

Report to: **Audit and Governance Committee**

Date: **18/23 July 2024**

Title: **Code of Conduct and Standards Annual Report**

Portfolio Area: **Governance/Leader of the Council**

Wards Affected: **All**

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RECOMMENDATION:

That the Committee RECEIVES the report and NOTES its contents.

1. Executive summary

- 1.1 It is good practice, for the Audit and Governance Committee, as the committee responsible for overseeing standards of councillor behaviour, to produce an Annual Report, doing so is recognised as good practice. Not only does the report publicise the arrangements for dealing with allegations that councillors have broken their council's code of conduct to the public, but it is also a means for the Council itself to monitor the conduct of councillors.
- 1.2 This is a single report covering both South Hams and West Devon Councils. The report provides members with an overview of the arrangements that the Councils have in place for dealing with allegations that councillors within the Councils' respective areas have broken their council's code of conduct together with information on the number and outcome of complaints made during the current year together with any trends that have been identified.

2. Background

- 2.1 The Localism Act 2011 imposes a duty on the Councils to promote and maintain high standards of conduct by its Councillors and Co-Opted Members. As part of discharging the duty, the Councils must have adopted a Code dealing with the conduct that is expected of Councillors and Co-opted Members of the authority when they are acting in their capacity as Members (that is in an official capacity).

- 2.2 In addition, the Councils must have arrangements in place to deal with complaints that councillors (of both Councils and the Town and Parish Councils within our areas) have breached their codes of conduct, including arrangements for:
- (a) Complaints to be investigated.
 - (b) Decisions on allegations to be made.
- 2.3 The Councils' arrangements for dealing with allegations that councillors have breached their respective Code of Conduct are set out in the Councils' constitutions
- [Councillor Complaint Process \(SH\)](#)
 - [Councillor Complaint Process \(WD\)](#)

3. Annual Report

- 3.1 **The Audit and Governance Committee.** For both Councils, the respective Audit and Governance Committee is responsible for overseeing the arrangements for dealing with code of conduct complaints. As and when necessary, members of the Audit and Governance Committee will comprise the Audit and Governance (Assessment) Panel and the Audit and Governance (Hearings) Sub-Committee to consider specific complaints.
- 3.2 **Independent Persons.** Under the Localism Act 2011, the Council must appoint one or more Independent Persons to assist in the standards process. The Council must consult the Independent Persons:
- (a) before it makes a finding as to whether a Councillor has failed to comply with the Code of Conduct;
 - (b) decides on action to be taken in respect of a Councillor who has failed to comply with the Code of Conduct; and
 - (b) in respect of a standards complaint at any other stage;

A Councillor or a co-opted member may consult the Independent Person.

- 3.3 Both Councils share Independent Persons and both have recently confirmed at their respective Annual Meetings, the appointment of:
- George Barnicott;
 - Peter Boreham;
 - Martin Glead;
 - Trevor Kirkin; and
 - Victoria Spence,

as their Independent Persons for the remaining term of the Councils.

- 3.4 **Code of Conduct complaints.** The Council has delegated powers to the Monitoring Officer 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 and the Audit and Governance (Assessment) Panel, if appropriate, to determine whether a complaint merits formal investigation.
- 3.5 Where the Monitoring Officer refers a complaint for investigation, the investigating officer will examine any available evidence of the alleged breach and interview people who are relevant to the investigation before completing their report. The Audit and Governance (Hearings) Sub-Committee will then consider the report. The Sub-Committee may decide to take no further action, require the councillor to attend training or make an unequivocal apology; censure the councillor or in the case of a town or parish councillor refer the matter to the full Town or Parish Council.
- 3.6 Appendix A sets out a breakdown of the complaints received by the Monitoring Officer between April 2022 to date.
- 3.7 In 2022-23, the Councils received seventeen complaints. This increased to 66 in 2023-24 and in the year to the time of drafting this report, nine complaints have been received. Given the number of town and parish councils and the number of town and parish councillors, it is not surprising that many of those complaints are about town and parish councillors. What the bare figures do not show, is that a significant number of the complaints about town and parish councillors relate to two or three councils and a handful of councillors.
- 3.7 The main allegations are that the subject member has shown a lack of respect towards other councillors, the clerk, or members of the public; and bringing the office or council into disrepute. Although not as prevalent as it was, complaints have alleged bullying and harassment of clerks.
- 3.8 Many of the complaints received have resulted in no further action. The main reason for this is that complainants have been using the code of conduct arrangements to challenge unpopular actions or decisions of the relevant council and the standards complaint process cannot be used to challenge the collective actions or decisions of the relevant council. The resignation of the subject councillor is another reason. Where a councillor who is the subject of a complaint resigns, no further action is taken as there is no sanction that can be imposed should a breach be proven. It also makes any investigation difficult.
- 3.9 **Performance.** The Councils have an adopted policy and procedure for dealing with code of conduct complaints. The aim of the policy

and procedure is to manage expectations as to what complaints can and cannot be considered, while providing transparency as to how the Councils will deal with any complaint.

- 3.10 The Councils' arrangements envisage that the Monitoring Officer will aim to complete the initial assessment of any complaint within twenty working days. A combination of vacancies in the Legal Services team and the significant increase in the number of complaints, has meant that the Monitoring Officer has been unable to achieve this target over the last two years. Table 1 below shows average length of time taken to deal with a complaint from the time received to completion of the formal assessment (excluding on-going complaints).

	2022-23	2023-24	2024-25	Average
Number of working days	79.34	65.13	9.83	51.43

Table 1: Average time taken.

- 3.11 However, the appointment of a Deputy Head of Legal Services and Deputy Monitoring Officer in March 2024 has resulted in the Monitoring Officer having more support for dealing with code of conduct complaints and a significant reduction in the backlog of such complaints.
- 3.12 **Register of Interests.** It is a requirement that all councillors register their disclosable pecuniary interests and personal interest within 28 days of their being elected and to keep their interests up-to-date. While there were issues reported by town and parish clerks about some newly elected councillors refusing to provide their registerable interests that required intervention by the Monitoring Officer, the issues were resolved without recourse to formal complaints under the Councils' arrangements.
- 3.13 **Training and development.** The Monitoring Officer provided training to all District and Borough Councillors following the May 2023 elections. Resources and logistics have prevented training being provided to town and parish councillors. However, the Devon Association of Local Councils has made training available to town and parish councils and is looking to work with Monitoring Officers across the County to produce training and briefing notes to better support councillors.
- 3.14 To supplement the training the Monitoring Officer has issued a series of guidance notes to all District and Borough Councillors on declaring interests in meetings; dispensations; the use of social media; informal briefings and access to information. In the absence of formal training for town and parish councillors, the Monitoring Officer has made the guidance notes available to all town and parish councils.

4. Proposal and Next Steps

- 4.1 The Committee considers and notes this Annual Report which provides a summary of the Councils' arrangements for promoting good standards of behaviour among councillors in their areas together with the outcomes since 2022.

5. Consideration of risk:

- 5.1 The Annual Report seeks to promote the code of conduct and the importance of councillors' behaviour. Poor standards of behaviour risk undermining public confidence in the councillor, the Councils and local government more generally.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	These are set out in paragraphs 2.1 to 2.3 of the report.
Financial implications to include reference to value for money.	N	
Risk	Y	These are set out in paragraph 5.1 of the report.
Supporting Corporate Strategy	Y	Maintaining high standards of behaviour supports the proper delivery of all the Councils' functions and therefore their respective Council Plans.
Consultation & Engagement Strategy	N	
Climate Change - Carbon / Biodiversity Impact	N	
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	

Health, Safety and Wellbeing	N	
Other implications	N	

Supporting Information

Appendices:

Appendix A: Code of conduct complaints.

Background Papers:

There are none.