

West Devon Standards Committee



West Devon
Borough
Council

Title:	Agenda
Date:	Tuesday, 29th March, 2022
Time:	1.30 pm
Venue:	Chamber - Kilworthy Park
Full Members:	<p style="text-align: center;">Chairman Cllr Kimber Vice Chairman Cllr Wood</p> <p><i>Members:</i> Cllr Davies Cllr Yelland</p>
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
Committee administrator:	Democratic.Services@swdevon.gov.uk

1. Apologies for absence

2. Declaration of Interest

In accordance with the Code of Conduct, Members are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests including the nature and extent of such interests they may have in any items to be considered at this meeting;

3. Items Requiring Urgent Attention

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

4. Confirmation of Minutes

Meeting held on 9 March 2021

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5. Annual Report (2020-2021)

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Agenda Item 4

At a Meeting of the **STANDARDS COMMITTEE** held **REMOTELY** via **Teams** on **TUESDAY** the **9th** day of **MARCH 2021** at **2.00pm**.

Present:

Cllr A F Leech – Chairman
Cllr J Yelland – Vice-Chairman
Cllr T Bolton
Cllr C R Musgrave
Cllr B Ratcliffe

Cllr C Edmonds - lead Hub Committee Member
David Fairbairn – Monitoring Officer
Darryl White – Senior Specialist – Democratic Services
Kathy Hoare – Senior Case Manager – Democratic Services

*** SC 1 APOLOGIES FOR ABSENCE**

There were no apologies for absence

*** SC 2 CONFIRMATION OF MINUTES**

The Minutes of the Committee Meeting held on 10 March 2020 were confirmed as a true and correct record.

*** SC 3 DECLARATIONS OF INTEREST**

The Chairman invited Members to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

SC 4 LGA MODEL CODE OF CONDUCT

Cllr Edmonds took Members through the Local Government Association (LGA) Model Code of Conduct.

In his introduction, he referred to the Committee for Standards in Public Life's recommendations which had included a Model Code of Conduct being produced by the LGA. One of the aims in having a model Code was to give consistency across all tiers of local government.

The Monitoring Officer added that other Devon district councils were similarly reviewing their Code. A large number of council's across the country were looking to adopt the LGA model. He explained that there had been no changes to sanctions even though the Committee for Standards in Public Life had recommended the Government to make changes to the legislation to enable this to happen.

It was then **RESOLVED** that:

The Committee **RECOMMEND** that the Council adopts the Code (as set out in Appendix C of the presented agenda report) to come into effect from the date of the next Annual Council.

*** SC 5 ANNUAL REPORT (2020-2021)**

The Committee considered its Annual Report for the period April 2020 to March 2021.

Following an introduction from the lead Hub Committee Member, a debate ensued and particular reference was made to:-

(a) The 16 Standards complaints received being from mainly two councils. The complaints relating to Lamerton Parish Council had focused on the progress of the local Neighbourhood Plan which had appeared to divide the Parish. Complaints had mainly sought to challenge the way that decisions had been made or the decisions themselves.

The Sampford Courtenay Parish Council complaints had centred on a single issue related to Covid-19 assistance and grant funding for local business, causing a division within the council;

(b) Monthly Standards update reports from the Monitoring Officer that had not been forthcoming due to staff shortages. In reply, the Committee was advised that a legal services review was currently underway that should give more resource to allow for complaints to be dealt with more promptly;

(c) A suggestion was made by the Chairman that more Standards Committee meetings should take place, with it being suggested that the Calendar of Meetings should include provision for two meetings per Municipal Year. The Monitoring Officer replied that more support would be given to Governance and to the Monitoring Officer function. As a result, the current process would improve. Monthly reports would be forthcoming and he was therefore confident that any additional meetings would not be needed.

It was then **RESOLVED** that:

the Committee NOTE the content of the report.

(The Meeting terminated at 2.35 pm)

Chairman

Report to: **Standards Committee**

Date: **29 March 2022**

Title: **Annual Report 2021-22**

Portfolio Area: **Cllr Chris Edmonds (Resources and Performance)**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y / N**

Date next steps can be taken: Immediately following this meeting.

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

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david.fairbairn@swdevon.gov.uk**

RECOMMENDATION:

It is RECOMMENDED that the Committee notes the contents of the Report.

1. Executive summary

- 1.1 The Standards Committee is responsible for promoting and maintaining high standards of conduct by Councillors and co-opted Members.
- 1.2 Although there is no legislative requirement for Standards Committees to produce an Annual Report, doing so is recognised as good practice. Not only does the report publicise the work of the Committee to the general public, it is also a means for the Council itself to monitor the Committee's work.
- 1.3 The Annual Report is for noting and provides information on the number and outcome complaints made during the current year together with any trends that have been identified.

2. Annual Report

2.1 **The Standards Committee.** The Standards Committee is made up of 5 Members. The current membership is as follows:

- Cllr M Davies
- Cllr P Kimber (Chair)
- Cllr L Wood
- Cllr J Yelland
- One vacancy

2.2 **Independent Persons.** Under the Localism Act 2011, the Council is required to appoint one or more Independent Persons to assist in the standards process. The functions of the Independent Persons are:

- (a) to be consulted by the Council before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decide on action to be taken in respect of that Member; and
- (b) to be consulted by the Council in respect of a standards complaint at any other stage and they may be consulted by a Member or a co-opted member.

2.3 The Council shares its Independent Persons with South Hams District Council.

2.4 **Code of Conduct complaints.** The Monitoring Officer has been delegated by the Council to receive complaints that members of the Council or any town or parish council in the Council's area have failed to comply with their council's Code of Conduct. The Monitoring Officer has delegated power, after consultation with the Independent Person, if appropriate, to determine whether a complaint merits formal investigation. Wherever practicable, the Monitoring Officer seeks resolution of complaints without formal investigation. The Monitoring Officer has a discretion to refer the outcome of a formal investigation for a hearing where the complaint is serious or complex and it is considered to be in the public interest.

2.5 Table 1 sets out the annual number of complaints against members of the Borough Council and town/parish councillors received since 2019/20:

	2019/20	2020/21	2021/22 ¹	Total
Borough Council	0	4	2	6
Town and Parish Council	7	13	12	32
Total	7	17	14	38

Table 1: Breakdown of complaints for West Devon 2019-2022

- 2.6 By way of comparison, Table 2 provides the same information in respect of South Hams:

	2019/20	2020/21	2021/22	Total
District Council	8	8	7	23
Town and Parish Council	14	13	17	44
Total	22	21	24	67

Table 2: Breakdown of complaints for South Hams 2019-2022

- 2.7 85% of complaints in West Devon have been about town and parish councillors. This compares with 65% in South Hams. There are, of course, more town and parish councillors than Borough Councillors and therefore numerically it is to be expected that there would be more complaints against town and parish councillors. The ratio of the number of complaints to the number of councillors (2021/22) is 1:15.5 for Borough Councillors and, 1:33 for town and parish councillors. The latter does not take into account the number of vacancies among town and parish councils or the fact that complaints often involve multiple councillors.
- 2.8 Complaints involving town and parish councillors have tended to be confined to just a small handful of councils and often then associated with a particular decision that has proven to be unpopular, for example a neighbourhood plan or grant decision. In the last two years, one parish council has been the subject of 11 complaints involving one or more parish councillors. This is 36% of all complaints against town and parish councillors in West Devon. Only in one complaint was a breach found and an apology was given in respect of correspondence between two councillors showing a lack of respect, bullying and intimidation, so bringing the parish council into disrepute. The remainder were either rejected at informal assessment or warranted no further action following a formal assessment. This would tend to suggest that the complaints were ill-founded or given the very few complainants, made with an improper motive or potentially vexatious. One of the complainants,

¹ Completed complaints to 21.03.2022.

who was unhappy with the decision not to take any further action, took the matter to the Local Government and Social Care Ombudsman. The Ombudsman considered that the Monitoring Officer's investigation was proportionate to the concerns raised and it was unlikely that the Ombudsman would find fault by the Council affected the decisions to take no further action on the complaints about the parish councillor or the parish council.

- 2.9 The pattern described in the previous paragraph; multiple complaints, but no breach found, is reflected in the other complaints. Accordingly, of the 17 complaints in 2020-21, only 1 resulted in a finding that the Code of Conduct had been breached (referred to above) and 1 referred to a formal assessment as being a potential breach of the code. In 2021-22 to date, there have not been any findings of the code of conduct being breached.
- 2.10 **Policy and Procedure.** The Council has an adopted policy and procedure for dealing with code of conduct complaints. The policy and procedure was last reviewed in 2019. The aim of the policy and procedure is to manage expectations as to what can and cannot be considered, while providing transparency as to how any complaint will be handled.
- 2.11 The adopted Policy and Procedure Guide envisages that a complaint will be acknowledged and an informal assessment carried out within 10 working days of receipt of the complaint. If a complaint is not rejected at that stage, then the Monitoring Officer will then give the member complained about, 14 working days to provide their comments in writing responding to the complaint, before consulting with one of the Independent Persons, who has a further 10 working days to provide their views. A decision notice will be issued within a further 5 working days. This equals approximately 8 weeks from start to finish (although if the complaint is subject to a formal investigation and hearing the period will be much longer).
- 2.12 Unfortunately, the Monitoring Officer has not met the timescales for acknowledging and dealing with complaints. Table 3 shows the average length of time taken to deal with a complaint from the time received to completion of the formal assessment.

	2019/20	2020/21	2021/22 ²	Average
Number of weeks	13.5	13.25	11	12.58

Table 3: Average time taken.

- 2.13 As mentioned earlier, the responsibility for dealing with complaints is that of the Monitoring Officer. The approved establishment envisages that two deputies will support the Monitoring Officer. However, since the appointment of the previous Monitoring Officer

² See previous footnote.

to the role of Business Manager - Specialists, there has been an on-going deputy monitoring officer vacancy. During that time, as has been reported to Council, there has been an increased pressure on the Legal Services Team generally and the Monitoring Officer as the only full-time member of the team in particular, for legal services to the Council. Council has recognised this by agreeing to add two new full-time regulatory lawyer posts. This will allow the structure of the Legal Services Team to be reviewed, so that there will be two lead Principal Lawyers to free up, to provide more support to the Monitoring Officer. Unfortunately, since then two members of the team, including the remaining deputy monitoring officer, have left the Council's employment for new jobs elsewhere in the public sector. The Council is however, working to fill the vacancies so that there is a properly resourced team in place as soon as possible.

- 2.14 The gap in resources for dealing with the assessment of complaints is being filled by Cornwall Council. Even so, dealing with complaints is time and resource-hungry, particularly as it is becoming apparent that increasingly complainants are less likely to be accepting of the decision and protracted correspondence can ensue.
- 2.15 On a more positive note, complaints are now being monitored through the Council's Liberty Create system. This will allow a more managed approach, resources permitting, and better quality management information.
- 2.16 **Training and development.** Training is an important part of promoting high standards of behaviour. However, due in part to the events of the past two years no training has been carried out. Training was last delivered to all members of the Council in June 2019.
- 2.17 As Monitoring Officer, I would wish to work more closely with the Committee on identifying and meeting training needs. Regrettably, for the reasons mentioned previously that has not been possible.
- 2.18 In the absence of formal training, the Monitoring Officer has issued guidance to all members on the use of social media; informal briefings and declaring interests in meetings. While there is little evidence of inappropriate declarations of interest, it is clear that members are not yet familiar with the new terminology for describing interests used in the code of conduct adopted in May 2021.

3. Proposed Way Forward

The Annual Report summarises the Committee's role and the events of 2021/22. The report provides an evidence base for further reports for future improvements, including a review of the procedures for dealing with standards complaints.

4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	N	The Standards Committee is responsible for promoting and maintaining high standards of conduct by Members and it is important that the Committee has an overview of actions taken over a period of time, with an opportunity to make any recommendations.
Financial implications to include reference to value for money	N	There are no financial implications arising from the report.
Risk	Y	There is a risk that, without an annual report and overview, the Standards Committee cannot fulfil its responsibilities for promoting and maintaining high standards of conduct by Members
Supporting Corporate Strategy	Y	Maintaining high standards of behaviour supports the proper delivery of all of the Council's functions and therefore the Corporate Strategy.
Climate Change - Carbon / Biodiversity Impact	N	There are no direct climate change, carbon or biodiversity impacts arising from this report
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no direct equality and diversity implications arising from this report.
Safeguarding	N	There are no direct safeguarding implications arising from this report.
Community Safety, Crime and Disorder	N	There are no direct community safety, crime and disorder implications arising from this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications arising from this noting report.
Other implications		

Background Papers:

There are no background papers.