

West Devon Standards Committee



West Devon
Borough
Council

Title:	Agenda
Date:	Tuesday, 29th November, 2016
Time:	11.00 am
Venue:	Chamber - Kilworthy Park
Full Members:	<p style="text-align: center;">Chairman Cllr Leech Vice Chairman Cllr Sheldon</p> <p><i>Members:</i> Cllr Evans Cllr Musgrave 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:	Member.Services@swdevon.gov.uk

1. Apologies for absence

2. Declaration of interest

3. Items Requiring Urgent Attention

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

4. Confirmation of Minutes

1 - 2

Meeting held on 15 March 2016

5. Annual Report

3 - 14

Report of the Monitoring Officer

Agenda Item 4

At a Meeting of the **STANDARDS COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **15th** day of **March 2016** at **10.00am**.

Present: Cllr A F Leech – Chairman
Cllr J Sheldon – Vice-Chairman
Cllr J Evans Cllr J R McInnes
Cllr J Yelland

Monitoring Officer
Senior Case Manager – Democratic Services

***SC 9 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllrs K Ball, W G Cann OBE (as lead Hub Committee Member), P Kimber J B Moody and C R Musgrave.

***SC 10 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 20 October 2015 were confirmed and signed by the Chairman as a true and correct record.

*** SC 11 REVIEW OF PROCEDURES FOR DEALING WITH STANDARDS COMPLAINTS**

The Monitoring Officer presented a report on the review of procedures for dealing with Standards complaints to Members.

Answering questions raised by Members, the Monitoring Officer confirmed that:

- In accordance with the Localism Act, it was for each town or parish council to adopt their own Code of Conduct and that they did not have to adopt the West Devon Borough Council version;
- Six months after a Councillor ceased to be a Member, the signed paper copies of their register of interest form would be destroyed. In addition, the electronic version on the Council website would be removed as soon as was practically possible;
- the Chairman & Vice Chairman of the Committee would be notified of any complaint received and the outcome.

It was then **RESOLVED** that the Committee agree the amendments to the 'Dealings with Standards Complaints' (as outlined at Appendix A of the presented agenda report) together with further amendments to:

1. Page 16 of the attached Policy under 'Assessment by the Monitoring Officer' to add that the Chairman and Vice-Chairman be notified of receipt of a Code of Conduct complaint and the assessment stage outcome; and

2. Clarification to page 26 of the Policy in respect of what happens to complaints when a Councillor ceases to be a Councillor and a member of another authority

(The Meeting terminated at 10.45 am)

Chairman

Report to: **Standards Committee**

Date: **29 November 2016**

Title: **ANNUAL REPORT**

Portfolio Area: **Support Services**

Wards Affected: **All**

Relevant Scrutiny Committee: Internal

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

Date next steps can be taken: 29 November 2016

Author: **Catherine Bowen** Role: **Monitoring Officer**

Contact: Catherine.Bowen@swdevon.gov.uk

RECOMMENDATION

To consider the Annual Report to the Standards Committee and make any necessary recommendations.

1. Executive summary

- 1.1. At its meeting on 20 October 2015 the Standards Committee recommended to the Council that, with effect from the 2016/17 Municipal Year, there should be one scheduled Standards Committee each year subject to other meetings being called as required (minute SC8).
- 1.2. At the October 2015 meeting, the Standards Committee also recommended that the number of members of the Committee be reduced from nine to five members.
- 1.3. The Standards Committee last met on 15 March 2016, and this is the scheduled meeting of the Standards Committee for the municipal year 2016/17 and presents to members an Annual Report of the Standards Committee.
- 1.4. For members' reference, a copy of the Standards Committee's Terms of Reference is attached at Appendix 1.

2. Annual Report

2.1. The Standards Committee last met in March 2016 and Members are therefore asked to consider the following updates on standards.

2.2. Standards Complaints

2.2.1. The Council currently measures the annual number of standards complaints from 1 January in each year. In order to bring standards complaints in line with other reporting measures of the Council, it is proposed that, from 1 April 2017, complaints are logged on a yearly basis using the financial year from 1 April to 31 March. It is therefore proposed that the 2016 complaints include complaints from 1 January 2016 to 31 March 2017 in order to facilitate this.

2.2.2. From 1 January 2016 to date, the Council has received 3 formal standard complaints. One of the complaints related to a Borough Member and two to parish councillors. Two of this year's complaints have been completed with the outcome of no further action. The first complaint related to allegations of bringing the office of councillor into disrepute and the second comprised allegations that the councillor has failed to treat others with respect and bullying. After due consideration and assessment, and consultation with the Independent Person, the decision on both these matters was no further action. The third matter has only been received this month and is currently unresolved.

2.2.3. By way of comparison, five complaints were received in the previous calendar. The comparative figures for South Hams are since 1 January 2016 we have received 20 standards complaints, with 16 for the previous calendar year.

2.2.4. The Standards sub-committee (three members of the main Committee) is responsible for considering complaints where (following an investigation) the Investigating Officer has found that there has been a breach of the Code. The sub-committee has not met this year as none of the complaints have been referred for investigation.

2.2.5. The Monitoring Officer provides ongoing advice throughout the year to Borough Members and town and parish councils on the Code of Conduct (in relation to both conduct and interests).

2.3. Standards Policy and procedure

2.3.1. The Committee reviewed the procedures for dealing with standards complaints in March 2016 and made some amendments to the policy primarily to ensure that the Chairman and Vice Chairmen are notified when standards complaints are received and at the assessment stage.

2.3.2. The Monitoring Officer has no issues with the application of the standards policy and procedures.

2.4. Dispensations

2.4.1. The Committee is responsible for granting dispensations under the Council's Dispensation Policy (please see paragraph 4.5 of the attached Terms of Reference in Appendix 1).

2.4.2. The Dispensation procedure is attached at Appendix 2 and shows the criteria for determining dispensation together with the current dispensations that are extant which are general dispensations relating to all members. These will be reviewed prior to the Annual Meeting in 2019.

2.5. Independent Persons

2.5.1. The Council has appointed three Independent Persons in accordance with relevant regulations and these are Mr George Barnicott, Mr Martin Glead and Mrs Victoria Sense. The Independent Persons are appointed until the Annual Meeting in May 2019.

2.5.2. The Independent Persons are consulted in respect of each standards complaint received. The Council's policy requires consultation in excess of the statutory requirements and this has proved particularly valuable in respect of the initial assessment of the complaints, from both the Monitoring Officer's perspective and providing more transparency for complainants.

2.6. Training

2.6.1. Standards and Code of Conduct training for West Devon Members was carried out in May/June 2015 following the elections. The Committee may consider that further training for West Devon members is appropriate. One area that has been raised as an area of concern is the increase in the use of social media and members may wish to consider this further.

2.6.2. There is external specialist training for Independent Persons planned for February 2017 which has been offered to the three Independent Persons. In previous years the feedback from the Independent Persons is that this is extremely valuable and assists the Independent Persons with best practice.

2.6.3. Parish Council training was provided to town and parish councils in October this year but the length of the agenda meant that there was no facility for provide standards training. A further training session for standards will be organised in the New Year.

3. Proposed Way Forward

3.1. The Annual Report provides a summary of the Standards Committee's responsibilities and the outcomes to date from the beginning of the calendar year.

3.2. Members are asked to consider the report and to make any necessary recommendations in order that the Committee can fulfil its responsibilities as set out in the Terms of Reference.

4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>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.</p> <p>It is important that the Committee has an overview of the number of, and types of standards complaints, received against both Borough Members and town and parish councillors and to make any necessary recommendation in relation to those complaints.</p>
Financial	N	There are no direct financial implications to this Annual Report to the Standards Committee
Risk		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.
Comprehensive Impact Assessment Implications		
Equality and Diversity		N/a to this report
Safeguarding		N/a
Community Safety, Crime and Disorder		N/a
Health, Safety and Wellbeing		n/a
Other implications		n/a

Appendices:

Appendix 1: Terms of Reference for the Standards Committee
 Appendix 2: Dispensation Policy and record of current dispensations.

Background Papers:

None

Standards Committee

Composition

1. Membership of the Standards Committee

- 1.1. The Standards Committee shall comprise five Members of the Council
- 1.2. The Chairman and Vice Chairman shall be appointed by the Council in accordance with the Council's Procedure rules in Part 4 of the Constitution.
- 1.3. The Standards Committee may co-opt up to two parish / town council representatives from a parish/town council in the Borough

2. Membership of Sub-committees of the Standards Committee

- 2.1. The Standards Committee shall appoint sub-committees of three members to deal with specific standards complaints in accordance with the Dealing with (Standards) Complaints Policy and Hearing Policy
- 2.2. Sub-committees will consult (where co-opted) parish / town councillors on decisions relating to town or parish councillors

3. Quorum for the Standards Committee and its sub-committees:

- 3.1. **Three** members for the duration of the meeting.

4. Roles and functions of the Standards Committee

- 4.1. To promote and maintain high standards of conduct by Councillors and co-opted Members;
- 4.2. To assist Councillors and co-opted Members to observe the Members' Code of Conduct;
- 4.3. To advise the Council on the adoption or revision of the Members' Code of Conduct, and on matters relating to the ethical conduct of the Council and its Members;
- 4.4. To advise and train Councillors and co-opted Members on matters relating to the Code of Conduct;
- 4.5. To grant dispensations to Borough Councillors (and where relevant, co-opted Members to the Borough Council) from requirements relating to Disclosable Pecuniary interests in the following circumstances:
 - 4.5.1. Where so many members of the decision-making body have a Disclosable Pecuniary Interest that Political Balance would be affected
 - 4.5.2. It is in the interests of the inhabitants that a dispensation be granted, or

4.5.3. It is appropriate to grant a dispensation

4.6. The Monitoring Officer can grant dispensations where so many members have a Disclosable Pecuniary Interest that it would impede the transaction of the business of the Council

4.7. The Monitoring Officer (in consultation with the Chairman and Vice-Chairman) or the Standards Sub-committee can grant dispensations in cases 4.5.1 – 4.5.3 where it would not be expedient to wait until the next scheduled Standards Committee meeting

4.8. To consult the Independent Person(s) in accordance with the Dealing with Complaints Policy and Hearing Policy.

4.9. To be responsible for the Dealing with Complaints Policy and Hearing Policy.

4.10. To consider complaints alleging a breach of the Code of Conduct by Borough Councillors (and any co-opted members where relevant) and those members of town and parish councils in the Borough of West Devon as referred by the Monitoring Officer.

4.11. To receive Investigation reports and to carry out hearings (including sanctions) in respect of allegations of misconduct for Borough members (and co-opted members where relevant) and town/parish council members and to recommend sanctions or other recommendations/actions.

5. Roles and functions of the Standards sub-committees

5.1. To consider complaints alleging members' breach of the Code of Conduct as referred by the Monitoring Officer

5.2. To receive investigation reports and carry out Hearings (including consideration of sanctions or other actions) in respect of allegations of misconduct

Budget

To have authority for spending within the allocated budget.

This page is intentionally left blank

West Devon Borough Council

Guidance on Dispensations

The Law

The Localism Act 2011 provides rules on Dispensations from the prohibition of members from participating in matters in which s/he has a Disclosable Pecuniary Interest.

Requests for Dispensations

Grounds:

A dispensation may be granted on the following grounds to enable a member to speak and/or vote where s/he would otherwise have a disclosable pecuniary interest:

1. That so many members of the Council have Disclosable Pecuniary Interests in a matter that it would impede the transaction of the business (i.e. it would otherwise be inquorate).
2. That without the dispensation, the representation of different political groups on the Council would be so upset as to alter the outcome of any vote on the matter.
3. That the Council considers that the dispensation is in the interests of persons living in the Council's area.
4. That without a dispensation no member of the Executive would be able to participate on the matter
5. That the Council considers that it is otherwise appropriate to grant a dispensation.

How to apply

A dispensation request must be made to the Monitoring Officer in writing or by email addressed to Catherine Bowen, Monitoring Officer, West Devon Borough Council, Catherine.Bowen@swdevon.gov.uk. Please use the Request Form at Appendix A.

Please submit a dispensation request well in advance of the date of the meeting for which the dispensation is sought and in any event, other than in exceptional circumstances, the dispensation request should be submitted **not less than 10 clear** days prior to the date of the meeting to which the dispensation request relates.

Criteria

The following **Criteria** will be considered in determining whether to grant dispensation requests:

1. Whether the nature of the member's interest is such that to allow her/him/them to participate would not damage public confidence in the conduct of the Council's business.

West Devon Borough Council

2. Whether the interest is common to the member and a significant proportion of the general public; *if this is the case a dispensation is more likely to be granted.*
3. Is the participation of the member in the business that the interest relates to justified by a member's particular role or expertise?
4. Whether the interest is trivial or remote; *if this is the case a dispensation is more likely to be granted.*

Procedure for Granting Dispensation Requests

- (i) Dispensations under Ground 1 may be granted by the Monitoring Officer
- (ii) Dispensation Requests under any other grounds will be considered by the Standards Committee
- (iii) Where it is not expedient to wait until the next scheduled Standards Committee meeting, a Dispensation Request under (ii) above may be granted by:
 - the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Standards Committee, or
 - a Standards Sub-committee
- (iv) Dispensations may be granted:
 - To speak only
 - To speak and vote
 - For a maximum of four years

Bias and Predetermination

There may be circumstances where you do not have a Disclosable Pecuniary Interest but where it would not be appropriate for you to speak and vote on a matter because you may be biased (or perceived to be biased) if you were to do so. For example, speaking and voting on a planning application relating to a close family member or neighbour. A dispensation cannot be granted in such circumstances to enable you to speak and vote. It is extremely unlikely that a dispensation will be granted in respect of a Disclosable Pecuniary Interest where circumstances of bias or predetermination may arise. For further information please contact the Monitoring Officer.

West Devon Borough Council

General Dispensations to Borough Councillors

At its meeting on **17 March 2015** the Standards Committee granted a **General Dispensation**:

- to all Members of West Devon Borough Council
- until the Annual meeting in **May 2019**
- to enable Members to speak and vote at meetings of the Council (as defined in the Code of Conduct) relating to:
- **Housing**: where the Councillor (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Councillor's particular tenancy or lease
- **Statutory sick pay**: if a councillor receives this or is entitled to receive it
- An **Allowance**, travelling expense, payment or indemnity for Councillors
- Any **ceremonial honour** given to Members
- Setting the **Council Tax or a Precept**

At its meeting on **17 March 2015** the Standards Committee granted a **General Dispensation**:

To all dual-hatted Members of West Devon Borough Council to speak and vote on matters where they are a member of another local authority and in receipt of a Members' Allowance, from the Annual Meeting in May 2015 **until the Annual Meeting in May 2019**.

Where a Member is unsure whether these General Dispensations apply to his/her particular circumstances, s/he is advised to make a specific request to the Monitoring Officer.

Dispensation Request

Name of Councillor	
Nature and description of interest for which dispensation sought:	
Period for which dispensation is sought. Note: <ul style="list-style-type: none">• This may be for a maximum period of 4 years.• Where a dispensation is sought for a particular meeting, please specify date of meeting.	
Grounds on which the dispensation is sought: <ul style="list-style-type: none">• Please refer to grounds set out in the attached guidance.• Please provide supporting reasons as to why you consider the dispensation request should be granted.• Please state whether you are seeking a dispensation to speak and to vote or to speak only on the particular matter.	