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| 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.

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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

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| 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 |
| 2 | 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 ↓ ↑ ⇄