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West Devon
Borough
Council

WEST DEVON STANDARDS COMMITTEE - TUESDAY, 12TH JUNE, 2012

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 6)

2. **Reports**
 Reports to Standards
 - a) Item 5 - New Code of Conduct and Related Arrangements (Pages 7 - 28)
 - b) Item 6 - Annual Monitoring Report of the Standards Committee 2011/2012 (Pages 29 - 36)
 - c) Item 7 - Monitoring Officer Annual Report 2011-2012 (Pages 37 - 44)
 - d) Item 8 - Ombudsman's Annual Letter 2011-2012 (Pages 45 - 56)
 - e) Item 9 - South Tawton Parish Council - Applications for Dispensations (Pages 57 - 60)

3. **Minutes** (Pages 61 - 64)

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AGENDA - STANDARDS COMMITTEE - 12th JUNE 2012

PART ONE - OPEN COMMITTEE

1. **Apologies for Absence**
2. **Declarations of Interest**
Members are reminded to declare any personal or prejudicial interests they may have in any item on this agenda.
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).

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4. Confirmation of Minutes Meeting held on 24 th January 2011 (previously circulated)	
5. New Code of Conduct and Related Arrangements Report of the Monitoring Officer	7
6. Annual Monitoring Report of the Standards Committee 2011/2012 Report of the Deputy Monitoring Officer	28
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10. Appointment to Assessment and Review Sub-Committees Verbal report of the Deputy Monitoring Officer	

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)

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 on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12(A) to the Act”.

This document can be made available in large print, Braille, tape format, other languages or alternative format upon request. Please contact the Committee section on 01822 813662 or email arose@westdevon.gov.uk

West Devon Borough Council Members' Code of Conduct

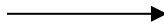
Declarations of interest

If you are in any doubt about what to do, please seek advice

Do you have an interest in any item?



Is it a **Personal** interest?



A **Personal** interest is one that:

- you should include on your Register of Interests or
- where well-being or financial position of you, members of your family or someone with whom you have a close association is likely to be affected by the interest more that it affects:
- majority of inhabitants of the ward or electoral division affected by the decision, or
- inhabitants of the Council's area

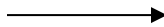
If you have a **Personal** interest you must **declare** it (and **the nature of the Interest**) at the meeting before the matter is discussed or as soon as you become aware of it, unless an exemption applies (see over page).



If you have a **Personal** interest you may still take part in the meeting and vote **unless** the interest is also **Prejudicial**. A **Prejudicial** interest is a matter for you to decide.



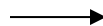
Do you have **Prejudicial** interest?



Your personal interest will also be **prejudicial** if all these conditions are met:

- Matter is not **exempt** (see over page)
- Matter affects your financial interests or relates to a **licensing or regulatory** matter, and
- a member of the public, who knows the relevant facts, would **reasonably think that your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

If you have a **Prejudicial** interest you must **declare** it (and **the nature** of the interest) as soon as it becomes apparent to you, and **withdraw** from the room where the meeting is being held (unless you are allowed to make representations – see over page).



West Devon Borough Council Members' Code of Conduct (see part 5 of the Constitution)

Personal Interests - You will have a **personal interest** in a matter if:

- anything that you should have mentioned in your Register and/or
- the well-being or financial position of you, members of your family, or people with whom you have a close association

is likely to be affected by the business of the Council more than it would affect the **majority of the inhabitants** of the ward or electoral division affected by the decision, or the inhabitants of the Council's area.

Exemption - An exemption applies where your **personal interest** arises solely from your membership (or position of control/management) on any body to which you were appointed/nominated by the Council or any other body exercising functions of a public nature. In such cases (unless you have a prejudicial interest) you only need to declare your interest if and when you speak on a matter.

Personal Interests include:

- Your membership/position of control/management in bodies to which the Council appointed/nominated you, or any bodies exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including any political party or trade union;
- Your job(s) or business(es), and the name of your employer;
- Name of any person who has made a payment towards your election expenses or expenses you have incurred in carrying out your duties;
- The name of any person, company/other body which has a place of business/land in the Council's area and in which you have a shares of more than £25,000/stake of more than 1/100th of the share capital of the company;
- Any contracts with the Council between you, your firm or a company (of which you a paid director) for goods, services or works.
- Any gift/hospitality estimated to > £25 and the name of the person who gave it to you;
- Any land/property in the Council's area in which you have a beneficial interest (or a licence to occupy) including the land and house you live in, any allotments you own or use.

Definitions

- "**Well-being**" - condition of happiness and contentedness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.
- "**Member of your family**" means a partner (i.e. your spouse/civil partner/someone you live within a similar capacity), parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner, brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece, or the partners of any of these persons.
- Person with whom you have a "**close association**" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour/ disadvantage when discussing a matter which affects them. It may be a friend, a colleague, a business associate or someone you know through general social contacts.

Prejudicial Interests - your personal interest will also be **prejudicial** if you meet conditions set out overleaf.

Exempt categories - you will **not have a Prejudicial** interest in a matter if it relates to:

(a) any **tenancy/lease** you hold with the Council (unless relating to your particular tenancy/lease); (b) **Schools** (meals/transport/travelling expenses): if parent/guardian of child in full time education or parent governor (unless relating to the school your child attends); (c) if you are receiving/entitled to **statutory sick pay**; (d) An **allowance/payment/indemnity** for members; (e) ceremonial honour given to members and (f) setting the council tax or precept.

Making representations - if you have a **Prejudicial** interest, you must declare that you have an interest and the nature of that interest as soon as the interest becomes apparent. You should leave the room unless members of the public are allowed to make representations, give evidence, or answer questions about the matter. If that is the case, then you can also attend the meeting for that purpose. However you must leave the room immediately you have finished and you cannot take part in the debate or vote.

Sensitive information

You may be exempt from having to declare sensitive information on your Register of interests in which case, although you must declare that you have an interest, you don't have to give any details about that interest on the register or to the meeting (please speak to the Monitoring Officer about this first).

Revised May 2007

Standards Committee

Composition

- (a) **Membership.** The Standards Committee will comprise up to :
- three Borough Councillors
 - two independent/lay members i.e. persons who are not Councillors or officers of the Council or any other body having a Standards Committee
 - two parish members being members of a parish/town council in the Borough
- (b) **Independent/lay members** will be entitled to vote at meetings.
- (c) **Parish members** will be entitled to vote at meetings.
- (d) **Length of office:** the independent/lay and parish members will be appointed for the same length of office as the Borough Councillors.
- (e) **Chairman and Vice Chairman:** The Chairman and Vice Chairman of the Committee will be elected by the Council and will be the independent/lay members.
- (f) The Committee will meet at least four times a year, and additionally as and when required.

Quorum of the Standards Committee

A meeting of the Standards Committee will not be quorate unless at least three members of the Committee are present for its duration, and

- (a) at least one independent/lay member is present for its duration; and
- (b) at least one Borough Member is present for its duration, and
- (c) at least one parish/town council representative is present for the duration of a matter where it relates to a parish/town council matter.

Roles and functions

1. To promote and maintain high standards of conduct by Councillors and co-opted Members;
2. To assist Councillors and co-opted Members to observe the Members' Code of Conduct;
3. To advise the Council on the adoption or revision of the Members' Code of Conduct;

4. To advise the Council generally on matters relating to the ethical conduct of the Council and its Members;
5. To monitor the operation of the Members' Code of Conduct;
6. To advise, train or arrange to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
7. To grant dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
8. To assess and review complaints alleging members' breach of the Code of Conduct;
9. To receive Investigation Reports and carry out Determination Hearings in respect of allegations of misconduct;
10. To grant exemptions for politically restricted posts;
11. To exercise 1 to 10 above in relation to the parish/town councils within the West Devon Borough and the members of those parish/town councils;
12. Overview of complaints handling and Ombudsman investigations;
13. Review of the Constitution of the Council.
14. Monitoring of member development and training against the development plan and reporting annually on the plan to the full Council.

Sub-committees of the Standards Committee

- **Membership:**
 - a minimum of three members to include at least one independent/lay Member, one borough member and one parish/town council representative if the matter relates to a parish or town council
 - in relation to a Hearing Sub-committee, all members of the Standards Committee are entitled to attend
- **Quorum:** three members for the duration of the meeting
- **Chairman:** one of the independent/lay members
- Members of an Assessment sub-committee cannot be members of a Review sub-committee when it considers a complaint on which an Assessment sub-committee decided to take no action.

Role and function of the sub-committees

- To grant dispensations to parish/town councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- To assess (Assessment Sub-committee) and review (Review Sub-committee) complaints alleging members' breach of the Code of Conduct;
- To receive reports and carry out Determination Hearings in respect of allegations of misconduct (Hearing Sub-committee);

Budget

To have authority for spending within the allocated budget.

Annual Review

The Standards Committee shall report annually to Council on its performance and achievements.

NAME OF COMMITTEE	STANDARDS COMMITTEE
DATE	South Hams – 30th May 2012 West Devon – 12th June 2012
REPORT TITLE	New Code of Conduct and related arrangements
REPORT OF	The Monitoring Officer
WARDS AFFECTED	All

Summary of report:

All local authorities have to adopt a new code of conduct and related procedures. This report considers the immediate implications for the Council and suggests some proposals for consultation within the Council and with town and parish councils in the area.

Financial implications:

It is unlikely that the new code of conduct will be any more costly to operate than the present code and as the processes will not be prescribed by legislation, but devised by the Council, there may be scope for some savings on the present budgets; but neither costs nor savings are quantifiable now.

RECOMMENDATIONS:

That the Standards Committee approve for consultation with town and parish councils, and for consideration by the Council, the recommendations in respect of a new code of conduct and the procedures for its adoption and implementation listed in column three of Appendix B to the report.

Officer contact:

Delyth Jenkins Evans

Delyth.Jenkins-Evans@swdevon.gov.uk; tel. 01803 861364/01822 813680

1. BACKGROUND

- 1.1 The Localism Act 2011 made significant changes to the framework for standards and ethics in local authorities introduced by the Local Government Act 2000. Although the duties upon authorities to “*promote and maintain high standards of conduct by members and co-opted members of the authority*” and to discharge that duty by adopting “*a code dealing with the conduct that is expected of members ... when they are acting in that capacity*” have been re-enacted, many other requirements have been abolished, including:

- Standards for England (The Standards Board)
 - Statutory Standards Committee with prescribed membership
 - Prescribed regulatory framework for dealing with complaints and sanctions for breaches.
- 1.2 In place of the 2000 Act framework, local authorities may now devise arrangements to comply with the new statutory requirements as they choose. There is the minimum of Government prescription, on the basis that the principles of localism dictate that such things should be determined locally. Certain critically important matters, such as the definition of what is a “discloseable pecuniary interest” and transitional arrangements between the current framework and its replacement are expected to be covered in Regulations, but at the time of writing this report neither draft nor final regulations have been published. There is therefore something of a vacuum.
- 1.3 The monitoring officers of all the principal Devon authorities, including the two unitary councils and the Dartmoor National Park, have agreed that we will work together in advising our authorities in the interests of having so far as practicable a single code of conduct, particularly so that members of authorities at more than one level (e.g. county, district and parish) have the same rules to observe. A draft code has been produced, and is appended to this report (Appendix A). This was circulated to all members of South Hams District and West Devon Borough Councils in Bulletins published in April. But before it can be adopted, there are certain principles that each authority must understand, determine and approve. These are set out in Appendix B.
- 1.4 On 14th May, the Standards Committees and other leading members of Teignbridge and South Hams Districts and West Devon Borough Councils attended a workshop facilitated by NetworkIdea, a consultancy comprising experienced local authority officers and monitoring officers, to discuss in some depth the issues facing us all. The contents of this report, and Appendix B, draw on those discussions.

2. ISSUES FOR CONSIDERATION

- 2.1 The issues for consideration, some comments upon them and recommendations are set out respectively in columns 1, 2 and 3 of Appendix B.
- 2.2 Town and parish councils must also adopt a code of conduct but they are entitled to adopt the code adopted by their principal authority (the District or Borough Councils). For that reason it is proposed that the draft new Code at Appendix A, the commentary at Appendix B and this report be circulated to town and parish councils in the area for their consideration.

3. TIMETABLE

- 3.1 All the indications for the Government to date have been that the new code will become effective on 1st July 2012. However we have not yet seen a commencement order to that effect nor any draft Regulations which are expected to deal with matters not covered in the Localism Act – such as the definition of “discloseable pecuniary interest”. We do not know when the new framework will have to be in place, nor what transitional arrangements may be made (for

example, for dealing with complaints whose investigation will not have been completed before 1st July). Since the Department of Communities and Local Government normally allows the full prescribed consultation period, time for publication of these before 1st July is running out.

3.2 The best advice obtained on this confusing state of affairs is that there is likely to be a period of grace after 1st July for authorities which have not by then adopted a code and related processes to do so within a specified period. That was what happened when the current code was introduced in 2007. In those circumstances, the Monitoring Officer is not inclined to press Members to make decisions on the matters contained in this report before 1st July and without the opportunity for proper and measured consideration, and consultation with colleagues in other authorities.

3.3 The timetable would therefore allow for consultation to take place in each authority and reports back as follows:

3.3.1 At South Hams:

Standards Cttee – 30 May; Executive – 12 July; Council 19 July; or
Standards Cttee – 26 July; Executive 6 September; Council 20 September.

3.3.2 At West Devon:

Standards Cttee – 12 June; Resources 24 July; Council 31 July – or
Standards Cttee – 4 September; Resources 18 September; Council 2 October.

3.4 In order to bring the two Councils into line with each other, and trusting that it proves to be the case that we will have a period of grace, it is recommended that we aim for decision by Council in September/October. Should the assumption be incorrect we will have to bring it forward to the earlier dates.

4. LEGAL IMPLICATIONS

4.1 The legal implications are set out above and in Appendix B.

5. FINANCIAL IMPLICATIONS

5.1 It is unlikely that the new code of conduct will be any more costly to operate than the present code and as the processes will not be prescribed by legislation, but devised by the Council, there may be scope for some savings on the present budgets; but neither costs nor savings are quantifiable now.

6. RISK MANAGEMENT

6.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

7. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	Local Govt Act 1972 and Localism Act 2011
Considerations of equality and human rights:	None are engaged by this report
Biodiversity considerations:	None are engaged by this report
Sustainability considerations:	None are engaged by this report
Crime and disorder implications:	None are engaged by this report
Background papers:	Localism Act 2011
Appendices attached:	A: draft Devon code B: commentary

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Failure to adopt a code in time	The Govt has indicated that a new code should be adopted by 1.7.12 but we have not received all the necessary statutory information yet.	1	2	2		<p>The Devon authorities have worked together on a draft code an implementation processes and continue to do so</p> <p>There is no provision for a penalty in the event that a code is not in place by 1st July and indications are that there will be sufficient time allowed after that date</p>	Monitoring officer
Page 11	Transition	We are not certain what will happen in the transition period between the demise of one code and the introduction of the new; risk to reputation	2	2	4		<p>This should be covered in the expected Regulations</p> <p>All other local authorities are in the same position</p>	Monitoring officer

Direction of travel symbols ↓ ↑ ⇄

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MEMBERS' CODE OF CONDUCT

Agreed by DSG on 25.4.12 as the basis for adoption as a 'Devonwide' code with the capability of limited local variation and flexibility (e.g. blue text) ... and remaining known unknowns (e.g. red text)

PART 1 GENERAL PROVISIONS

Public Duty and Private Interests: An introduction

- 1 This Code applies to you as a Member or a Co-opted Member of [Devon County Council](#).
- 1.2 You should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.
- 1.3 When acting in your capacity as a Member or Co-opted Member of the [County Council](#) –
 - (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate;
 - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
 - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
 - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
 - (e) you must be as open as possible about your decisions and actions and the decisions and actions of the [County Council](#) and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the [County Council](#) or contained in its Constitution,
 - (f) you must declare any private interests, both pecuniary [non-pecuniary ... personal ...](#), that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;

(g) you must, when using or authorising the use by others of the resources of the County Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the County Council's reasonable requirements;

(h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the County Council;

(i) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.

1.5 Do nothing as a Member which you could not justify to the public.

1.6 The reputation of the County Council depends on your conduct and what the public believes about your conduct.

1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.

1.8 It is your responsibility to comply with the provisions of this Code.

Definitions

2. In this Code –

“Close associate” means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts. It is someone a reasonable member of the public would think you might be prepared to favour/disadvantage.

“Member of your family” means:

- partner (i.e. your spouse/civil partner/someone you live with in a similar capacity);
- a parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner;
- a brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece

or the partners of any of these persons.

“Relevant person” means:

- any member of your family;
- any of your close associates;

- any person or body with whom you, a member of your family, or a close associate has a financial interest or a contractual relationship, including by employment any body of which you are in a position of general control or management

“*well-being*” means your general sense of contentment and quality of life

“*meeting*” means any meeting of –

- the [County Council](#);
- the Cabinet of the [County Council](#);
- any of the Council’s or the Cabinet’s, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area committees;
- [informal meetings where a formal record is taken by a Council Officer with other Members and/or with officers or both relating to the discharge of the County Council’s functions.](#)

“*interest or interests*” have the meanings set out in Part 2 of this Code

Scope

3. You must comply with this Code whenever you are acting in your official capacity, when:
 - (a) you are engaged on the business of the [County Council](#); or
 - (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the [County Council](#).

General obligations

4. You **must** –
 - (a) treat others with courtesy and respect,
 - (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the [County Council](#).
5. You **must not** –
 - (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
 - (b) do anything which may cause the [County Council](#) to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
 - (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or

authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);

(d) intimidate or attempt to intimidate any person who is or is likely to be –

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or

(e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the [County](#) Council;

(f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is –
 - (A) in the public interest; and
 - (B) made in good faith and
 - (C) in compliance with the reasonable requirements of the Council;

(g) prevent another person from gaining access to information to which that person is entitled by law;

(h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

PART 2 INTERESTS

Registration of Interests

6. You must, within 28 days of—

(a) this Code being adopted by, or applied to, the [County](#) Council; or

(b) your taking office as a Member or Co-opted Member of the County Council, provide written notification to the [County](#) Council's Monitoring Officer of:

(i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State , where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and

(ii) any other .. [pecuniary, non-pecuniary – personal .. or voluntary](#) ... interests laid down by the [County](#) Council, as set out at paragraph7.. below;

which will be recorded in the [County](#) Council's Register of Members' Interests and made available for public inspection including on the Council's website at :

6.1 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the [County](#) Council's Monitoring Officer.

6.2 If an interest has not been entered onto the [County](#) Council's register, then you must disclose the interest to any meeting of the Council, [the Cabinet](#) or any Committee at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'

6.3 Following any disclosure of an interest not on the [County](#) Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

7. The interests you must register are:

- those disclosable pecuniary interests defined by Regulations as:

.....

[The list of disclosable pecuniary interests will necessarily be dependent on the Regulations .. publication of which is still awaited .. as would (by extension) the General Declaration of Interest form to be completed by Members]

So .. insert from either ...

Version 1 (looks like 2007 Code)

- . (1) You have a personal interest in any business of your authority where either –
- (a) it relates to or is likely to affect –
- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the County Council;
 - (ii) any body –
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in the County Council's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between the County Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25; (? include this point at all or vary limit if able so so to do?)
 - (ix) any land in the County Council's area in which you have a beneficial interest;
 - (x) any land where the landlord is the County Council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the County Council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

ORVersion 2 ..

Any land/property in the area of Devon County Council in which you have a beneficial interest (or a licence to occupy) including the land and house you live in, any allotments you own or use;

Your employment or your employer;

Any firm or business which you own, or in which you have a financial or non-financial interest;

Your membership of any other local Authority;

Your membership of any body exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including any political party or trade union, in which you hold a position of control/management;

Any contracts for goods, services or works between the County Council and you, your firm or a business which you own, or in which you have a financial or non-financial interest;

Any person from who you have received a gift or hospitality in the past 3 years estimated to exceed £25 (? include this point at all or vary limit if able so to do?)

- those other interests laid down by the County Council, namely:

.....

- any other interest where a reasonable person with knowledge of the relevant facts may regard the interest as so significant and greater than it would affect the majority or residents or inhabitants in the affected area and may prejudice your judgement of the public interest;
- .. and .. Voluntary Interests - the County Council's policy is that, in addition to any of the statutory or other declarations listed above, Members are invited to also declare membership of any body which, in their view, might create a conflict of interest in carrying out their duties as a County Councillor, such as membership of the Freemasons or similar body.

- 7.1 Where the County Council's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

- 7.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the [County Council's](#) Monitoring Officer asking that the information be included in the [County Council's](#) Register of Members' Interests.

Declaration of Interests

8. Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at para 6(b)(i) and you must also observe the restrictions the [County Council](#) may also place on your involvement in matters where you have any interest as defined by the Council and shown at para 7 above .
- 8.1 Where you have a [pecuniary .. non pecuniary .. personal](#) interest in any business of the [County Council](#) and you attend any meeting of the Council, [its Cabinet](#) or any Committee, Sub-Committee, Joint Committee [or Area Committee](#) at which that business is to be considered, you must disclose to that meeting the existence and nature of that interest.
- 8.2 You must disclose any [pecuniary .. non pecuniary .. personal](#) interest in accordance with the Council's reasonable requirements, and no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you.
- 8.3. Where you have a disclosable pecuniary interest in any business:
- (a) you must not seek to influence improperly a decision about that business; and
 - (b) you must withdraw from the room or chamber where a meeting considering the business is being held as soon as it becomes apparent that the business is being considered at that meeting;
- unless you have obtained a dispensation from the [County Council's](#) Monitoring Officer.

The New Code of Conduct

No.	Issues for consideration	Commentary and advice	Recommendation
1	Contents of Code		
1a	<p><u>Principles of Public Life</u> Localism Act Seven which must be included:</p> <ul style="list-style-type: none"> ○ Selflessness ○ Integrity ○ Objectivity ○ Accountability ○ Openness ○ Honesty ○ Leadership <p>Should we include these current principles too?</p> <ul style="list-style-type: none"> ○ Personal judgement ○ Respect for others ○ Stewardship ○ Duty to uphold the law 	<p>As a general point, the advantages of retaining some provisions in the current code include</p> <ul style="list-style-type: none"> (a) reducing the scope for confusion amongst members and officers in seeking to abide by the new arrangements and (b) being able to draw upon guidance and precedents created under the present code. <p>On that basis all these general principles should be included in the new code. They are set out in paragraph 1.3 of the draft Devon code.</p>	<p>It is recommended that all these General Principles be included as they appear in paragraph 1.2 of the draft Devon code:</p> <ul style="list-style-type: none"> ○ Selflessness ○ Honesty ○ Integrity ○ Objectivity ○ Accountability ○ Openness ○ Personal judgement ○ Respect for others ○ Duty to uphold the law ○ Stewardship ○ Leadership
1b	<p><u>Interests</u> The monitoring officer continues to be under a duty to keep a register of members' interests but there is no longer a prescriptive list. The present classification into "personal" and "prejudicial" interests is revoked. Instead it is for the authority to decide what it is appropriate to ask members to register. The one exception to this is that "discloseable</p>	<p>The term "pecuniary" is not defined in the Act but literally means to do with money.</p> <p>An interest will be pecuniary when someone's financial affairs are affected, whether beneficially or adversely.</p> <p>In the Local Government Act 1972, which</p>	<p>Subject to consideration of the definition when it is published in the expected Regulations, that members be required to register with the Monitoring Officer all discloseable pecuniary interests</p>

No.	Issues for consideration	Commentary and advice	Recommendation
	<p>pecuniary interests” (DPI) must be registered.</p> <p>The term “discloseable pecuniary interest” awaits definition in Regulations but a DPI may belong not only to</p> <ul style="list-style-type: none"> ○ the member but also to ○ the member’s spouse or civil partner or live-in partner <i>where the member is aware of it.</i> 	<p>used the same term, a member’s pecuniary interest in contracts, proposed contracts or other matters being considered by the authority had to be declared. The same can be expected to apply now.</p> <p>It is important that the term “discloseable pecuniary interests” is clearly defined and understood because a member with a DPI who participates in the discussion or vote at a meeting may commit a criminal offence.</p>	
	<p><u>Registration of other interests</u></p> <p>Apart from discloseable pecuniary interests, (if anything) the authority should consider what other interests it should require members to register.</p> <p>Members may agree there is much merit in being open about some personal matters that people in the community might consider would affect their judgment, and registering them, so that decisions are made openly and transparently. There is some protection for Members against allegations of self-interest (or worse) in doing so.</p> <p>The MO can withhold registration of sensitive information (i.e. where someone could be exposed to violence if the information were published).</p>	<p>Under the current code the following interests are registrable:</p> <ul style="list-style-type: none"> • Membership of another local authority • Appointments to an outside organisation • Membership of a trust, charity, philanthropic or benevolent fund • Membership of a body set up to influence public opinion e.g. a trade union • Your employer or business and any contracts either has with the Council • The name of the person who paid your election expenses • Any land you own or occupy in the authority’s area, including your home address • The receipt of gifts and hospitality 	<p>The draft Devon code has in paragraph 7 two alternative versions of the current list: one a direct quote from the current code, the other a simplified list in plain English. Either would be effective.</p> <p>It is recommended that the plain English list be adopted and that it include the additional paragraphs on the same page regarding</p> <ul style="list-style-type: none"> • perceived “significant or greater” interests and • voluntary declarations.

No.	Issues for consideration	Commentary and advice	Recommendation
		<p>over say £25 in value</p> <p>If we continue to use the same definitions for registrable interests as under the current code, there is less scope for confusion under the new system.</p>	
1c	<p><u>Expected standards of behaviour</u></p> <p>There are no stipulations about what should be included in a new code regarding other aspects of behaviour.</p> <p>The current code includes provisions relating to:</p> <ol style="list-style-type: none"> 1) Respecting other people 2) Having regard to advice 3) Not gaining any personal advantage as a result of being a member 4) Complying with Equalities legislation 5) Bullying 6) Intimidation and other interference with investigations 7) Not compromising officers' impartiality 8) Handling confidential information 9) Bringing the authority into disrepute 10) Use of the authority's resources 11) Respecting the authority's rules and requirements e.g. IT protocol, publicity 12) Declaring receipt of gifts and hospitality 	<p>On the principle of maintaining certain provisions in the current code for the sake of reducing confusion (see above), it is suggested that there should continue to be defined standards in all these matters.</p> <p>The first nine of those listed on the left are included in paragraphs 4 and 5 of the draft Devon code.</p> <p>The last three are included in the "illustrative text" supplied by the Minister and appear in paragraph 1.3 of the Devon draft, with other provisions.</p> <p>Taken together these represent a statement of the expected standards of behaviour which conforms to what most people would expect of persons in public office.</p>	<p>It is recommended that paragraphs 1, 4 and 5 of the draft Devon code are approved.</p>
1d	<p><u>Application of code</u></p> <p>The Code applies to Members when they are acting in that capacity. It is as well to spell out when that will be.</p> <p>It will include not only formal meetings and the</p>	<p>The present code applies to Members when they are conducting the authority's business or give the appearance to other people that they are acting as a councillor, in other words when Members are –</p>	<p>It is recommended that the definitions in paragraph 2 and the provisions of paragraph 3 of the draft Devon code be approved.</p>

No.	Issues for consideration	Commentary and advice	Recommendation
	<p>carrying out of the many other duties required of Members because they are councillors.</p>	<ul style="list-style-type: none"> ○ Attending meetings of the Council, Executive, or any of its committees or other bodies ○ (in South Hams) informal meetings to discharge the authority's functions. <p>This includes site visits, meetings as an appointed member of an outside body, and also doing casework.</p> <p>The draft Devon code covers these points in paragraph 3 and in the definition of "meeting" in paragraph 2. That definition is a little narrower than applies in South Hams now, being tied to meetings where a formal record is being kept.</p>	
2	<p><u>Disclosure of interests</u></p> <p>Under the new provisions there is no requirement for members with any interest other than a discloseable pecuniary interest in an agenda item to leave the room while the item is discussed. Participation in a meeting when you have a DPI is a criminal offence, unless you have a dispensation.</p> <p>From now on it is entirely up to the Council what interests are registered and declared – see above. We don't know yet how wide the classification of "DPI" will be, or whether there may turn out to be a category of pecuniary interests which are non-discloseable – this seems unlikely.</p> <p>This aspect will have to be revisited once the Regulations have been published.</p>	<p>The Localism Act does not actually say that if you have a DPI you should leave the room. Members may think that it would be prudent to do so, in order to demonstrate that everything is above board and in that case, the Council Procedure Rules would have to be amended to provide for that.</p> <p>The present rule in respect of personal interests that are not prejudicial is that Members "say" (declare) "and stay" in the room. There seems to be no reason why a member should not declare a non-pecuniary interest and continue to take part in the discussion and vote, as now.</p>	<p>It is recommended that the Council Procedure Rules be amended to provide that Members with pecuniary interests in an agenda item should leave the room while the item is considered but that they may remain and participate if their interest is non-pecuniary.</p> <p>(Note that this may need to be reconsidered when we receive the Regulations).</p>

No.	Issues for consideration	Commentary and advice	Recommendation
3.	<p><u>Dispensations</u></p> <p>Under the Localism Act it is for the authority itself to grant dispensations from the provisions which prohibit a member who has a DPI in the subject to participate in debate and to vote. Parish councils will grant their own – they will no longer have to ask the District Council to do it.</p> <p>They may granted and on the grounds that</p> <ul style="list-style-type: none"> • So many members (of a committee or the executive) would be prohibited from participating that business cannot be carried out • Political balance would be affected • It is in the interests of the inhabitants that a dispensation be granted or • It is appropriate to grant a dispensation <p>A dispensation lasts up to 4 years.</p>	<p>Granting a dispensation is an operational matter. Sometimes dispensation is required in a hurry, for example where a member realises late on that they have a DPI in an item they were intending to speak on. For that reason it would seem to be sensible to delegate authority to the monitoring officer, who could refer it to Members (e.g. a standards committee – as to that see below) in complex or controversial cases, such as where there is an issue of political balance or the majority of members are affected.</p> <p>The Council would need rules on how this was to be done. These can be drafted before the provisions become effective.</p>	
4	<p><u>Governance</u></p> <p>There continues to be a role for members in standards matters, which includes</p> <ul style="list-style-type: none"> • Approval of the code • Dealing with dispensations • Dealing with allegations of under the code – ordering investigations, considering reports and imposing sanctions. These are called “arrangements”. <p>It could also deal with reviewing the constitution and the code of corporate governance (jointly with the audit committee).</p> <p>It is sensible to establish a standards committee</p>	<p>It is thought that as their functions are dissimilar, there is nothing to be gained from, for example, combining Audit with Standards.</p> <p>A standards committee should have sufficient members to enable it to carry out its work. It may also need sub-committees to deal with individual cases. Between five and eight members would be sufficient.</p> <p>As the committee will oversee investigations into complaints about town</p>	<p>It is recommended that a standards committee comprising between 5 and 8 members of the Council be appointed to carry out the functions listed in column 1 and any other functions the Council thinks fit including up to two representatives of South Hams parish and town councils</p>

No.	Issues for consideration	Commentary and advice	Recommendation
	<p>to carry out these now functions but there is no longer any prescription as to its membership.</p> <p>The standards committee would be set up under s101 of the LGA 1972 so if it has more than 3 members it must be politically balanced (unless the authority decides that it need not be).</p> <p>Its functions are not executive functions.</p>	<p>and parish councillors it could have co-opted parish representatives sit on it, but they would not be able to vote unless the committee's functions were purely advisory (which in some instances they clearly would not be).</p> <p>Up to two representatives of South Hams parish and town councils could be co-opted within that number to provide confidence in the process for that tier of government. Hitherto the Standards Committee has largely proceeded by consensus and it is not thought anything would be lost by parish/town representatives having no vote.</p> <p>Council would have to delegate appropriate powers.</p> <p>The establishment of a joint standards committee with one or more other Devon authorities has been raised but no firm proposals produced.</p>	

No.	Issues for consideration	Commentary and advice	Recommendation
5	<p><u>Independent Persons (IP)</u></p> <p>As part of the “arrangements” for dealing with complaints, we must appoint at least one Independent Person whose views must be sought and taken into account by the authority before it makes any decision on an allegation it is going to investigate, and may be sought on any other matter. The Independent Person is also to be available to advise a member whose conduct is the subject of any allegation, and any town or parish councillor likewise.</p> <p>An independent person must have no connection with the authority and may be appointed only after advertisement, application and approval of the majority of members of the authority (i.e. by full Council).</p> <p>Independent Persons do not sit on the standards committee, although some authorities are considering having them present at meetings to advise if required.</p> <p>They are not employees but office holders and may receive an allowance (apparently not tied to Members’ Scheme) and expenses</p>	<p>Since the Independent Person can be consulted both by the authority and by the affected member, it makes sense to have at least two to avoid a conflict of interest. More might be needed to allow for absence.</p> <p>Discussions are continuing amongst Devon MOs about the possibility of appointing a panel of IPs from whom a person can be appointed case by case. We would still have to appoint by name.</p> <p>If an IP is to be paid an allowance and expenses a budget must be found.</p>	<p>It is recommended that the Monitoring Officer take steps to advertise for and appoint up to four independent persons (from a panel for the whole of Devon if so agreed).</p>
6.	<p><u>Procedures and implementation</u></p> <p>Once the format of the code and the governance arrangements are in place, we will have to devise, draft and submit for approval</p> <ul style="list-style-type: none"> • appropriate procedures for registration of interests • changes to the Council Procedure Rules if so indicated • guidance for members (and training) 	<p>These will be devised after the new framework has been approved</p>	<p>That the Monitoring Officer be tasked with drafting appropriate procedures for approval by Council in due course.</p>

No.	Issues for consideration	Commentary and advice	Recommendation
	<ul style="list-style-type: none"> • terms of reference and delegations for the standards committee • procedures for granting dispensations • details of the “arrangements” for considering complaints including procedures and sanctions 		

WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	Standards Committee
DATE	12 June 2012
REPORT TITLE	Annual Monitoring Report of the Standards Committee 2011/2012
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.

RECOMMENDATIONS:

That the Standards Committee recommends that Council considers and notes the Standards Committee’s Annual Report for the year 1 April 2011 to 31 March 2012.

Officer contact:

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

1. BACKGROUND

1.1 This is the seventh Annual Report of the Standards Committee and its works. The Standards Committee Annual Report has been considered best practice, but this will be the last report under the current legislation.

2. ISSUES FOR CONSIDERATION

2.1 The Annual Report for the financial year 1 April 2011 - 31 March 2012 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 2011/12
- Training
- Advice, policy and procedures

- 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 2011/12. Whilst there is no legal requirement for such a report it had been considered best practice by Standards for England and auditors. This will be the last Standards Committee report before the current system is abolished.

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
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
Appendices attached:	Appendix A: Standards Committee Annual Report 2011 - 2012

Annual Report of the Standards Committee 1 April 2011 to 31 March 2012

Purpose

The purpose of the Annual Report is to advise Members about what has happened in the previous financial year (1 April 2011 to 31 March 2012) 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)
- Dr Roger Meyrick – **Vice Chairman** (Independent/lay Member)
- Cllr Miss Diana Moyse (Borough Council Member)
- Cllr Tony Leech (Borough Council Member)
- Cllr David Whitcomb (Borough Council Member)
- Cllr Mrs Wendy Eldridge (Parish Council Member)

- Cllr Mrs Janet Morgan (Parish Council Member)

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:

July 2011

- Annual Report of the Standards Committee
- Annual Report from the Monitoring Officer
- Annual Corporate Complaints Report
- Annual Ombudsman Report
- Update on Standards Complaints
- Future of Standards update
- Schedule of Dates for Assessment Sub-committee

25 October 2011

- Future of Standards – update and results of consultation

28 November 2011

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

24 January 2012

- Application for Dispensation (Parish Council)
- Update on Standards complaints

25 January 2012

- Hearing into allegation of breach of the Code of Conduct

2 February 2012

- Hearing into allegation of breach of the Code of Conduct

6 March 2012

- 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 2011/12

Date	Authority	Date assessed and Assessment Decision	Review	Hearing	Final Decision
13.06.11	WDBC	21 July 2011 Refer to MO for investigation		Hearing 2 February 2012	Finding of Breach of the Code
15.07.11	Parish	18 August 2011 Refer to MO for investigation		6 March 2012 Consideration	Upheld Investigating Officer's Report NFA
21.07.11	Parish	18 August 2011 Refer to MO for investigation			Final report awaited
21.07.11	Parish	18 August 2011 No further action			
17.08.11	Parish	22 September 2011 Refer to MO for investigation			Final report awaited
98.09.11	Parish	20 October 2011 Refer to MO for Investigation			Final report awaited
02.02.12	Parish	6 March 2012 No further action			
06.02.12	Parish	14.05.12 No further Action			

- During the last financial year the Standards Committee has dealt with 8 new complaints compared with 21 complaints received in the previous financial year.
- 7 complaints were against parish/town councillors and 1 against a West Devon Borough Councillor.
- The Assessment Sub-committee referred 5 cases to the Monitoring Officer for local investigation.
- In the remaining 3 cases the Assessment Sub-committee decided that no further action should be taken.
- Of the 'No further action' cases decided by the Assessment Sub-committee, none of the Complainants asked for a review of the Assessment Sub-committee's original decision.

Investigations

- Five complaints were referred for local investigation during this period. External Investigating Officers were appointed to investigate the complaints.
- The Investigating Officer's Final Report is awaited on three of the investigations.
- In of the matters the Hearing Sub-committee found that there had not been a breach of the Code.
- In the remaining matter the Hearing Sub-committee found that there had been a breach of the Code and applied sanctions.

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.

One application from a Parish Council was determined in this period and granted.

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	Number attending
10 May	Induction training	The Code and Standards
23 June	One to one training	The Code of Conduct
6 July	Standards Committee training	Handling Complaints
25. January	Standards Committee	Hearings

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, the 2011 assembly did not take place.

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 Councils' Contract Procedure rules which form part of the Constitution.

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 2011/12. The total spent during the year was £5,330.84 with an underspend of £2,669.16 (compared with the underspend of £4,409.00 the previous year). The costs relate to the investigations carried out during the financial year.

Forthcoming year

- Standards for England has already been abolished and the Standards framework will be abolished under the Localism Act later this year.
- Decisions to be made about what will replace the existing governance provisions

WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	Standards
DATE	12 June 2012
REPORT TITLE	Monitoring Officer Annual Report 2011 - 2012
REPORT OF	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 no financial implications.

RECOMMENDATIONS:

That the Standards Committee recommends that the Council considers and notes the Monitoring Officer's Annual Report for the period 1 April 2011 to 31 March 2012.

Officer contact:

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

1. BACKGROUND

1.1 This is the sixth 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 2011/2012. 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 no financial implications in relation to the increased amount of work arising under the standards legislation for the Standards Committee Members, Monitoring Officer, and Committee Section.

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 2011/12	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
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 2011-2012

West Devon Borough Council

Monitoring Officer Report 1 April 2011 to 31 March 2012

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.

A joint report template has been implemented with South Hams and West Devon in order to facilitate report writing across the two councils. The guidance on Report Writing has been updated and is readily available on the Council's intranet for all report writers to consult. Further training will be given in June 2012 to Middle Managers on report writing.

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 five referrals for investigation, and the Final Investigating Officer's report is awaited on three of those matters. The Hearing Sub-committee found that there had been no breach of the Code in one of those matter and in the other that the Code had been broken and sanctions applied.

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.

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
10 May	Induction Training for new Council	The Code and Standards
23 June	One to one training	The Code of Conduct
6 July	Standards Committee	Handling complaints
25 January	Standards Committee	Hearings

Specific Parish Council training was not carried out during this year due to imminent changes to the Standards regime. All training was carried out in-house by the Deputy Monitoring Officer.

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. 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 2011 was adopted at the Annual Meeting.

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 and Internal Auditor) 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.

This year the Monitoring Officer received 5 applications for exemptions from the Rules (compared with 15) and these were all granted.

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).

No investigations were carried out this year.

Catherine Bowen
Deputy Monitoring Officer
West Devon Borough Council
June 2012

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NAME OF COMMITTEE	Standards Committee
DATE	12 June 2012
REPORT TITLE	Ombudsman's Annual Letter 2011-2012
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 2011 to 31 March 2012.

Financial implications:

There are no financial implications to this report.

RECOMMENDATIONS:

That Members note the Ombudsman's Annual Letter for 2011 - 2012.

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 2011/2012

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 2011/2012 the Ombudsman received 8 complaints, compared to 13 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 2011/2012). These are set out in the tables to the Ombudsman's Annual Report attached at Appendix A.

3.2 There were 3 complaints forwarded to the investigative team: one about planning, one about environmental services, and one relating to benefits and council tax.

4. COMPLAINT OUTCOMES

4.1 Table 1 to the Ombudsman's Letter shows the number of inquiries and complaints received by the Ombudsman; Table 2 shows the investigative teams decisions and table 3 shows the average response times to inquiries.

4.2 The Ombudsman decided 8 complaints against the Council:

- In four cases the Ombudsman found no (or minor) injustice
- In three cases the Ombudsman found not enough evidence of fault
- In one case the injustice was remedied during enquiries

4.3 The average response time to the Ombudsman's enquiries was 15 days, less than the previous year (19 days) and well within the target response time of 28 days. The Ombudsman Liaison Officer, Tony Rose ought to be commended for achieving this response time.

5. LEGAL IMPLICATIONS

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

5.2 This 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

7. OTHER CONSIDERATIONS

8.

Corporate priorities engaged:	Towards Excellence
Statutory powers:	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:	N/a
Appendices attached:	Appendix A: Ombudsman Annual Letter 2011/2012

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Local Government Ombudsman provisional statistics 2011/12

The deadline for queries on these figures is

Friday 11 May 2012

Your contact for queries is:

Trish Farman

Tel: 024 7682 0054

Email: b4subteam@lgo.org.uk

List of enclosures:

- **Notes to aid interpretation of figures.**
- **Provisional Local authority report** – the final version of this will form part of the Annual Review to your Authority in June.
- **Complaints forwarded** – printout of new complaints forwarded to our investigative team in the year 2011/12, broken down by service area (*see note 1 attached*).
- **Decisions** – printout of complaints on which the LGO made decisions in the year 2011/12, broken down by type of decision (*see note 2 attached*).
- **Response times** – printout of complaints on which we made enquiries to your Authority during 2011/12, showing response times (*see note 3 attached*).

Notes to assist interpretation of the statistics 2011/12

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Premature complaints: The LGO does not normally consider a complaint unless a council has first had a reasonable opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or advise the enquirer.

Forwarded to the investigative team (resubmitted premature and new): These are complaints forwarded to the Investigative Team for further consideration and complaints where the complainant has resubmitted their complaint to the LGO after it has been put to the council.

Table 2. Investigative Team: Decisions

The number of decisions made by the LGO Investigative Team, by outcome. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2011/12 will have been received the previous year, and some forwarded to the Investigative Team during 2011/12 will still be in hand at the end of the year. The outcomes mean:

Not investigated: where the LGO has decided not to investigate for one of the following reasons:

No power to investigate: complaints that the law does not allow the LGO to investigate.

No reason to use exceptional power to investigate: complaints that the law says the LGOs should generally not investigate but gives an exceptional power to do so.

Investigation not justified & Other: complaints where we have used the LGO's general power and not pursued the complaint. This can be for a variety of reasons, including that the injustice claimed does not warrant the public expense of the LGO's involvement or that another organisation could deal with the matter better.

Investigated: where the LGO has discontinued an investigation for one of the following reasons:

Not enough evidence of fault: decisions where the LGO found insufficient evidence that the council was at fault.

Injustice remedied during enquiries: decisions where the council remedied or agreed to remedy any injustice to the LGO's satisfaction during the investigation.

No or minor injustice & Other: decisions where we have used the LGO's general power to discontinue the investigation. This can be for a variety of reasons, but the most common is that any injustice caused does not justify the public expense of pursuing the matter further.

Report issued: where the LGO has issued a report on a completed investigation. These are generally published in the *Complaint outcomes* section of our website, www.lgo.org.uk.

In all the cases except one that resulted in a report in 2011/12, the LGO issued found fault, and all except two of those found that this fault caused injustice.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

**Local authority report - West Devon BC
LGO advice team**

for the period - 01/04/2011 to 31/03/2012

Enquiries and complaints received	Benefits & Tax	Environmental Services & Public Protection & Regulation	Planning & Development	Total
Forwarded to Investigative team (new)	1	1	1	3
Total	1	1	1	3

Investigative team - Decisions

Not investigated			Investigated			Report	Total
No power to investigate	No reason to use exceptional power to investigate	Investigation not justified & Other	No or minor injustice & Other	Injustice remedied during enquiries			
0	0	0	4	1	0		8

Response times to first enquiries	No of first enquiries		Avg no of days to respond
	2		31.0

Complaints forwarded by main subject area 01/04/2011 to 31/03/2012 : West Devon BC

Case ID	Date recvd by LGO	Date forwarded to Teams	Surname	Decision Date	Detailed Category
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Benefits & Tax

11002120	10/05/2011	18/05/2011	Whitbread	26/07/2011	Council tax
Group total:1					

Environmental Services & Public Protection & Regulation

11005633	04/07/2011	06/07/2011	Cudmore	19/08/2011	Refuse & recycling
Group total:1					

Planning & Development

11012327	04/10/2011	07/10/2011	Wate	23/02/2012	Householder planning application
Group total:1					

Grand total: 3

Decisions 01/04/2011 to 31/03/2012 : West Devon BC

Case ID	Date revd by LGO to Teams	Date forwarded to Teams	Surname	Decision Date	Detailed Category
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Not enough evidence of fault

11002120	10/05/2011	18/05/2011	Whitbread	26/07/2011	Benefits & Tax	Council tax	Insufficient evidence of mal
11005633	04/07/2011	06/07/2011	Cudmore	19/08/2011	Environmental Services & Public Protection & Regulation	Refuse & recycling	Insufficient evidence of mal
11012327	04/10/2011	07/10/2011	Wate	23/02/2012	Planning & Development	Householder planning application	Insufficient evidence of mal

Group total:3

No or minor injustice & Other

10022065	24/03/2011	24/03/2011	Dower	28/06/2011	Corporate & Other Services	Land	OD no or insufficient inj to investigate
10009204	21/12/2010	21/12/2010	Day	01/04/2011	Environmental Services & Public Protection & Regulation	Environmental health	no or insufficient evidence of mal/service failure
10009087	02/11/2010	02/11/2010	Stowell	25/05/2011	Planning & Development	Planning applications	OD no or insufficient inj to investigate
10015646	08/12/2010	08/12/2010	Rivers	07/04/2011	Planning & Development	Planning applications	no or insufficient evidence of mal/service failure

Group total:4

Injustice remedied during enquiries

10013101	10/11/2010	10/11/2010	Moody	06/04/2011	Planning & Development	Planning applications	local settlement (investigation discontinued)
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Group total:1

Grand total: 8

Response times to first enquiry letters: 01/04/2011 to 31/03/2012 : West Devon BC

Case ID	Date revd by LGO	Surname	Date enquiry sent to Council	Date response received	Time taken (calendar days)	Detailed Category
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Corporate & Other Services

10022065	24/03/2011	Dower	06/05/2011	02/06/2011	27	Land
Group total:1						Average no. of days to respond for Group:27.0

Planning & Development

11012327	04/10/2011	Wate	16/12/2011	20/01/2012	35	Householder planning application
Group total:1						Average no. of days to respond for Group:35.0

Grand total: 2

Average no. of days to respond: 31.0

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NAME OF COMMITTEE	Standards Committee
DATE	12 June 2012
REPORT TITLE	Application for Dispensations from South Tawton Parish Council
REPORT OF	Deputy Monitoring Officer
WARDS AFFECTED	South Tawton

Summary of report:

To consider the applications from nine South Tawton Parish Councillors for a dispensation from the Standards Committee in order that they can participate in matters relating to South Tawton Victory Hall.

Financial implications:

There are none

RECOMMENDATIONS:

That the Standards Committee considers the applications attached in Appendix A and decides whether to grant the dispensations to the members of South Tawton Parish Councillors, and on what terms and for what period.

Officer contact:

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

1. BACKGROUND

- 1.1 Under the Standards Committee (Further Provisions) (England) Regulations 2009, the Standards Committee has power to grant dispensations to borough and parish councillors allowing them to speak and vote at a meeting when they have a prejudicial interest.
- 1.2 A dispensation may be granted for speaking only or for speaking and voting.
- 1.3 The regulations allow for only two situations where the Standards Committee grant dispensations:
 - Where more than 50% of the members who would be entitled to vote a meeting are prohibited from taking part in the meeting because of a prejudicial interest, or

- The number of members who cannot take part in the meeting would upset the political balance rules to the extent that the outcome of the voting would be prejudiced (this doesn't apply to Parish Councils).

1.4 Applications may be granted in respect of one meeting or it may be applicable on an ongoing basis up to maximum of four years.

2. APPLICATION BY SOUTH TAWTON PARISH COUNCILLORS

2.1 Applications for dispensations have been received from nine of the ten South Tawton Parish Councillors, and these are attached at Appendix A (together with a covering letter from the Parish Clerk). The tenth member has been appointed since the applications were made but the Clerk has confirmed that the remaining member will not be making an application at this time.

2.2 All South Tawton Parish Council members are trustees of the Victory Hall. A prejudicial interest affecting more than 50% of the Parish Council would therefore arise, and therefore satisfy the criteria in paragraph 1.3 above.

2.3 The applications relate to Victory Hall Committee issues, and the dispensations are requested in order to deal with grants and applications for financial support in respect of the Victory Hall.

2.4 The requests are for dispensations for 4 years. However, any dispensation can now only last until the end of the current standards regime as different rules will apply in the future.

3. LEGAL IMPLICATIONS

3.1 The power for Standards Committees to grant Dispensations is set out in the Standards Committee (Further Provisions) (England) Regulations 2009.

3.2 The decision whether or not to grant a dispensation is entirely a matter for the Standards Committee depending on whether members think it "appropriate" having regard to the particular circumstances of each case.

3.3 A dispensation allows a councillor to participate in a meeting without being in breach of the Members' Code of Conduct. If a councillor does not have a dispensation from the Standards Committee, then the rules on prejudicial interests contained in the Code of Conduct mean that the councillor concerned must withdraw from the meeting. This would leave the Parish Council inquorate and unable to determine such matters.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications to this report.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
To grant a dispensation to allow members to participate in a meeting when otherwise they would be in breach of the Code	Complying with the Regulations and enabling, where appropriate, members to legally take part in meetings where they would otherwise have a prejudicial interest.
Issues/Obstacles/Threats	Control measures/mitigation
Failure to apply for a dispensation (or the Standards Committee exercises its discretion not to grant a dispensation) will mean that the member cannot participate in the meeting on the item in which s/he has a prejudicial interest	Apply for dispensation in a timely manner

5. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	Standards Committee (Further Provisions) (England) Regulations 2009.
Considerations of equality and human rights:	N/a
Biodiversity considerations:	N/a
Sustainability considerations:	N/a
Crime and disorder implications:	N/a
Background papers:	
Appendices attached:	Appendix A: applications for dispensations from South Tawton Parish Councillors

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Agenda Item 3

At a Meeting of the **STANDARDS COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **12th** day of **JUNE 2012** at **10.00 am**.

Present: Mrs V Spence – Chairman
Mr A F Leech Miss D E Moyse

Parish Council: Mrs W Eldridge Mrs M Morgan

Solicitor (Mrs B Fowlds SHDC)
Committee & Ombudsman Link Officer

SC 1 CONFIRMATION OF MINUTES

The Minutes of the Meeting held on 24th January 2012, were confirmed and signed by the Chairman as a correct record.

***SC 2 NEW CODE OF CONDUCT AND RELATED ARRANGEMENTS**

Arising from Minute No S 16 – 2011/2012, the Monitoring Officer presented a report (page 7 to the Agenda) advising that all local authorities were required to adopt a new code of conduct with related procedures to support the work of Standards Committees following the dissolution of the Standards for England regime.

All the relevant local authorities in Devon, including the Dartmoor National Park Authority and the two Unitary Councils, had agreed to work together to produce a suggested Code of Conduct and this was presented at Appendix A to report (page 12 to the Agenda). Appendix B to the report (page 20 to the Agenda) set out in table format the issues for consideration, commentary and advice and suggested recommendations for each local authority to understand and approve. It was being proposed that both appendices be circulated to the Town and Parish Councils as they have the opportunity of adopting the suggested standards regime or of creating their own regime.

It was understood at the time of writing the report that the Regulations pending publication from the Government would allow a certain amount of leeway time to allow the new regulations to be introduced whilst maintaining the current arrangements; although clearly understanding that the new regulations needed to be adopted as close to 1st July 2012, as was reasonably practicable. Subsequently, the Government announced on Friday 8th June 2012, in an e-mail received at 5.30 pm, that all relevant local authorities must have a suitable standards regime in place by 1st July 2012.

In its deliberations, the Committee resolved to undertake a consultation with the Town and Parish Councils and to use the results of that consultation for recommendations to Council, however, following publication of the Government's Regulations, the Committee's resolution had been superceded by a requirement to hold an Extraordinary Meeting of the Council to adopt and to have in place a new code of conduct by 1st

July 2012. In adopting a new Code of Conduct at such short notice, the Council would be able to review the Code at a later date to take account of local conditions and the views and comments of the Parish and Town Councils.

SC 3 ANNUAL MONITORING REPORT OF THE STANDARDS COMMITTEE 2011/2012

The Deputy Monitoring Officer presented the Standards Committee's Annual Report (page 28 to the Agenda) with a recommendation for the Council to note its contents. The report covered the period 1st April 2011 to 31st March 2012 and was presented as Appendix A to the report (page 30 to the Agenda). The Annual Report showed that the Committee had received 8 complaints (1 for the Borough Council and 7 for Parish Councils) of which 2 had been resolved, 4 were awaiting final investigation reports and 2 requiring no further action, the training undertaken by the Committee and the business considered at its regular meetings.

It was **RESOLVED** to **RECOMMEND** that the Standards Committee's Annual Report as presented be approved and adopted by the Council.

SC 4 MONITORING OFFICER ANNUAL REPORT 2011 – 2012

The Deputy Monitoring Officer presented the sixth Annual Report of the Monitoring Officer (page 36 to the Agenda). The presentation of such a report to the Standards Committee and to the Council is considered to be best practice and is recommended by the Council's auditors. The Monitoring Officer's report, presented as Appendix A to the report (page 38 to the Agenda), detailed the Officer's activities in terms of Decision Making, Conduct and Standards and the Council's Constitution.

It was **RESOLVED** to **RECOMMEND** that the report be approved and adopted by the Council.

***SC 5 OMBUDSMAN'S ANNUAL LETTER 2011 – 2012**

The Deputy Monitoring Officer presented a report (page 43 to the Agenda) on the Local Government Ombudsman's Annual Letter for 2011 – 2012. The Annual Letter with statistical information was presented as Appendix A to the report (page 46 to the Agenda). The Committee was advised that the Ombudsman required enquiry letters to be responded to within 28 days and the Council's Ombudsman Link Officer was congratulated in achieving an average turnaround time of 15 days. During the year 8 complaints had been investigated by the Ombudsman of which 3 gave insufficient evidence of fault, 4 offered no or insufficient evidence of fault and 1 was settled locally during the investigation period.

It was **RESOLVED** that the content of the Local Government Ombudsman's annual letter for 2011 – 2012 be noted.

***SC 6**

APPLICATION FOR DISPENSATIONS FROM SOUTH TAWTON PARISH COUNCIL

The Deputy Monitoring Officer presented a report (page 53 to the Agenda) on a request received from South Tawton Parish Council for dispensation to enable nine of the 10 Parish Councillors for South Tawton Parish to vote and to speak on matters relating to South Zeal Victory Hall.

It was **RESOLVED** that Councillors W Cann, C Coombs, C Critcher, Mrs J Jecks, A T Sampson, M Watkins, A R White, Mrs J M White and B Woolland be each granted a dispensation to both speak and vote on matters relating to the Victory Hall in South Zeal until 1st July. 2012.

(The Meeting terminated at 11.32 am.)

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