

Local Code of Conduct and Local Arrangements

References are to the draft Devon Code at Appendix A

No.	Issues for consideration	Commentary and advice	Recommendation
1.	<p><u>Governance/Standards Committee</u> The Localism Act abolishes the current Standards Committees. There is no legal requirement for a 'Standards Committee' but there is still a need to deal with standards issues and case-work. It makes sense to have a 'Governance' or 'Standards Committee' to deal with:</p> <p>(At Borough Council level):</p> <ul style="list-style-type: none"> • Advice / training on local Code • Complaints about the Code, investigations, considering reports, hearings and imposing sanctions • Dispensations <p>(At parish/town council level):</p> <ul style="list-style-type: none"> • Complaints about the Code, investigations, hearings and reports • (Sanctions and dispensations must be dealt with by the relevant parish/town council) <p>New Committee:</p> <ul style="list-style-type: none"> • Political Balance rules apply • No rules on membership of the committee • Current co-opted Independent/lay members and parish representatives will cease to hold office <p>Other existing functions of current Standards Committee:</p> <ul style="list-style-type: none"> • Overview of Constitution • Overview of corporate and Ombudsman complaints 	<p>It is for members to decide which body will carry out the new standards functions. Options:</p> <ul style="list-style-type: none"> • Council • New WD Standards committee • Joint Committee with one or more neighbouring councils • Assign to existing committee e.g. O&S <p>A separate committee would need to be approx 9 members. We will need a subcommittee of three members to deal with specific cases.</p> <p>Members may wish to keep independent/lay members and parish representatives as co-opted members in advisory capacity (they will not be able to vote).</p> <p>Interest has been expressed in a Devon - wide Joint Standards Committee, although no firm proposals as yet. It might be more realistic at this stage to explore a South Devon joint committee between South Hams, Teignbridge and West Devon. The main advantage of this would be the avoidance of conflicts of interest and Members would not have to decide matters affecting fellow councillors.</p> <p>To enable a proposed Joint Committee to</p>	<p>Recommendation 1</p> <p>i) First option: that the Council considers a Joint Standards Committee with South Hams and Teignbridge (and delegates the Monitoring Officer to pursue this option in consultation with Leader and Deputy Leader).</p> <p>ii) In the interim, the new standards functions to be delegated to the existing Overview & Scrutiny Committee:</p> <p>a. Functions: new standards responsibilities under the Localism Act (to include the new Code, Register of Interest, training, advice, standards complaints, investigations, considering reports, hearings, sanctions and dispensations)</p> <p>b. Invite the two current parish / town council representatives as non-voting members to attend when dealing with parish standards matters (or alternatively to invite Parish Councils to nominate up to 2 parish councillors to those roles)</p> <p>c. Subcommittees of three members to deal with specific standards cases</p>

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		<p>be further explored, an interim measure would be to assign the new standards functions to an existing Committee, such as the Overview & Scrutiny Committee. This would have the advantages of not having to recalculate the political balance allocations and appoint a new committee.</p>	<p>iii) Alternative Option to (i) and (ii) to appoint a new Standards Committee:</p> <ul style="list-style-type: none"> a. A membership of 9 b. Appoint Chairman and Vice Chairman c. Functions: new standards responsibilities under the Localism Act (to include the new Code, Register of Interest, training, advice, standards complaints, investigations, considering reports, hearings, sanctions and dispensations) d. Invite the two current parish / town council representatives as non-voting members to attend when dealing with parish standards matters (or alternatively to invite Parish Councils to nominate up to 2 parish councillors to those roles) e. Subcommittees of three members to deal with specific standards cases <p>iv) That the current functions of the existing Standards Committee are re-assigned as follows:</p> <ul style="list-style-type: none"> a. The Audit committee to have an overview of the Constitution b. The O&S Committee to have

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			<p>an overview of Corporate and Ombudsman Complaints</p> <p>v) That the existing procedures adopted under the Local Government Act 2000 apply to any standards matters not resolved by 1 July 2102 (as far as reasonably practicable)</p> <p>vi) That the existing procedures adopted under the Local Government Act 2000 apply to any standards matters not resolved by 1 July 2102 (as far as reasonably practicable and lawful) to be delegated to the Monitoring Officer and new governance / standard committee</p>
2.	Contents of Code of Conduct		
1(a)	<p><u>Principles of Public Life</u></p> <p>Localism Act says that the following seven must be included:</p> <ul style="list-style-type: none"> ○ Selflessness ○ Integrity ○ Objectivity ○ Accountability ○ Openness ○ Honesty ○ Leadership <p>Current principles which may be included:</p>	<p>Please see paragraph 1.2 of the Devon Code.</p> <p>The advantages of retaining the same principles as the current code:</p> <p>(a) reducing the scope for confusion amongst members and officers in seeking to abide by the new arrangements and</p> <p>(b) Being able to draw upon guidance</p>	<p>Recommendation 2(a) that all the existing 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

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	<ul style="list-style-type: none"> ○ Personal judgement ○ Respect for others ○ Stewardship ○ Duty to uphold the law 	<p>and precedents created under the present code.</p> <p>The Standards Committee recommend that all the current principles are included</p>	<ul style="list-style-type: none"> ○ Respect for others ○ Duty to uphold the law ○ Stewardship ○ Leadership
2(b)	<p><u>Interests</u></p> <p>The Monitoring Officer continues to be under a duty to keep a register of members' interests. The current 'personal' and 'prejudicial' interests are abolished. The Act requires only that Disclosable Pecuniary Interests are registered.</p>	<p>Please see Paragraphs 6 – 8 of the draft Devon Code at App A</p> <p>The Monitoring Officer must publish the Registers on the website by law.</p>	
	<p><u>Disclosable Pecuniary Interests</u></p> <p>'Disclosable Pecuniary Interests' (DPI) must be registered.</p> <p>A "Disclosable Pecuniary Interest" applies to:</p> <ul style="list-style-type: none"> ○ Elected and co-opted Members ○ Members' spouses, civil partners or live-in partners (where the member is aware of that interest) <p>These are statutory and there is therefore no discretion whether to adopt.</p> <p>Under the Localism Act failure to comply with rules on DPI's is a criminal offence</p>	<p>For the definitions of the new Disclosable Pecuniary Interests please see Paragraph 7.1 (a) to (g) of the Code in App A. They are set out in seven specific categories:</p> <ul style="list-style-type: none"> ● Employment ● Sponsorship ● Contracts ● Land ● Licenses ● Corporate tenancies ● Securities <p>Where a Member has a DPI it is a criminal offence to:</p> <ul style="list-style-type: none"> ● fail to Register that interest 	<p><u>Recommendation 2 (b):</u></p> <p>that the Council includes the provisions on Disclosable Pecuniary Interests in the Code and in a Register of Interests, and Members to register all of the specified interests with the Monitoring Officer within 28 days of the adoption of the Code.</p>

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		<ul style="list-style-type: none"> fail to disclose it at a meeting unless it is already registered participate in a relevant item of business unless the member has a dispensation 	
2 (c)	<p><u>Registration of other interests</u></p> <p>The Council needs to consider what other interests it may require members to register.</p> <p>The legal minimum requirement under the Localism Act is to register and declare Disclosable Pecuniary Interests (DPI). Members can consider adopting just the DPI or some or all of those interests in the current Code in the interests of transparency and as way of protecting themselves.</p> <p>The Monitoring Officer can withhold registration of sensitive information (i.e. where someone could be exposed to violence if the information were published).</p>	<p>Please see paragraphs 7.2 of the draft Code.</p> <p>The current code requires the following interests to be registered:</p> <ul style="list-style-type: none"> Membership of other bodies, other local authorities, trusts or charities and bodies set up to influence public opinion e.g. a trade union Your employer or business Any contracts that you or your employer has with the Council Person(s) who paid your election expenses Securities over £25,000 Any land you own or occupy in the authority's area, including your home address The receipt of gifts and hospitality over £25 in value 	<p>Recommendation 2 (c) that the Code of Conduct includes 'other personal interests' (as set out in paragraphs 7.2 of the draft code) i.e.:</p> <ul style="list-style-type: none"> Membership of other bodies as specified Any other body which the member might view as creating a conflict of interest <p>And/or</p> <ul style="list-style-type: none"> Any other area which in the member's view might create a conflict of interest in carrying out duties Receipt of gifts or hospitality greater than £100 <p>The latter two provisions were recommended by SH Standards Committee. Neither Standards Committee is keen to include specific examples to bodies e.g. Freemasons.</p>
2(d)	<p><u>Standards of behaviour</u></p> <p>There are no stipulations about what should be included in a new code regarding other aspects of behaviour. The current code includes provisions relating to:</p>	<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</p>	<p>Recommendation 2 (d) that paragraphs 1, 4 and 5 of the draft Devon code are included in the new Code</p>

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	<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>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, together with other provisions. NB the Devon code is wider than the current code in some respects.</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>If these are included, then complaints can be made that a councillor has not complied with the Code of Conduct on any of these grounds.</p>	
2(e)	<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 formal meetings, and the carrying out of the many other duties required of Members because they are councillors.</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> <ul style="list-style-type: none"> ○ Attending meetings of the Council, or any of its committees or other bodies <p>This includes site visits, meetings as an appointed member of an outside body,</p>	<p>Recommendation 2 (e) that the definitions in paragraph 2 and the provisions of paragraph 3 of the draft Devon code be approved.</p>

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		<p>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, but adds informal meetings where a formal record is kept.</p>	
3	<p><u>Disclosure of interests</u></p> <p>The Localism Act only requires members to:</p> <ul style="list-style-type: none"> • Register any DPI’s with the Monitoring Officer (in new the Register) • Disclose any DPI’s not registered in the Register • Not participate in any matter in which s/he has a DPI (i.e. must not take part in the debate or vote) <p>There is no requirement for members to leave the meeting room even where they have a DPI in a matter being 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 other interests are registered and declared.</p>	<p>The Localism Act does not actually say that if you have a DPI you should leave the room. It merely requires that you do not participate in the debate or vote.</p> <p>However, 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>Members need to decide whether they wish to include a provision in the Code and the Council Procedure Rules that:</p> <ul style="list-style-type: none"> • Members should leave the meeting room when a matter is discussed in which they have a DPI • Members should declare an interest in ‘other matters’ and leave the room when the matter is debated or declare and stay as with current ‘personal interests’ 	<p><u>Recommendation 3:</u> to adopt paragraphs 6, 7 and 8 of the draft Code at Appendix A including:</p> <ul style="list-style-type: none"> • Members with a DPI in an agenda item should declare a DPI and leave the room while the item is considered • Members with other ‘personal’ interests should declare the interest but can remain and participate <p>and to amend council procedure rules accordingly</p>
4.	<u>Dispensations</u>		

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	<p>Under the Localism Act a dispensation will only be granted in the following circumstances:</p> <p>In relation to a DPI:</p> <ol style="list-style-type: none"> 1 So many members of the decision-making body have DPI's in a matter that the body would be inquorate 2 Political balance would be affected 3 It is in the interests of the inhabitants that a dispensation be granted or 4 It is appropriate to grant a dispensation <p>A dispensation lasts up to 4 years.</p> <p>Dispensations may be delegated to the Standards / Governance Committee, or the Monitoring Officer.</p>	<p>Ground 1 is purely numerical and objective. Delegating this to the Monitoring Officer would enable dispensations to be granted at the 'door of the meeting'. The other grounds are less objective and it may be more appropriate to delegate to the new Governance committee.</p> <p>Town/Parish Councils will now grant their own dispensation.</p>	<p>Recommendation 4: that dispensation reason 1 is delegated to the Monitoring Officer and reasons 2 - 4 are delegated to the Standards / Governance Committee</p>
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:</p> <ul style="list-style-type: none"> • Must be sought and taken into account by the Council before it makes any decision on an allegation it is going to investigate • May be sought on any other matter. • May be sought by a member whose conduct is the subject of any allegation, and any town or parish councillor likewise. <p>An Independent Person must have no connection with the authority and may be appointed only after advertisement, application</p>	<p>The Council is strongly advised to appoint the current Standards Committee Chairman as the Independent Person under the transitional arrangements. Mrs Spense has agreed to take on this role if Council is minded to appoint her.</p> <p>The Council then needs to consider appointing further Independent Persons (since the Independent Person can be consulted both by the Council and by the affected member) to avoid a conflict of interest.</p> <p>Discussions are continuing amongst</p>	<p>Recommendation 5 that :</p> <ol style="list-style-type: none"> a) Under the transitional arrangements the current independent/lay Chairman of the Standards Committee ceases to be a member of that committee as at 30 June 2012 b) The current chairman of the Standards Committee be appointed as the Councils Independent Person under the Localism Act from 1 July up to July 2013 c) The Monitoring Officer take steps to advertise for and appoint a further Independent Person d) The Monitoring Officer to explore

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	<p>and approval 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>The new regulations allow a transitional alternative until July 2013 (presumably because there is no time to comply with the Act's provisions above). This allows the Council to appoint an existing Independent Member of the current Standards Committee as the IP but only if s/he is no longer a member of the Standards Committee by 30 June</p>	<p>Devon Monitoring Officers about the possibility of appointing a panel of IPs from whom a person can be appointed case by case.</p> <p>We are also in discussions with South Hams and Teignbridge about using their IP's as reserve Independent Members.</p> <p>The Council needs to consider whether to pay the Independent Person(s) an allowance and expenses. The Chairman of the WD Standards Committee currently receives under the Members' Allowance Scheme £1,023.12 pa and the Chairman of SH Standards Committee receives £500 pa.</p>	<p>further the possibility of a Devon-wide Panel of Independent Persons or using the Independent Persons from South Hams and Teignbridge</p> <p>e) To consider payment to Independent Persons, and if so how much.</p>
6.	<p><u>Procedures and implementation</u></p> <p>Once the Code and the governance arrangements are in place, we will have to write detailed procedures for:</p> <ul style="list-style-type: none"> • Registration of interests • Considering complaints including procedures and sanctions • Terms of reference and delegations for the governance committee • Granting dispensations • Guidance for members (and training) 	<p>The emphasis is under the Act is on local resolution rather than formal investigation.</p> <p>The details of the processes will be drafted after the new framework has been approved but it is recommended that the Council decides the overarching principles to enable complaints to be considered once the new regime is in place. Attached at Appendix C is a flowchart showing the outlines of the issues delegated to the Monitoring Officer.</p>	<p>Recommendation 6:</p> <p>a) That the Council adopts the overarching framework set out in the flowchart in appendix C</p> <p>b) That the Monitoring Officer be given delegated authority to draft and implement appropriate procedures for dealing with complaints in accordance with the flowchart at Appendix C and in column 1</p>
7	<u>Sanctions</u>		

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	<p>The Council will now only have a limited range of sanctions available to it where a councillor is found to have broken the Code:</p> <ul style="list-style-type: none"> • Censure • Report to full council • Remove from outside appointments • Recommend actions to Group Leaders • Withdraw facilities • Bar from office with single point of contact <p>There are no powers to:</p> <ul style="list-style-type: none"> • suspend • impose sanctions on town/parish councils 	<p>The Council cannot impose any sanctions that have the effect of preventing a councillor from performing his/her duties as a councillor.</p>	<p>Recommendation 7: that the sanctions set out in column 1 are adopted for the time being as potential sanctions for any breach of the Code</p>