision of the Monitoring Officer or overturn it.
7. At the initial assessment and review stage the test is whether the matters alleged would be capable of breaching the relevant Code of Conduct, not whether such a breach has been proven. If it is determined that the matters would be capable of breaching the relevant Code and other relevant assessment criteria are met, it would be referred for formal investigation.

8. If referred for investigation the Monitoring Officer appoints an Investigating Officer who investigates the matters and reports their findings and conclusions. If the Monitoring Officer is satisfied that the investigation is sound and the conclusion is that a breach has occurred, the matter is referred to a Hearing Sub-Committee of the Standards Committee for determination. If the Monitoring Officer supports a conclusion that there has been no breach the complainant may request a further review before a Review Sub-Committee.
9. A Hearing Sub-Committee would consider evidence and hear representations from all relevant parties before determining if a breach has occurred and if so recommending appropriate sanctions.

Review of Arrangements

10. The Standards Committee had concerns that the process for assessing complaints was not as efficient or effective as it could be, and undertook a review, including comparisons with the arrangements of other local authorities. In particular, there were issues relating to administrative efficiency to reduce delays in processing complaints, the multi-stage nature of the process; the handling of trivial or vexatious complaints and the level of member oversight.

Revised Arrangements

11. The revised arrangements approved by Full Council on 9 July 2019 make a series of changes, and the full document can be found at [this link](#). A summary flowchart of the process is included with this briefing note. The report and minute to Full Council detailing the changes can be found at [this link](#).
12. The new arrangements will come into effect on 1 January 2020. Any complaints submitted before that date will be subject to the existing arrangements.
13. The principal change to the arrangements is that initial assessment of complaints will no longer be determined by the Monitoring Officer. Instead, a standing Assessment Sub-Committee of the Council's Standards Committee will make determinations on all complaints. The assessment decision of the Sub-Committee will be final.
14. This change will streamline the process, making it more efficient, provide greater certainty for complainants and subject members as to when their complaint will be determined, and will enhance the role of elected members in assessing complaints against elected and coopted members across Wiltshire.
15. The Assessment Sub-Committee will also be involved in reviewing the investigating officer's report at that stage of the process.
16. Greater emphasis will be placed on seeking informal resolution to complaints, recognizing that alternative forms of resolution can achieve better outcomes than following a formal standards process through to its end.

17. Further changes were also made to ensure that complainants provide sufficient information when submitting a complaint to enable assessment; to slightly increase the length of time for an investigation and to provide that only in exceptional circumstances should a complaint against a member who has subsequently resigned be taken forward.

18. Lastly, provision has been made for the Monitoring Officer to summarily dismiss complaints which on the available information are considered 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.

Applicability

19. The revised arrangements detailed in this Briefing Note come into effect on 1 January 2020 and will apply to all town and parish councils in the Wiltshire Council area.

Protocol 11 Schedule 2 – Flowchart of arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011

