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WEST DEVON STANDARDS COMMITTEE - TUESDAY, 16TH JULY, 2013

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 4)

2. **Reports**

Reports to Standards:

a) Item 5 - Annual Report of Standards Committee (Pages 5 - 10)

3. **Minutes** (Pages 11 - 12)

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PART ONE - OPEN COMMITTEE

1. **Apologies for Absence**

2. **Declarations of Interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting.

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).

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4. **Confirmation of Minutes**

Meeting held on 19th March 2013 (previously circulated)

5. **Annual Report of Standards Committee**

Report of the Monitoring Officer

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6. **Training, including Independent Persons**

Monitoring Officer to report

PART TWO – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED (if any)

If any, the Committee is recommended to pass the following resolution:-

“**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12(A) to the Act”.

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STRATEGIC RISK ASSESSMENT

Reports to Members

Members will be aware of the requirement to take account of strategic risk in decision making. This note is designed to support Members consider strategic risks as part of the assessment of reports from officers.

There are an increasing number of issues that we have a statutory requirement to take into account which affect all aspects of the Council's policies and service delivery (e.g. Human Rights Act). There are also discretionary issues we choose to highlight in our reports (e.g. Financial Implications, and Impact on Council Priorities and Targets). Common Law duty requires Local Authorities to take into account all things they need to take into account! The Courts hearing Judicial Review applications make this their starting point in deciding whether any decision is reasonable.

Officers have a responsibility to assess the implications of recommendations to Members. Members should ensure that before making a decision they have undertaken a similar consideration relating to the risks associated with the report.

Examples of risk to be considered:-

Statutory Requirement :

- Equalities and Discrimination, particularly Race Equality. (Consider the impact on each of the following equality areas: Race, Religion and Belief, Gender, Sexual Orientation, Disability, Age)
- Human Rights
- Crime and Disorder
- Health and Safety
- Employment Legislation
- Data Protection
- Freedom of Information
- Corporate activity with an impact on Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest, and biodiversity

Corporate Requirement :

- Impact on Council's Reputation
- Impact on Priorities, Cross-Cutting themes, Targets and / or Commitments
- Impact on Standing Orders / Financial Regulations
- Impact on Council's Assets
- Financial Risks
- Compliance with National Policies and Guidance
- Impact on Sustainability

Members' attention is drawn to the Risk Assessment section within each report. Members are encouraged to consider whether the report has satisfactorily identified all likely negative impacts and mitigating action that will be taken. Members also need to consider the opportunities presented by actions, noting that any change entails an element of risk. The challenge is to effectively manage that risk.

'Paper' Hearing Procedure

Where the Investigating Officer finds that the Code has been broken, the Monitoring Officer may (after consultation with the Independent Person) decide that the matter should be dealt with before the Hearing Panel.

The matter may be dealt with by way of a **'paper' hearing** where:

- local resolution is not appropriate or possible, and
- the Councillor accepts the findings of the Investigating Officer's Report and does not wish to make any further representations (save for written representations on possible sanctions) on the Report at a formal Hearing
- there are no overriding public interest or other reasons why the matter should be referred to a formal Hearing.

The Procedure will be as follows.

The pre-hearing process will identify where a Councillor accepts the Investigating Officer's Report and findings of a breach and does not wish to make any representations on the Report at a formal Hearing.

The Monitoring Officer will:

- advise the Councillor of potential sanctions
- ask the Councillor for any written representations as to potential sanctions
- consult the Independent Person on the Councillor's representations on sanctions
- Send to the Hearing Panel:
 - confirmation that the Councillor accepts in full the Investigating Officer's findings of a breach and does not wish to raise any representations at a formal hearing
 - the Investigating Officer's Final Report
 - the Councillor's written representations on sanctions
 - Independent Person's response on the Councillor's representations on sanctions
- invite the Hearing Panel to:
 - accept the Investigating Officer's findings of breach and the reasoning set out in the Final Report
 - decide on what sanctions (if any) are appropriate

The Hearing Panel will not meet as a formal meeting and therefore the access to public meetings rules will not apply.

Where appropriate, the provisions set out in **Appendix A – Hearing Procedure** will apply.

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WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	Standards Committee
DATE	19 July 2013
REPORT TITLE	Annual Report of the Standards Committee 2012/13
REPORT OF	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To present the Annual Report to the Standards Committee with recommendations to Full Council to note.

Financial implications:

There are no financial implications for this report.

RECOMMENDATIONS:

The Standards Committee recommends that Council considers and notes the Standards Committee's Annual Report for the financial year 2012/13.

Officer contact:

Catherine Bowen, Monitoring Officer (01822 813600 or cbowen@westdevon.gov.uk)

1. BACKGROUND

1.1 This is the first Annual Report of the Standards Committee since its appointment in July 2012. The Localism Act 2011 abolished in its entirety the previous standards regime (including the Code and the previous Standards Committee) and introduced new rules from 1 July 2012.

2. ISSUES FOR CONSIDERATION

2.1 The Annual Report for the part of financial year 1 April 2012 - 31 March 2013 (from the introduction of the new regime in July 2012) is attached at Appendix A and covers:

- Standards Committee membership
- The role and function of the Standards Committee and Hearing Panel
- Details of standards complaints received from 1 July 2012 to 31 March 2013
- Advice, policy and procedures
- Budget

3. LEGAL IMPLICATIONS

3.1 The Constitution requires the Standards Committee to report annually to the Council on its workings.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications for this report.

5. RISK MANAGEMENT

5.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template:

Opportunities	Benefits
To ensure that the Council and the public are aware of the role and works of the Standards Committee for 2012/13	To ensure that the Council complies with best practice
Issues/Obstacles/Threats	Control measures/mitigation
That the Council nor the public are aware of the Standards Committee's function and works	Compliance with the Constitution to ensure consistency and transparency

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Towards Excellence Customer First
Statutory powers:	Localism Act 2011
Considerations of equality and human rights:	There are no equality considerations arising from this report
Biodiversity considerations:	There are no biodiversity considerations arising from this report
Sustainability considerations:	There are no sustainability considerations arising from this report
Crime and disorder implications:	There are no crime and disorder considerations arising from this report
Background papers:	None
Appendices attached:	Appendix A: Standards Committee Annual Report 2012- 2013

Annual Report of the Standards Committee July 2012 to 31 March 2013

Purpose

The purpose of the Annual Report is to advise Members about what has happened in the previous financial year in relation to the Standards Committee and its works.

Background

From 1 July 2012 the Localism Act 2011 abolished the previous Standards Committee, the national Code of Members' Conduct, the Standards Board and all of the supporting legislation, and introduced new rules on standards and local Codes of Conduct. The Council adopted a new Code of Conduct on 26 June 2012 and appointed a new Standards Committee on 30 July 2012. Parish and Town Councils are now responsible for adopting their own Codes of Conduct.

Membership of the Standards Committee

The Standards Committee members for 2012 to 2013 were:

- Cllr J McInnes **Chairman**
- Cllr MVL Ewings **Vice Chairman**
- Cllr RE Baldwin
- Cllr A Clish-Green
- Cllr DM Horn
- Cllr AF Leech
- Cllr JM Moody
- Cllr DE Moyse
- Cllr LB Rose

Independent Persons

The Localism Act requires the Council to appoint one or more Independent Persons in a consultative and advisory capacity. The Independent Persons must be consulted by the Monitoring Officer and Standards Committee in connection with complaints that a Councillor has broken the Code of Conduct. The Independent Persons are not members of the Standards Committee and do not make formal decisions.

The Council has the following Independent Persons:

- Mrs Victoria Spense
- Mr George Barnicott
- Mr Martin Glead

Roles and Functions of the Standards Committee

The roles and functions of the Standards Committee are set out in the Council's Constitution and include:

- Promoting and maintaining high standards of conduct by Councillors
- Assisting Councillors to observe the Code of Conduct
- Advising the Council on the adoption or the revision of the Code
- Advising the Council generally on matters relating to the ethical conduct of the Council and its members
- Monitoring the operation of the Members' Code of Conduct
- Advising and training of Councillors on matters relating to the Code
- Granting dispensations to Councillors members from requirements relating to interests set out in the Members' Code of Conduct.
- Consulting the Independent Persons in relation to the Code in accordance with the Policy
- Considering complaints alleging breach of the Code of Conduct (in relation to the Borough Council and West Devon Towns and Parishes)
- Receiving investigation reports and carrying out Hearings (including sanctions) in respect of allegations of misconduct.

Other functions previously within the remit of the old Standards Committee were reassigned to the Audit Committee (e.g. the Constitution) and the Overview & Scrutiny Committee (e.g. overview of complaints handling and Ombudsman investigations).

Sub-committees – Hearing Panels

The Standards Committee appoints Hearing Panels of three members to consider complaints that have been referred for a formal Hearing (this is following a finding of a breach of the Code by the Investigating Officer).

During this financial year, two Hearings were carried out to finalise two complaints that had been lodged under the previous regime. The Hearing Panel upheld the Investigating Officer's findings of a breach of the Code.

Standards Committee Meetings

The new Standards Committee was formally appointed by the Council on 30 July 2012. The Standards Committee met on the following dates and dealt with the following matters:

4 September 2012

- The new Standards Regime
- General Dispensations to Borough Councillors

- Delegation to Standards Committee and Monitoring Officer to grant Dispensations
- Adoption of new Procedures for dealing with Standards Complaints

January 2013 – cancelled

19 March 2013

- Update on Complaints procedures
- Summary of Complaints
- Appointment of Independent Persons

Complaints received

All complaints that a Councillor has broken the Code of Conduct must be made in writing to be considered by the Monitoring Officer and/or the Standards Committee (in consultation with the Independent Person).

Table of Complaints 2012/13

Date	Authority	Initial Assessment and outcome	Final Decision
04.09.12	Parish		NFA – no breach disclosed
05.09.12	Parish		NFA – no breach disclosed
21.11.12	Parish	Referred for investigation	

- Since the introduction of the new rules and Codes in July 2012, the Council has received three complaints, all of which relate to Parish Councils.
- This compares with nine complaints for the previous year under the old regime
- Following consultation with the Independent Person, the Monitoring Officer found that two of the complaints did not disclose a breach of the Code
- The third matter was considered to disclose a potential breach of the Code and was referred to an Investigating Officer for investigation.

Investigations

- The matter referred for investigation is still ongoing.

Applications for dispensations

The Standards Committee or Monitoring Officer may grant dispensations to Borough Councillors in specific circumstances. This allows the Councillor to take part in the debate or vote when s/he would otherwise be excluded from doing so because of an interest. The Standards Committee / Monitoring Officer has the power to grant or refuse a dispensation having regard to the particular facts in the matter.

Aside from the General Dispensation granted to all Members in September 2012, no applications were received during this period.

Parish and Town Councils are now responsible for their own dispensations.

Advice from the Monitoring Officer

Advice is given by the Monitoring Officer to both Borough Councillors and Parish Clerks/Councillors when required on a regular basis throughout the year on issues relating to the Code of Conduct.

Budget

The Standards Committee had an allocated budget of £8,000 for the financial year 2012/13. This covers operational costs and the costs of any investigations and training.

Agenda Item 3

At a Meeting of the **STANDARDS COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **16th** day of **JULY 2013** at **10.00 am**.

Present:

Cllr J McInnes – Chairman	
Cllr D M Horn – Vice-Chairman	
Cllr S C Bailey	Cllr R E Baldwin
Cllr A Clish-Green	Cllr M V L Ewings
Cllr A F Leech	Cllr J B Moody
Cllr P J Ridgers	

Monitoring Officer
Committee & Ombudsman Link Officer

In attendance: Mr G Barnicott – Independent Person
Mr M Gleed – Independent Person

***SC 1 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 19th March 2013, were confirmed and signed by the Chairman as a correct record.

SC 2 ANNUAL REPORT OF THE STANDARDS COMMITTEE

The Monitoring Officer presented the Annual Report of the Standards Committee (page 2 to the Agenda). This was the first Annual Report of the Standards Committee since its appointment in July 2012 following the introduction of the Localism Act 2011. This Act abolished the previous standards regime in its entirety, including the Council's previous Standards Committee. The new rules governing standards became effective on 1st July 2012.

The First Annual Report, presented under the new regime, covered the period 1st July 2012 to 31st March 2013 and was presented as Appendix A to the officer's report (page 4 to the Agenda).

The First Annual Report detailed the Membership of the Committee, the role and function of the Standards Committee and Hearing Panel, the number of complaints received during the period of the report, advice, policy and procedures and the Standards Committee's budget.

It was **RESOLVED** to **RECOMMEND** that the First Annual Report be presented to Council for noting.

***SC 3 TRAINING, INCLUDING INDEPENDENT PERSONS**

The Monitoring Officer tabled two papers as part of her presentation on training with the first being a print-out of a Powerpoint display entitled "The Code and Standards – one year on" and the second the procedure note entitled "Dealing with Standards Complaints".

Arising from the presentation, the Committee was advised that a hearing was pending, probably being held in September, for which further specific training would be given.

Arising from the discussion, the Committee expressed the view that the declaration of interests, whether personal or of a disclosable pecuniary nature, was the area in which Members were most vulnerable together with predetermination and bias (which sits outside the Code), particularly for those who were members of the Planning & Licensing Committee.

It was agreed that the matter of interests be a suitable topic for one of the Planning & Licensing Committee's training sessions held following a meeting of that Committee.

Further to the discussion on the Committee's Annual Report, it was noted that three complaints had been received since 1st July 2012. The outcome of two of those was 'no further action' and one had been referred for investigation which was proceeding to a hearing. It was further noted that the Town and Parish Councils were responsible for adopting their own local Codes and many had adopted the Borough Council's Code of Conduct and others had adopted the National Association of Parish Councils' Code of Conduct. Whilst formal complaints about parish councillors must still be referred to the Borough Council, Clerks were now encouraged to give preliminary advice to Parish Councils. The Monitoring Officer will report back to a future meeting of the Committee on the frequency and nature of the advice given.

(The Meeting terminated at 11.15 am.)