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WEST DEVON STANDARDS COMMITTEE - TUESDAY, 12TH JULY, 2011

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 2)

2. **Reports**

Reports to Standards:

- a) Item 5 - Annual Monitoring Report of the Standards Committee 2010/2011 (Pages 3 - 14)
- b) Item 6 - Monitoring Officer Annual Report 2010/2011 (Pages 15 - 26)
- c) Item 7 - Ombudsman Annual Letter (Pages 27 - 36)
- d) Item 8 - Corporate Complaints (Pages 37 - 44)
- e) Item 9 - Future of Standards (Pages 45 - 54)
- f) Item 10 - Assessment Sub Committee/Review Sub Committee Dates for Forthcoming Year (Pages 55 - 56)

3. **Minutes** (Pages 57 - 60)

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PART ONE - OPEN COMMITTEE

Page No.

1. **Apologies for Absence**
2. **Declarations of Interest**
Members are reminded to declare any personal or prejudicial interests they may have in any agenda items. 1
3. **Items Requiring Urgent Attention**
To consider items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).
4. **Confirmation of Minutes**
Regular Meeting – 8 March 2011 (attached) 3
5. **Annual Monitoring Report of the Standards Committee 2010/2011**
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**PART TWO -ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS
AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY
BE DISCLOSED (if any)**

The Committee is recommended to pass the following resolution:-

“RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting for the under-mentioned item(s) of business on the grounds that exempt information may be disclosed as defined in the paragraph(s) given in brackets below from Part I of Schedule 12(A) to the Act”.

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AGENDA
ITEM

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WEST DEVON BOROUGH COUNCIL

AGENDA
ITEM

5

NAME OF COMMITTEE	Standards Committee
DATE	12 July 2011
REPORT TITLE	Annual Monitoring Report of the Standards Committee 2010/11
REPORT OF	Deputy Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To present the Standards Committee's Annual Report to the Standards Committee with recommendations to Full Council to note.

Financial implications:

There are resource implications in relation to the increased amount of work arising under the Standards legislation for the Standards Committee Members, Monitoring Officer and Committee Section. Additionally, we cannot anticipate the number and complexity of investigations and, hence, Investigating Officer costs.

RECOMMENDATIONS:

That the Standards Committee recommends that Council considers and notes the Standards Committee's Annual Report for the year 1 April 2010 to 31 March 2011.

Officer contact:

Catherine Bowen, Deputy Monitoring Officer on 01822 813600 or cbowen@westdevon.gov.uk)

1. BACKGROUND

- 1.1 This is the sixth Annual Report of the Standards Committee and its works. The Standards Committee Annual Report is considered best practice and recommended by the Standards Board and auditors.

2. ISSUES FOR CONSIDERATION

- 2.1 The Annual Report for the financial year 1 April 2010 - 31 March 2011 is attached at Appendix A and covers:

- The role and function of the Standards Committee and its sub committees
- Standards Committee membership
- The work of the Standards Committee and its sub committee meetings throughout this period
- Details of standards complaints received during 2010/11
- Training
- Advice, policy and procedures
- Standards for England publications
- Budget
- Issues for the forthcoming year

3. LEGAL IMPLICATIONS

- 3.1 The report is necessary to present a summary to the Standards Committee and to Council of the Standards Committee and its works for the financial year 2010/11. Whilst there is no current legal requirement for such a report it is considered best practice by Standards for England and auditors.

4. FINANCIAL IMPLICATIONS

- 4.1 There are resource implications in relation to the increased amount of work arising under the Standards legislation for the Standards Committee Members, Monitoring Officer, and Committee Section.
- 4.2 Additionally, we cannot anticipate the number and complexity of investigations and, hence, Investigating Officer costs.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
To ensure that the Council and the public are aware of the role, works and achievements of the Standards Committee for the year 2010/11	To ensure that the Council complies with best practice
Issues/Obstacles/Threats	Control measures/mitigation
That the Council nor the public are aware of the Standards Committee's function and works	Compliance with the law, Standards for England Guidance an best practice to ensure consistency and transparency

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Towards Excellence Customer First
Statutory powers:	
Considerations of equality and human rights:	There are no equality considerations arising from this report
Biodiversity considerations:	There are no biodiversity considerations arising from this report
Sustainability considerations:	There are no sustainability considerations arising from this report
Crime and disorder implications:	There are no crime and disorder considerations arising from this report
Background papers:	
Appendices attached:	Appendix A: Standards Committee Annual Report 2010 - 2011

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Annual Report of the Standards Committee 1 April 2010 to 31 March 2011

Purpose

The purpose of the Annual Report is to advise Members about what has happened in the previous financial year (1 April 2010 to 31 March 2011) in relation to the Standards Committee and its works.

Background

The Standards Committee was set up in 2002 under the Local Government Act 2000 and its overall purpose is to promote and maintain high standards of conduct throughout the Borough Council and the Parish and Town Councils within West Devon.

Roles and Functions of the Standards Committee

The roles and functions of the Standards Committee are set out in the Council's Constitution and include:

- Promoting and maintaining high standards of conduct by councillors
- Assisting councillors and co-opted members to observe the Code of Conduct
- Advising the Council on the adoption or the revision of the Code
- Advising the Council generally on matters relating to the ethical conduct of the Council and its members
- Monitoring the operation of the Members' Code of Conduct
- Advising and training of councillors on matters relating to the Code
- Granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.
- Receiving, assessing and reviewing complaints alleging breach of the Code of Conduct
- Receiving investigation reports and carrying out Determination Hearings in respect of allegations of misconduct.
- Exercising the above points in relation to the parish/town councils within West Devon Borough and the members of those parish/town councils.
- Overview of complaints handling and Ombudsman investigations.

Membership and Appointments to the Standards Committee

The Standards Committee members for 2010 to 2011 were:

- Mrs Victoria Spence **Chairman** (Independent/lay Member)
- Cllr Robin Pike – **Vice Chairman** (Borough Council Member)
- Cllr Mrs Christine Grills (Borough Council Member)
- Cllr Mrs Deborah Sellis (Borough Council Member)

- Dr Roger Meyrick – (Independent Member)
- Cllr Mrs Wendy Eldridge (Parish Council Member)
- Cllr Mrs Janet Morgan (Parish Council Member)

The Borough Council Members are appointed at the Council's Annual Meeting in May. The Independent and Parish Representatives were appointed from 1 July 2007 until 30 June 2011.

Whilst West Devon Borough Council has had an independent Standards Committee Chairman since 2003, it is now compulsory for the Chairman of the Standards Committee, and its Subcommittees, to be an independent/lay member.

Sub-committees

The Standards Committee has appointed three subcommittees to deal with the various elements of the local assessment system:

- **Assessment Sub-committee** – comprising a panel of three drawn from the full committee consisting of independent/lay member, borough member and parish representative. The sub-committee deals with the initial assessment of misconduct complaints
- **Review Sub-committee** – comprising a panel of three different members drawn from the full committee consisting of independent/lay member, borough member and parish representative. The sub-committee deals with requests from Complainants for a review of the initial decision
- **Hearing Sub-committee** - this can comprise the full committee (with minimum of three members) which receives investigation reports, determines whether the Code has been broken, and considers what (if any) sanctions should be imposed.

Local Assessment

Local Assessment was introduced in May 2008, and now all allegations of councillor misconduct must be made to the local Standards Committee (as opposed to Standards for England). In this regard, the Standards Committee is responsible for:

- **Assessing allegations** of misconduct to decide whether or not to refer the complaint for investigation or other action
- **Reviewing** an initial decision not to refer for investigation, if the complainant so requests
- **Receiving reports** and conducting a **Hearing** following an investigation to determine whether the Code has been broken, and if so to consider what, if any, sanctions should be imposed.

The Committee has adopted procedures on Local Assessment which apply to all complaints about councillor misconduct relating to West Devon Borough Councillors,

co-opted members and Parish/Town councillors. The procedure applies to the initial **assessment** of complaints of misconduct and any **review** of that initial decision (where it has been decided that no action be taken). A separate procedure deals with Standards Committee **Determinations** where a matter has been referred for investigation and referred to the Hearing Sub-committee for determination.

Standards Committee Meetings

The Standards Committee met on the following dates and dealt with the following matters:

26 October 2010

- Annual Report of the Standards Committee
- Annual Report from the Monitoring Officer
- Annual Corporate Complaints Report
- Annual Ombudsman Report
- Update on Standards Complaints
- Standards Committee Forward Plan
- Schedule of Standards Committee sub Committee meetings

20 December 2010

- Consideration Committee – consideration of Investigating Officer's Final report

11 January 2011

- Forward Plan
- Member Induction Training
- The Future of Standards
- Appointment of Parish Councillors at Mary Tavy
- Update on Standards Complaints

8 March 2011

- Review of Member/Officer Protocol
- Localism Bill and impact on Standards – presentation
- Future make up of Standards Committee
- Update on Mary Tavy Parish Council

15 March 2010

- Consideration of Investigating Officer's Report on complaints referred for investigation

In addition, the following Standards sub-committees met to deal with the complaints as set out below.

Assessment and Review Sub-committee meetings

All complaints that a Councillor has broken the Code of Conduct must be made in writing and be considered by the Assessment Sub-committee.

Table of Complaints 2010/11

Date	Authority	Assessment Decision	Review Decision	Final Decision
16.06.10	Parish	Refer to Monitoring Officer for investigation		Complaint withdrawn before investigation
28.06.10	WDBC	Referred to SfE for investigation		Committee upheld ESO's finding of no breach
6.07.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
12.07.10	Parish	Referred to Monitoring Officer for investigation		Final Report imminent
20.07.10	Parish	Referred for investigation		Investigating Officer – no breach. Upheld by Standards Committee
20.07.10	Parish	19 August Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
20.07.10	Parish	NFA	NFA	NFA
03.09.10	WDBC	NFA		
03.09.10	WDBC	NFA		
03.09.10	WDBC	NFA		
08.09.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
13.09.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
13.09.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
16.09.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
20.09.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
20.09.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
05.10.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11
06.10.10	Parish	Referred for Other action		<ul style="list-style-type: none"> Attendance at MTPC meetings Jan to April M.O. Training 24.02.11

Date	Authority	Assessment Decision	Review Decision	Final Decision
19.10.10	Parish	NFA	NFA	
08.01.11	Parish	NFA	NFA	
02.03.11	Parish	NFA	NFA	

- During the last financial year the Standards Committee has dealt with 21 new complaints compared with seven complaints received in the previous financial year.
- 17 complaints were against parish/town councillors and 4 against West Devon Borough Councillors.
- The Assessment Sub-committee referred 3 cases to the Monitoring Officer for local investigation and one to Standards for England for investigation.
- 10 matters were referred for other action (compared with none for the previous year)
- In the remaining 7 cases the Assessment Sub-committee decided that no further action should be taken.
- In 4 of the 'No further action' cases decided by the Assessment Sub-committee, the Complainant asked for a review of the Assessment Sub-committee's original decision. A separate Review Sub-committee reconsidered the matters and in all 4 cases agreed with the original decision of 'No Further Action' which meant the end of the process for those complaints.

Investigations

- Four complaints were referred for investigation during this period and in the three cases referred to the Monitoring Officer for investigation, an external Investigating Officer was appointed to investigate the complaints.
- In the fourth case the matter was referred to Standards for England who found that there was no breach. This finding was upheld by the Standards Committee.
- The Investigating Officer's Final Report is awaited on one of the investigations.
- One investigation has been withdrawn
- In the remaining investigation, the Investigating Officer found that there had been 'no breach' and this finding was upheld by the Standards Committee.

Applications for dispensations

The Standards Committee may grant dispensations to Borough and Parish/Town Councillors in limited circumstances. This allows the councillor to take part in the debate or vote when s/he would otherwise be excluded from doing so because of a prejudicial interest. The Standards Committee has the power to grant or refuse a dispensation having regard to the particular facts in the matter.

No applications were received during this period.

Training - April 2010 to March 2011

The following table shows the Standards training that has been carried out for members of the Standards Committee, borough councillors and parish/town councillors during this period.

Schedule of Councillor training

Date	Training provided for:	Training	Number attending
22.09.10	Standards Committee	Joint training with SHDC Standards Committee	5 West Devon Standards Committee members
24.02.11	Mary Tavy Parish Council	Following other Action direction to Monitoring Officer	Parish Council
05.03.11	Standards Committee	Localism Bill	West Devon Borough Council Standards Committee

Standards Annual Assembly

This usually takes place during October and comprises a series of lectures and workshops dealing with topical issues in ethical governance from a broad range of speakers. It is attended by Standards Committee members, Monitoring Officers, Standards for England members and Government ministers.

However, due to the changes to the Standards regime and abolition of Standards for England proposed by the Localism Bill, the 2010 assembly was cancelled.

Advice from the Monitoring Officer

Advice is given by the Monitoring Officer to both Borough Councillors and Parish Clerks/Councillors when required on a frequent and regular basis throughout the year.

Policy and Procedures

The Standards Committee reviewed the Member Officer Protocol in March and this was approved and adopted by the Council at its meeting in April.

Standards Board publications

Standards for England still retains its advisory functions, and guidance and previous publications are still available on Standards for England website at: <http://www.standardsforengland.gov.uk>, including:

[P/Standards/Committee Reports/Annual Report 2010/11](#)

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- The Bulletin - covering topical issues, forthcoming events, updates on complaints
- Newsletter for parish and town councils on standards issues
- The Case Review – an annual publication on investigations and outcomes and developing policy on the Code of Conduct
- Annual review of the performance of Standards for England over the preceding year
- Guidance and best practice on various areas and issues.

Corporate Complaints and Ombudsman

The Standards Committee is also responsible for overseeing the Council's Corporate Complaints procedure and Ombudsman complaints. Separate summaries on both these issues are also reported annually to the Standards Committee.

Budget

The budget for the Standards Committee was £8,000 for the financial year 2010/11. The total spent during the year was £3,590.25 with an underspend of £4,409.75 (compared with the overspend of £2,567.00 the previous year). The costs relate to the investigations carried out during the financial year. The difference in spend is accounted for by less spend on investigations than the previous year and no external training has been carried out.

Forthcoming year

- Standards for England and the Standards framework will be abolished under the Localism Bill due to take effect Spring 2012
- Decisions to be made about what will replace the existing governance provisions

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AGENDA
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WEST DEVON BOROUGH COUNCIL

AGENDA
ITEM

6

NAME OF COMMITTEE	Standards
DATE	12 July 2011
REPORT TITLE	Monitoring Officer Annual Report 2010 - 2011
REPORT OF	The Deputy Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To present the Monitoring Officer's Annual Report to the Standards Committee with recommendations to the full Council.

Financial implications:

There are resource implications in relation to the increased amount of work arising under the standards legislation for the Standards Committee Members, Monitoring Officer, and Committee Section. Additionally, we cannot anticipate the number and complexity of investigations and hence Investigating Officer costs.

RECOMMENDATIONS:

That the Standards Committee recommends that the Council considers and notes the Monitoring Officer's Annual Report for the period 1 April 2010 to 31 March 2011.

Officer contact:

Catherine Bowen, Deputy Monitoring Officer on 01822 813600 or email: cbowen@westdevon.gov.uk

1. BACKGROUND

- 1.1 This is the fifth Annual Report of the Monitoring Officer, and it is considered best practice for the Monitoring Officer to produce an annual report on her duties and role throughout the year.

2. ISSUES FOR CONSIDERATION

- 2.1 Under the Local Government and Housing Act 1989, all Councils have a duty to appoint a Monitoring Officer to ensure the lawfulness and fairness of Council decision-making.
- 2.2 The Monitoring Officer is responsible for advising the Council on the legality of its decisions, and on the conduct of Councillors under the Local Government Act 2000.
- 2.3 For the purpose of this report, the duties of the Monitoring Officer are broken down into three functions:
- Decision-making
 - Conduct and Standards
 - Constitution
- 2.4 At the end of the report is a summary of the main functions, comments on performance and any relevant actions to be undertaken.

3. LEGAL IMPLICATIONS

- 3.1 The report is necessary to present a summary to the Standards Committee and to Council of the Monitoring Officer's duties for the financial year 2010/11. Whilst there is no current legal requirement for such a report it is considered best practice and recommended by the auditors.

4. FINANCIAL IMPLICATIONS

- 4.1 There are resource implications in relation to the increased amount of work arising under the standards legislation for the Standards Committee Members, Monitoring Officer, and Committee Section.
- 4.2 Additionally, we cannot anticipate the number and complexity of investigations and hence Investigating Officer costs.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
To ensure that the Council and the public are aware of the role and duties of the Monitoring Officer for the year 2010/11	To ensure that the Council complies with best practice
Issues/Obstacles/Threats	Control measures/mitigation
Lack of awareness of the Monitoring Officer's duties	To ensure transparency and consistency based on experience

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Towards Excellence Customer First
Statutory powers:	None
Considerations of equality and human rights:	There are no equality or human rights considerations arising from this report
Biodiversity considerations:	N/a
Sustainability considerations:	N/a
Crime and disorder implications:	N/a
Background papers:	
Appendices attached:	Appendix A: Monitoring Officer Annual Report 2010-2011

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West Devon Borough Council

Monitoring Officer Report 1 April 2010 to 31 March 2011

Background

Under the Local Government and Housing Act 1989, all Councils have a duty to appoint a Monitoring Officer to ensure the lawfulness and fairness of Council decision-making.

The Monitoring Officer is responsible for advising the Council on the legality of its decisions, and on the conduct of Councillors under the Local Government Act 2000.

For the purpose of this report, the duties of the Monitoring Officer are broken down into three functions:

- Decision-making
- Conduct and Standards
- Constitution

Decision making

The Monitoring Officer is required to ensure the lawfulness and fairness of the Council's decision-making. To carry out this role, the Monitoring Officer monitors Council and Committee agenda providing a check on each report. Although the original aim was to monitor all agenda, this has not proved possible due to capacity. The Monitoring Officer therefore carries out the monitoring of agenda through a spot check system.

Under this duty the Monitoring Officer is also required by law to report to Council if she is of the opinion that a decision may be made which is likely to contravene the law or cause maladministration or injustice.

Agenda monitoring

Reports are checked against criteria based on the principles of clarity, fairness and lawfulness. The Monitoring Officer provides a report to the Chief Finance Officer and the author of the report indicating whether or not the report meets Monitoring Officer requirements and specifying any amendments that are required. Reports may fail to meet Monitoring Officer requirements for more than one reason. The following table shows the number of agenda monitored as against the number of agenda published:

	2008 - 09	2009 - 10	2010-11
Total Number of Agenda	32	38	37
Total Number of Agenda monitored	20	20	23
Percentage of Agenda monitored	64%	53%	62%

The agenda monitored included ordinary meetings and special/extraordinary meetings.

The number of instances where reports have failed to meet the Monitoring Officer requirements are set out in the table below, together with the reason for that failure:

Reason	2008/09	2009/10	2010/11
Recommendation incorrect or unclear	5	2	1
Purpose of report not stated	4	0	0
Wrong Committee	1	1	0
Financial/risk management implications not stated	4	0	1
Legal powers not specified (or incorrect)	7	4	6
Legal implications not fully stated	1	3	4
Report unclear	2	1	1
Documents missing	0	0	0
Missing Equality implications	5	2	0
Information report	0	0	2
Part II exemption not justified/ public interest test unclear	2	2	4
Incorrect delegation	4	3	3
Minor amendments	5	4	3
Total	40	22	25

More reports have been monitored than the previous year and the overall position is similar to the previous year. This is encouraging as this year has seen the introduction of a new joint report template with South Hams and West Devon with the necessary changes that the change incurred.

Consequently, the related guidance on Report Writing has been updated and is readily available on the Council's intranet for all report writers to consult. There has also been an increase in the number of officers making early contact with the Monitoring Officer when writing a report so that advice can be given at an early stage.

Report on contraventions of Law

None made.

Conduct and Standards

Every Council must have a Standards Committee and every councillor (including co-opted members and parish councillors) must comply with the Code of Conduct.

There are a number of functions the Monitoring Officer is required to perform within this area:

Support to the Standards Committee

The Monitoring Officer is the Lead Officer for the Standards Committee assisting the Committee in its role of promoting and maintaining high standards of the conduct of councillors. In addition, the Monitoring Officer maintains regular contact with the Chairman of this Committee. There is some overlap with these functions with the matters reported in the Annual Report (see separate item on the agenda).

The Local Assessment rules require three Standards subcommittees:

- **The Assessment sub-committee** – deals with the initial assessment of standards complaints and decides whether or not to refer the complaint for investigation or other action;

- **The Review sub-committee** (made up of different members to the Assessment Sub-committee) - deals with a request from the Complainant for a review of the initial decision of No Further Action.
- **Hearing Sub-committee** - follows an investigation and receives Investigating Officer reports and determines whether the Code has been broken, and if so what (if any) sanctions should be imposed.

The full Standards Committee has met three times this year. In addition the Assessment Sub-committee and Review Sub-committee met several times to consider complaints received against borough or parish/town councils. These are detailed in the accompanying Annual Report on the Standards Committee.

Receiving Investigating Officer reports and conducting investigations

The Monitoring Officer must carry out investigations (or appoint an Investigating Officer to act on her behalf) into matters which have been referred for local investigation by the Assessment Sub-committee or the Review Sub-committee.

There have been four referrals for investigation, one of which is still ongoing. In two cases the Investigating Officer found that the Code had not been broken and the decision was upheld by the Standards Committee. In the final case the matter was referred to Standards for England for investigation. The Standards for England Investigating Officer found that there was no breach, which was upheld by the Standards Committee.

Maintaining registers of interests and gifts and hospitality

The Monitoring Officer is required to maintain Registers of Interest for Council members, parish councillors and also the register of gifts and hospitality. These registers are updated as and when new interests or gifts/hospitality are notified to the Monitoring Officer.

The Monitoring Officer sends reminders on maintaining up-to-date Registers to all Borough Council and Standards Committee members and all Parish Clerks in May/June and in November/December each year.

Annual and Quarterly Returns to Standards for England

Due to the imminent changes to the Standards framework, these are now no longer required by Standards for England.

Providing advice on standards matters

The Monitoring Officer is statutorily required to provide advice to Parish Councils as well as the Borough Council on all standards matters. The Monitoring Officer has provided advice by personal appointment, telephone and email/letter on a wide range of standard matters, primarily related to declaring interests and the interpretation of the Code of Conduct.

Training

The Monitoring Officer is required to support the Standards Committee in its duty regarding standards training for both borough councillors, co-opted members and parish/town councillors.

A Schedule of the standards training for the year 2010/11 is shown below:

Date	Training provided for:	Training	Number attending
22.09.10	Standards Committee	Joint training with SHDC Standards Committee	5 West Devon Standards Committee members
24.02.11	Mary Tavy Parish Council	Following other Action direction to Monitoring Officer	Parish Council
05.03.11	Standards Committee	Localism Bill	West Devon Borough Council Standards Committee

Specific Parish Council training was not carried out during this year as comprehensive training had been carried out in June 2009. All training was carried out in-house by the Monitoring Officer and/or Deputy Monitoring Officer with support from the DAPC for the Parish training in February.

Investigations of Officers misconduct

The Monitoring Officer is required to keep the **Whistleblowing Policy** under review, advise on policy and procedure and maintain a record of concerns raised and their outcomes. This Policy is due for a full review during 2010. No concerns have been notified to the Monitoring Officer under this Policy this year.

Constitution

Every Council has to have a Constitution saying how it works and setting out its governing rules. The Monitoring Officer must maintain the Constitution and provide advice and guidance. The responsibilities are as follows:

Review of the Constitution

As part of this duty, the Monitoring Officer carries out an annual review of the Constitution and proposes any amendments to Council in time for the Council to be able to adopt the revised Constitution at its Annual Meeting in May.

A review of the Constitution was carried out this year and amendments made, and the Constitution 2010 was adopted at the Annual Meeting. A full review of the Constitution is planned for 2010/11.

Provision of advice

The Monitoring Officer may provide advice on any aspect of the Constitution, but the most frequently asked questions tend to relate to delegation and general powers. These queries are often linked to the monitoring of agenda.

Rules within the Constitution

The Constitution contains a set of rules by which the Council operates, such as procedure at council meetings, financial rules and contract procedure rules.

Under these rules, the Monitoring Officer has a number of duties shared with the Chief Executive (Council Procedure Rules) and with the Section 151 Officer (Financial Procedure Rules).

The Monitoring Officer also has specific duties under the Contract Procedure Rules as follows:

Exemptions from the Contract Procedure Rules

For contracts with an estimated value of less than £50,000 the Monitoring Officer can grant exemptions (in consultation with the S151 Officer) from the contract procedure rules. The exemptions applied for tend to be to obtain fewer quotes/tenders than the number set out in the rules, or for appointing specialists. These Rules are due to be reviewed during 2010/11 and it is planned to provide guidance/training on the revised rules.

This year the Monitoring Officer received 15 applications for exemptions from the Rules (compared with 5 and 11 respectively for the two previous years)

and these were all granted. The increase may be a result of increased awareness of the Procedure Rules by officers.

Investigations

The Monitoring Officer is required to carry out investigations where there has been breach in the Contract Procedure Rules (usually due to a fault in the tendering processes).

One investigation has been carried out this year (the same as the previous year) in relation to one tender package being received out of time.

**Catherine Bowen
Deputy Monitoring Officer
West Devon Borough Council
July 2011**

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AGENDA
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WEST DEVON BOROUGH COUNCIL

AGENDA
ITEM

7

NAME OF COMMITTEE	Standards Committee
DATE	12 July 2011
REPORT TITLE	Ombudsman's Annual Letter 2010-2011
REPORT OF	Deputy Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To consider the Annual Letter from the Ombudsman regarding complaints received against the Council for the year 1 April 2010 to 31 March 2011.

Financial implications:

There are no financial implications to this report.

RECOMMENDATIONS:

That Members note the Ombudsman's Annual Letter for 2010 - 2011.

Officer contact:

Catherine Bowen, Deputy Monitoring Officer, on 01822 813600 or email cbowen@westdevon.gov.uk)

1. BACKGROUND

- 1.1 The Ombudsman investigates complaints made by members of the public about public authorities (excluding town or parish councils).
- 1.2 The Ombudsman will investigate a complaint if it relates to maladministration or injustice by the Council. The Ombudsman will not be able to investigate all of the complaints referred to him as some will fall outside of his remit, and he can only investigate a complaint that has already been considered through the Council's own complaints procedure. The Council must have a chance to answer the complaint first.
- 1.3 A complainant cannot appeal against the Ombudsman's decision but complaints can be reviewed if new information is presented.

2. OMBUDSMAN'S ANNUAL LETTER 2010 /11

- 2.1 The aim of the Annual Letter is to provide a summary of information on complaints that the Ombudsman has received and/or determined throughout the last financial year in relation to West Devon Borough Council, and to help the Council learn from the outcomes of the complaints made.
- 2.2 The Annual Letter is published on the Ombudsman's website at www.lgo.org.uk

3. COMPLAINTS RECEIVED

- 3.1 During 2010/11 the Ombudsman received 13 complaints, compared to nine last year. Complaints received may not necessarily equate to the number of complaints actually investigated by the Ombudsman (for example a complaint may have been received in the previous financial year but investigated during 2010/11). These are set out in Table 1 of the Annual Report attached at Appendix A.
- 3.2 There were 8 complaints about planning, 3 about environmental services, 1 corporate services and 1 relating to benefits and council tax.

4. COMPLAINT OUTCOMES

- 4.1 The Ombudsman decided 8 complaints against the Council:
 - In three cases the Ombudsman found no (or insufficient evidence) of maladministration
 - Two cases were outside of the Ombudsman's jurisdiction
 - In one case the Ombudsman exercised his discretion not to investigate further
 - Two cases were settled by way of Local Settlement (where the Ombudsman considers the action taken by the Council to be a satisfactory response to the

complaint) one of which was a planning matter and one related to environmental services.

4.2 The average response time to the Ombudsman's enquiries was 19 days, less than the previous year (20.8 days) and well within the target response time of 28 days.

4.3 Appendix 2 of the Ombudsman's Letter sets out tables showing enquiries and complaints received together with outcomes and response times.

5. LEGAL IMPLICATIONS

5.1 The Local Government Ombudsman is governed by the Local Government Act 1974.

5.2 This report is necessary because the Standards Committee is responsible for an overview of complaints handling within the Council, and for an overview of Ombudsman investigations. The Ombudsman's Annual Letter is an important part of that process and needs to be brought to the Committee's attention.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications to this report.

7. RISK MANAGEMENT

7.1 The risk management implications are:

Opportunities	Benefits
For the Standards Committee to review the work carried out by the Ombudsman during the year in relation to the Council	Raised awareness of the complaints received and to learn from the outcome of any complaints made
Issues/Obstacles/Threats	Control measures/mitigation
Not being aware of the complaints being made to the Ombudsman	To ensure transparency and consistency based on experience

8. OTHER CONSIDERATIONS

Corporate priorities engaged:	Towards Excellence Customer First
Statutory powers:	The Local Government Ombudsman is governed by the Local Government Act 1974
Considerations of equality and human rights:	There are no equality or human rights considerations arising from this report
Biodiversity considerations:	N/a
Sustainability considerations:	N/a
Crime and disorder implications:	N/a
Background papers:	
Appendices attached:	Appendix A: Ombudsman Annual Letter 2010 /2011

24 June 2011

Mr Richard Sheard
Chief Executive
West Devon Borough Council

Dear Mr Sheard

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 75 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath it.

Dr Jane Martin
Local Government Ombudsman

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For information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Benefits & Tax	Corporate & Other Services	Environmental Services & Public Protection & Regulation	Housing	Planning & Development	Total
Formal/informal premature complaints	0	0	0	0	0	0
Advice given	1	0	0	0	2	3
Forwarded in investigative team (resubmitted)	0	0	1	0	1	2
Forwarded to investigative team (new)	1	1	2	0	7	11
Total	2	1	3	0	10	16

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	0	2	0	0	3	1	2	8

No adult social care decisions were made in the period

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	5	19.0
2009 / 2010	5	20.8
2008 / 2009	3	14.7

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Provisional comparative response times 01/04/2010 to 31/03/2011

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0

AGENDA
ITEM

8

WEST DEVON BOROUGH COUNCIL

AGENDA
ITEM

8

NAME OF COMMITTEE	Standards
DATE	12 July 2011
REPORT TITLE	Complaints Report 2010-2011
REPORT OF	Head of Customer Services & ICT
WARDS AFFECTED	All

Summary of report:

To report on the complaints received and investigated using West Devon Borough Council's Complaints Procedure, between April 2010 and March 2011.

Financial implications:

There are no financial implications as a result of this report.

RECOMMENDATIONS:

That Members note the complaints received in 2010-2011.

Officer contact:

Darren Cole, Head of Customer Services & ICT on 01822 813626 or
Darren.cole@swdevon.gov.uk

1. BACKGROUND

- 1.1 West Devon Borough Council has had a two-stage complaints procedure since March 2009.
- 1.2 Complaints received are monitored and an analysis undertaken which is then reported to Members on an annual basis.

2. ISSUES FOR CONSIDERATION

- 2.1 There is a summary and analysis of the complaints received throughout the period April 2010 to March 2011 included at Appendix A.

3. LEGAL IMPLICATIONS

- 3.1 The report is necessary to enable the Standards Committee to fulfil their role in having an overview of complaint handling for West Devon Borough Council.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications as a result of this report.

5. RISK MANAGEMENT

- 5.1 The risk management implications are:

Opportunities	Benefits
To handle complaints effectively and apply lessons learnt. Review the communication routes customers choose	Monitoring of complaints and a robust Corporate Procedure to deal with and learn from them Focus resources dependent on customer demand
Issues/Obstacles/Threats	Control measures/mitigation
If complaints are not handled correctly, the Council may not be fulfilling its duties and, as a result, may not be providing high quality services. If complaints are not resolved they may result in Ombudsman investigations which may ultimately result in financial penalties for the authority	The Council has in place a robust complaints procedure.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	There is no specific link to the corporate priorities. However, the complaints process is a key element of the Customer First standards which sets out how customers can expect to be treated by West Devon Borough Council.
Statutory powers:	None
Considerations of equality and human rights:	There are no equality or human rights considerations arising from this report
Biodiversity considerations:	There are no biodiversity considerations arising from this report
Sustainability considerations:	There are no sustainability considerations arising from this report
Crime and disorder implications:	There are no crime and disorder considerations arising from this report
Background papers:	Customer First Standards WDBC Complaints Procedure
Appendices attached:	Appendix A: Analysis of complaints received between 1 April 2010 and 31 March 2011

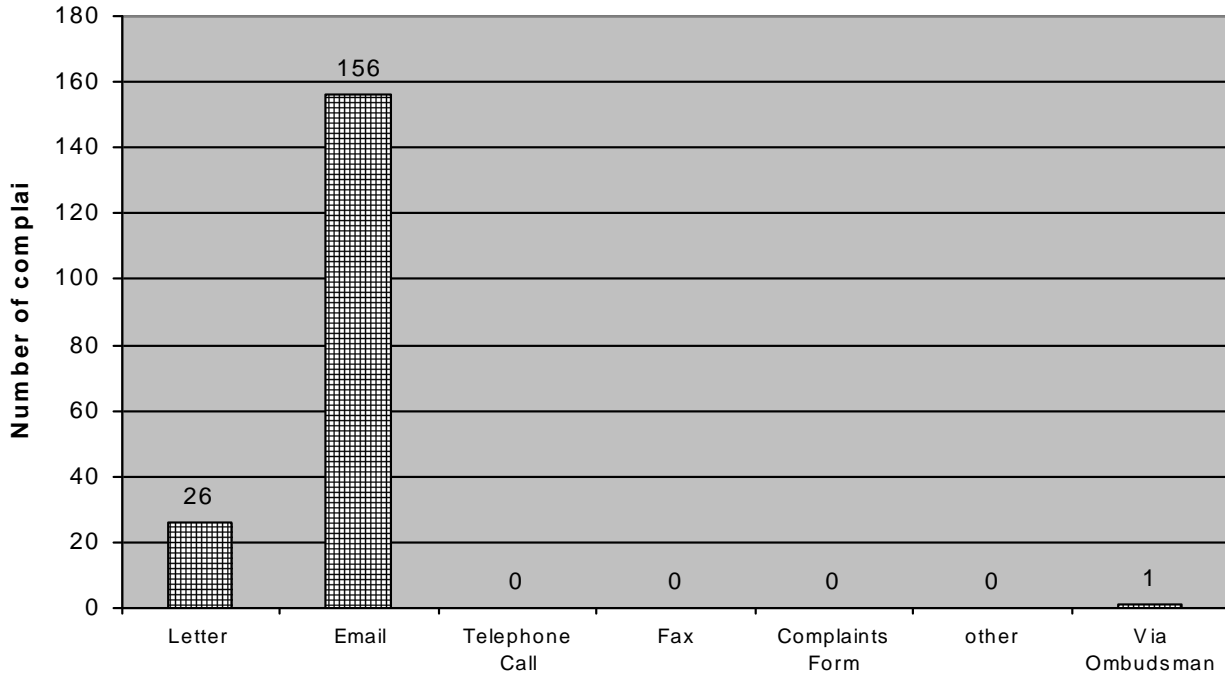
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Appendix A

Analysis of complaints received between 1st April 2010 and 31st March 2011

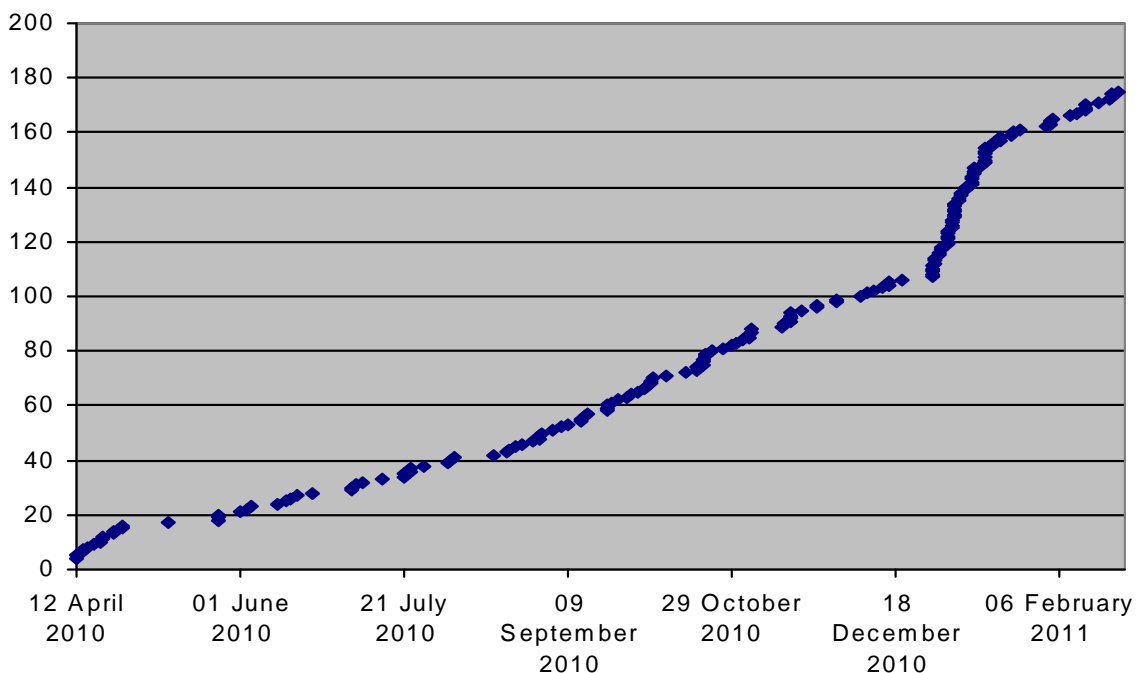
Total number of complaints received relating to West Devon Borough Council was 184 for the year compared to 134 in 2009-10 and 88 in 2008-09. This increase of 37% is mainly due to a sharp increase in the rate of complaints due to severe weather around and just after Christmas of which the majority of complaints were around missed refuse and recycling collections.

How complaints were received:



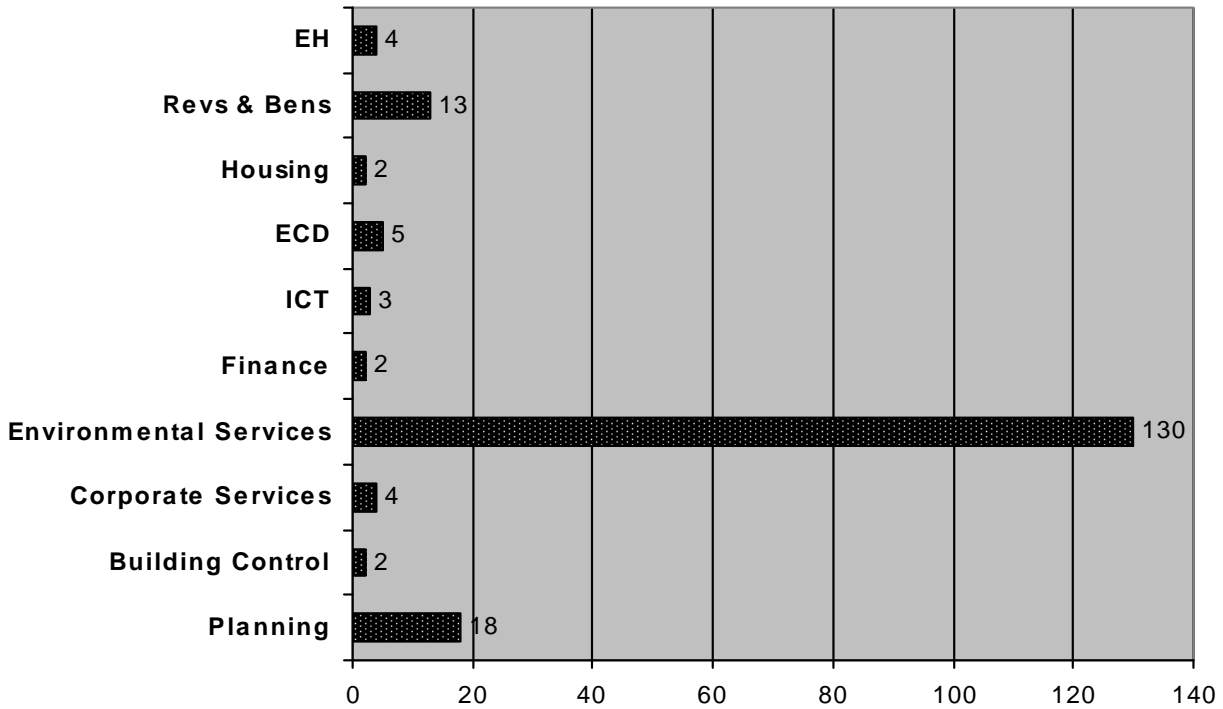
The most popular method of receiving complaints was by email with only 14% arriving by letter. One complaint arrived via the Ombudsman but no other communication route was utilised to contact us.

Timeline of complaints throughout the year



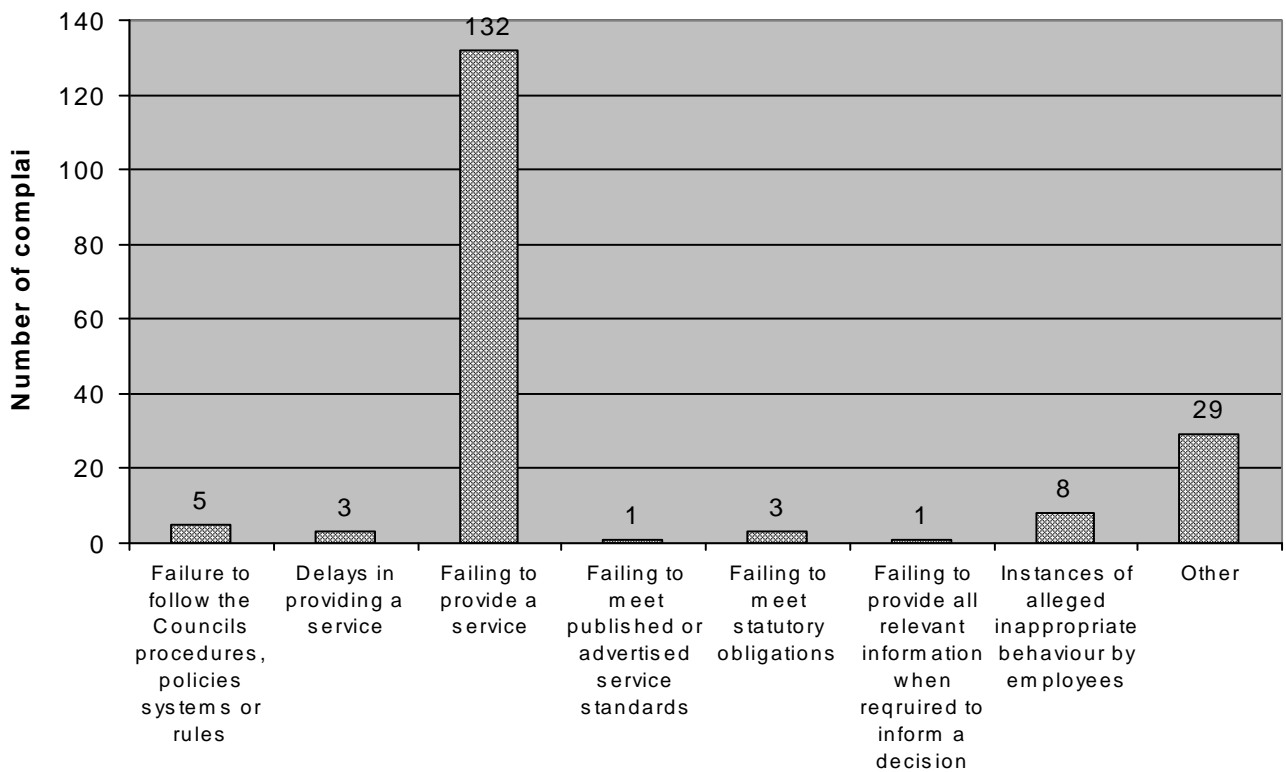
A spike in complaint due to the severe weather can be seen on the graph with around 50 complaints in the two weeks directly after New Year

Type of complaint:



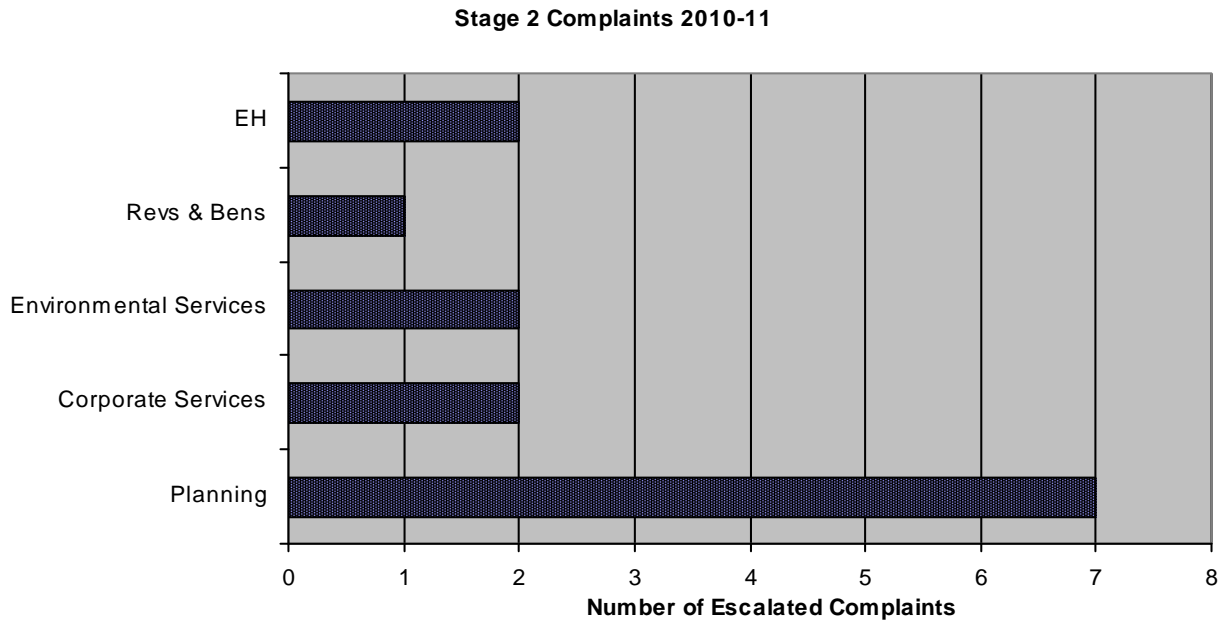
70% of complaints related to Environmental services, including Refuse and Recycling, Car Parking and Street Cleaning. 10% related to Planning issues including Development Management and Enforcement. 7% related to Revenues and Benefits.

Reason for complaint:



Stage complaints reached:

Most complaints are resolved at the first stage (92%). 14 complaints were escalated to stage two of the Complaints Procedure



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AGENDA
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West Devon Borough Council

AGENDA
ITEM

9

NAME OF COMMITTEE	Standards Committee
DATE	12 July 2011
REPORT TITLE	The Future of Standards – update
Report of	Deputy Monitoring Officer
WARDS AFFECTED	All

Summary of report:

This report develops the themes discussed by this Committee at its meeting on 8 March 2011 in the light of information received from other authorities, the passage of the Localism Bill and other matters and offers a draft position statement for discussion with Members of the Council, and parish and town councils.

Financial implications:

There are no direct financial implications in this report.

RECOMMENDATIONS:

That the consultation paper (amended as Members see fit) be approved for consultation with Members of the Borough Council and Parish and Town Councils in the Borough.

Officer contact:

Catherine Bowen Deputy Monitoring Officer.
Tel (01822) 831666 email c.bowen@westdevon.gov.uk

1. BACKGROUND

- 1.1 At the Standards Committee meeting on 8 March we had a presentation on Localism and the future of Standards.
- 1.2 The Localism Bill has completed its passage through the House of Commons and Committee Stage largely unscathed and has reached the House of Lords where line by line consideration began on 20 June. It is anticipated that the Bill will complete all stages and be ready for Royal Assent in the autumn as originally predicted.

1.3 The only changes of concern to this Committee made by the Commons are in relation to Predetermination and Standards:

- the Bill already said that councils had a discretion as to whether to adopt a Voluntary Code of Conduct. An additional provision says that where a council adopts, revises or withdraws a Voluntary Code of Conduct, it must (not “may”) publicise its doing so for local residents and
- that only the full Council may adopt, revise or withdraw its Code of Conduct.

2. ISSUES FOR CONSIDERATION

2.1 The Monitoring Officer has drafted a consultation paper for the South Hams Standards Committee and I think it a good idea to do the same at West Devon – please see Appendix A. The proposal is that the Consultation paper is sent out to all members of this Council and of parish and town councils in the Borough to canvass their views on what should follow after the current regime has been abolished.

3. LEGAL IMPLICATIONS

3.1 The Council has no choice but to implement the provisions of the Localism Bill as they are enacted. Parliamentary scrutiny is not complete and some of the provisions referred to in this report may yet change. At this stage it is required only that those most affected by the Local Standards Framework have the opportunity to contribute to the debate.

3.2 The appendix contains a brief summary of the key legal implications for consideration.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications at this stage. The costs of consultation can be contained within the relevant budget. As the proposals for reform crystallise we will have a better idea of where there may be savings or additional cost.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
<p>To improve the process by which the authority maintains high standards of conduct</p> <p>We may gain a clearer and more locally relevant set of principles for ensuring good behaviour</p> <p>To work in partnership with other Devon authorities</p>	<p>Dismantling the statutory regime is likely to reduce the administrative machine that feeds it and so save money and time</p> <p>If a new voluntary framework is established it is likely to have more support</p> <p>It will be designed to be fit for purpose</p>

Issues/Obstacles/Threats	Control measures/mitigation
<p>Change may be disruptive and lead to confusion, especially if there is only patchy implementation of voluntary codes</p> <p>Loss of the input of the co-opted members of the Standards Committee by its dissolution would be a disadvantage</p>	<p>Good planning and careful preparation including appropriate training for all concerned</p>

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life Customer First
Statutory powers:	Local Government Act 2000; Localism Bill
Considerations of equality and human rights:	All will have to be incorporated in measure replacing the current provisions in pursuance of the authority's wider obligations
Biodiversity considerations:	None engaged by this report
Sustainability considerations:	None engaged by this report
Crime and disorder implications:	The introduction of criminal offences to replace the statutory code will have implications for the authority but the replacement provisions would mitigate them
Background papers:	
Appendices attached:	A: Consultation paper on the Future of Standards

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West Devon Borough Council

THE FUTURE OF STANDARDS

A consultation paper on what might replace the current provisions for regulating the conduct of councillors after their repeal by the Localism Bill

To:

- Members of West Devon Borough Council
- Members of town and parish councils in the Borough of West Devon

1 Background

- 1.1 The Government intends through the Localism Bill to abolish the Local Standards Framework introduced by the Local Government Act 2000. That framework required all local authorities to adopt a Code of Conduct binding upon councillors, required principal authorities to set up a Standards Committee to promote good governance and behaviour, and established Standards for England to monitor all of that nationally. The Bill will also abolish the “General Principles of Public Life”¹.
- 1.2 In its place, the Localism Bill proposes that with effect from April 2012:
 - 1.2.1 The duty on authorities to promote and maintain high standards of conduct by elected and co-opted members will remain
 - 1.2.2 Authorities may voluntarily adopt a code of conduct for their councillors and set up processes by which any failures to comply with the voluntary code can be investigated and dealt with
 - 1.2.3 The Monitoring Officer must establish and maintain a register of members’ interests which will be available for public inspection
 - 1.2.4 Regulations will specify:
 - what interests are to be registered
 - when they should be disclosed
 - when a member with an interest may not participate in the council’s business
 - when dispensations may be granted permitting participation
 - what sanctions an authority may impose for failure to comply with the regulations.
 - 1.2.5 Failure to register a financial or other interest or to disclose it before taking part in the council’s business where that interest is

engaged, or taking part in business when that is prohibited on account of the interest, will be criminal offences (prosecutions will be brought by the Police not the Council) and the maximum fine will be £5,000. In addition the Court may disqualify the member for up to five years.

1.3 The Government published an Impact Assessment of this part of the Localism Bill² which includes these points:

- savings made by abolishing the compulsory provisions would be negated by retention of voluntary measures
- failing to retain some aspects of the current regime might lead the public to think that an authority isn't properly committed to upholding high standards of conduct; accordingly, it could be assumed that most authorities would retain the most valuable aspects
- Standards for England's own review in 2010 found little support for complete removal of the Local Standard Framework but wide support for its reform
- there is a risk that with nothing in place, standards of conduct would worsen because councillors would know they are subject to no control
- after abolition of the compulsory code there would be less severe penalties for the worst offences because authorities would have no powers to suspend or disqualify
- risks arising from breaches relating to bullying, disclosing confidential information or misuse of resources can be covered by a strengthened Member-Officer protocol and training
- other misbehaviour can be caught by existing laws.

1.4 The other laws that affect individual Members' conduct include these:

1.4.1 Criminal Law

- Bribery
- Misconduct in public office
- Theft and false accounting
- Common assault

1.4.2 Civil Law

- Misfeasance in public office³
- Defamation

- Negligence
- Injunctions
- Equalities laws

Enforcement of any of these would require action before the courts. There is also recourse to the Local Government Ombudsman.

2 Going forward

2.1 At its meeting on 8 March 2011, the Standards Committee was advised that there are discussions at a local level between the monitoring officers of Devon authorities and nationally with the Local Government Association and the Association of Council Secretaries and Solicitors (ACSeS), all considering what should be put in place once the current provisions are abolished. So far nothing concrete has appeared for consideration but some themes are emerging:

2.1.1 That standards of behaviour amongst councillors in West Devon are generally very high, with serious failures being a very tiny minority;

2.1.2 That nevertheless there should continue to be a set of rules laying out what behaviour by councillors is acceptable and how failure to adhere to such rules would be regarded;

2.1.3 That this could be a strengthened member/officer protocol or a code of conduct;

2.1.4 That before making any major changes we should wait and see what the ACSeS draft replacement “voluntary” code contains;

2.1.5 That we should consider the contents of such a code and means of enforcing it with colleagues in other Devon councils, with an eye to what is favoured nationally;

2.1.6 That there should be consultation and debate amongst the councillors to whom such rules would apply, and the wider community, as to what the rules should contain and how they should be enforced, before adoption.

2.3 Members have previously commented that:

2.3.1 West Devon should adopt a voluntary code in order to give the public and press confidence, even though the limit on sanctions might make it meaningless;

2.3.2 Deletion of the Principles of Public Life is disappointing;

- 2.3.3 Concern over whether the Police will give sufficient priority to standards issues;
- 2.3.4 A continuity of approach would be beneficial
- 2.3.5 A proliferation of codes within a locality (e.g. with each parish, district, county DNP having its own code) was not beneficial and a county-wide approach was worth investigating.

3 Questions for consultation

- 3.1 When the current Local Standards Framework is abolished, leaving only the duty to promote and maintain high standards of conduct by members is compliance with that duty best secured by:
 - 3.1.1 Relying only on the statutory provisions in the Localism Bill and the general law?
or
 - 3.1.2 Introducing a voluntary code of conduct for its members?
- 3.2 If a voluntary code is not required:
 - 3.2.1 Should we take steps to improve our own protocols for dealing with business, such as the Protocol on Member/Officer relations and adopting a Planning Code of Good Practice to guide members?
 - 3.2.2 How should compliance with those protocols be secured?
- 3.3 If a voluntary Code is to be introduced, what would be the best solution:
 - 3.3.1 That West Devon (with South Hams) sets up a code for our own members and makes it available as a model for town and parish councils?
 - 3.3.2 That this Authority seeks to combine with other Devon authorities to establish a common code?
 - 3.3.3 That we all subscribe to a national model, if any?
- 3.4 Is a Voluntary Code best enforced through:
 - 3.4.1. Local arrangements such as a joint local standards committee (e.g. South Hams and West Devon, perhaps with Teignbridge)?
 - 3.4.2 County-wide arrangements administered centrally?
- 3.5 What sanctions are:

3.5.1 effective and

3.5.2 appropriate to be administered locally?

4 Responses

4.1 Responses to this consultation paper should be sent to the West Devon Borough Council Monitoring Officer at Kilworthy Park, Tavistock, Devon, PL19 0BZ or by email to monitoring.officer@westdevon.gov.uk .

4.2 Please arrange for your response to arrive no later than 30 September 2011.

¹ The ten Principles of Public Life are Selflessness, Honesty & Integrity, Objectivity, Accountability, Openness, Personal Judgment, Respect for Others, Duty to Uphold the Law, Stewardship and Leadership.

² Dept for Communities & Local Government, January 2011:
<http://www.communities.gov.uk/documents/localgovernment/pdf/1829722.pdf>

³ Misfeasance in public office is a cause of action in the civil courts. It is an action against the holder of a public office, alleging in essence that the office holder has misused or abused their power.

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STANDARDS COMMITTEE ASSESSMENT/REVIEW 2f SUB-COMMITTEES 2011/12

DATE	INDEPENDENT MEMBER	BOROUGH MEMBER	PARISH MEMBER	RESERVE MEMBERS
21 July	Dr Meyrick	Cllr Leech	Cllr Eldridge	Mrs Spence Cllr Moyse Cllr Whitcomb Cllr Morgan
18 Aug	Mrs Spence	Cllr Whitcomb	Cllr Morgan	Dr Meyrick Cllr Leech Cllr Moyse Cllr Morgan
22 Sept	Dr Meyrick	Cllr Moyse	Cllr Eldridge	Mrs Spence Cllr Leech Cllr Moyse Cllr Morgan
20 Oct	Mrs Spence	Cllr Leech	Cllr Morgan	Dr Meyrick Cllr Moyse Cllr Whitcomb Cllr Eldridge
17 Nov	Dr Meyrick	Cllr Whitcomb	Cllr Eldridge	Mrs Spence Cllr Leech Cllr Moyse Cllr Morgan
15 Dec	Mrs Spence	Cllr Moyse	Cllr Morgan	Dr Meyrick Cllr Leech Cllr Whitcomb Cllr Eldridge
19 Jan	Dr Meyrick	Cllr Leech	Cllr Eldridge	Mrs Spence Cllr Moyse Cllr Whitcomb Cllr Morgan
16 Feb	Mrs Spence	Cllr Whitcomb	Cllr Morgan	Dr Meyrick Cllr Leech Cllr Moyse Cllr Eldridge
15 Mar	Dr Meyrick	Cllr Moyse	Cllr Eldridge	Mrs Spence Cllr Leech Cllr Whitcomb Cllr Morgan
19 Apr	Mrs Spence	Cllr Leech	Cllr Morgan	Dr Meyrick Cllr Moyse Cllr Whitcomb Cllr Eldridge

All Assessment/Review Panels will be held on Thursday mornings at 10.00am in Meeting Room 4 at the Borough Council Offices, Kilworthy Park, Taunton

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Agenda Item 3

At a Meeting of the **STANDARDS COMMITTEE** held in the **COUNCIL CHAMBER, KILWORTHY PARK, TAVISTOCK**, on **TUESDAY** the **12th** day of **JULY** at **11.10 am**

Present

West Devon Borough Council	Mr A Leech, Miss D Moyse, Mr D Whitcomb
Parish/Town Councils	Mrs W Eldridge & Mrs J Morgan
Independent	Dr R Meyrick (Vice Chairman) & Mrs V Spence (Chairman)

Officers

Monitoring Officer
Deputy Monitoring Officer
Borough Committee Secretary

*S 1 CONFIRMATION OF MINUTES

The Minutes of the meeting held on 8 March 2011 were agreed and signed as a true record.

S 2 ANNUAL MONITORING REPORT OF THE STANDARDS COMMITTEE 2010/2011

The Deputy Monitoring Officer presented a report (page 7 to the agenda) which detailed the work that the Standards Committee had carried out during the last financial year. The Annual Report covered the following areas:

- The role and function of the Standards Committee and its sub committees
- Standards Committee membership
- The work of the Standards Committee and its sub committee meetings throughout this period
- Details of standards complaints received during 2010/11
- Training
- Advice, policy and procedures
- Standards for England publications
- Budget
- Issues for the forthcoming year

It was **RESOLVED** to recommend that Council considers and notes the Standards Committee's Annual Report for the year 1 April 2010 to 31 March 2011.

S 3 MONITORING OFFICER ANNUAL REPORT 2010-2011

The Deputy Monitoring Officer presented a report (page 17 to the agenda) which detailed the work carried out in the role of monitoring officer. These duties included:

- Agenda monitoring
- Support to the Standards Committee
- Standards investigations
- Register of interest, gifts and hospitality

- Annual and quarterly returns to Standards for England
- Providing advice on Standards matters
- Training
- Investigations of officers misconduct
- Constitution
- Procedure Rule duties
- Contract Procedure Rule exemptions and investigations

It was **RESOLVED** to recommend that Council considers and notes the Monitoring Officer's Annual Report for the year 1 April 2010 to 31 March 2011.

***S 4 OMBUDSMAN'S ANNUAL LETTER 2010-2011**

The Deputy Monitoring Officer presented a report (page 27 to the agenda) which included a copy of the Local Government Ombudsman's Annual Letter. This set out details of complaints that the Ombudsman had received and/or determined throughout the year ending 31 March 2011.

A total of 13 complaints were received about the Council in 2010-2011. There were eight complaints about planning, three about environmental services, one about corporate services and one relating to benefits & council tax.

The Ombudsman's Letter set out tables showing the complaints received together with outcomes and response times. Eight complaints against the Council were decided by the Ombudsman with the following decisions:

- In three cases the Ombudsman found no (or insufficient evidence) of maladministration
- Two cases were outside of the Ombudsman's jurisdiction
- In one case, the Ombudsman exercised his discretion not to investigate further
- Two cases were settled by way of Local Settlement (where the Ombudsman considered the action taken by the Council to be a satisfactory response to the complaint) one of which was a planning matter and one related to environmental services.

The average response time to the Ombudsman's enquiries was 19 days well within the target response time of 28 days.

It was **RESOLVED** that Members note the Ombudsman's Annual Letter for 2010-2011.

***S 5 COMPLAINTS REPORT 2010-2011**

The Deputy Monitoring Officer presented a report (page 36 to the agenda) which set out an analysis of corporate complaints received by the Council between 1 April 2010 and 31 March 2011. The total number of complaints received during the period was 184 compared to 134 in the previous year. The 37% increase was mainly due to a sharp rise in the rate of complaints due to severe weather around and just after Christmas of which the vast majority of complaints were around missed refuse and recycling collections. The most popular method of receiving complaints was by email. The following was the breakdown of complaints by department:

- Environmental Services 70%
- Planning 10%
- Revenues & Benefits 7%

The breakdown of reasons for complaints included:

- Failing to provide a service
- Delays in providing a service
- Failing to follow the Council's procedures
- Failing to meet advertised service standards
- Failure to meet statutory obligations
- Failing to provide all relevant information
- Alleged inappropriate behaviour by employees

Most complaints were resolved at the first stage (92%) with 14 complaints being escalated to Stage 2 of the Complaints Procedure.

It was **RESOLVED** that Members note the complaints received in 2010-2011.

***S 6 THE FUTURE OF STANDARDS – UPDATE**

The Monitoring Officer presented a report (page 42 to the agenda) which developed the themes discussed by the Committee at its meeting on 8 March, in light of information received from other authorities and the passage of the Localism Bill. It included a draft consultation paper which it was proposed be sent out to Borough, Town and Parish Councillors in West Devon.

The Localism Bill was, currently, proposing to abolish the Local Standards Framework including Standards for England, the Code of Conduct, General Principles of Public Life and Standards Committees with the following having effect from April 2012:

- The duty on authorities to promote and maintain high standards of conduct by elected and co-opted members will remain
- Authorities may voluntarily adopt a code of conduct for their councillors and set up processes by which any failures to comply with the voluntary code can be investigated and dealt with

- The Monitoring Officer must establish and maintain a register of members' interests which would be available for public inspection
- Regulations would specify:
 - what interests are to be registered
 - when they should be disclosed
 - when a member with an interest may not participate in the Council's business
 - when dispensations may be granted permitting participation
 - what sanctions an authority may impose for failure to comply with the regulations.
- Failure to register a financial or other interest or to disclose it before taking part in the Council's business where that interest is engaged, or taking part in business when that is prohibited on account of the interest, would be criminal offences (prosecutions will be brought by the Police not the Council) and the maximum fine will be £5,000. In addition the Court may disqualify the member for up to five years.

Members discussed the consultation paper and suggested a number of amendments.

It was **RESOLVED** that the consultation paper (as amended by Members) be approved for consultation with Members of the Borough Council and Parish & Town Councils in the Borough.

***S 7 ASSESSMENT SUB COMMITTEE/REVIEW SUB COMMITTEE – DATES FOR FORTHCOMING YEAR**

A table showing proposed dates and membership for assessment and review sub committees for the coming year was attached to the agenda (page 50). The dates were noted by Members.

(The Meeting Closed at 12.15pm)