

# West Devon Standards Committee



West Devon  
Borough  
Council

<b>Title:</b>	<b>Agenda</b>
<b>Date:</b>	<b>Tuesday, 10th March, 2020</b>
<b>Time:</b>	<b>10.00 am</b>
<b>Venue:</b>	<b>Chamber - Kilworthy Park</b>
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Leech <b>Vice Chairman</b> Cllr Davies</p> <p><i>Members:</i> Cllr Bolton Cllr Yelland Cllr Musgrave</p>
<b>Interests – Declaration and Restriction on Participation:</b>	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.
<b>Committee administrator:</b>	Democratic.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 - 4**  
Meeting held on 12 March 2019
- 5. Annual Report (2019-2020)** **5 - 14**

**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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# 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 **12<sup>th</sup>** day of **MARCH 2019** at **11.00am**.

**Present:** Cllr A F Leech – Chairman

Cllr J Evans  
Cllr B Lamb  
Cllr J Yelland

Cllr C Edmonds - lead Hub Committee Member  
Catherine Bowen - Monitoring Officer  
Darryl White - Senior Specialist – Democratic Services

**\* SC 1 APOLOGIES FOR ABSENCE**

An apology for absence was received from Cllr J Sheldon.

**\* SC 2 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 21 November 2017 were confirmed and signed by the Chairman as a true and correct record.

**SC 3 ANNUAL REPORT**

The Committee considered its Annual Report for the period December 2017 to March 2019. In particular, the report requested that the Committee consider granting dispensations in time for the next Council and recommended the appointment of additional Independent Persons.

In discussion, reference was made to:-

- (a) Members being entitled to receive an Allowance from other local authorities. The Monitoring Officer confirmed that, whilst Members of other local authorities and Outside Bodies were required to declare these on their respective Register of Interest forms, they would not need to declare a Disclosable Pecuniary Interest unless they claimed an Allowance from that organisation. Therefore, the proposal to grant a General Dispensation would enable those Members who were entitled to receive an Allowance from another organisation to speak and vote on relevant matters;
- (b) the justification for the appointment of two additional Independent Persons. Such were the potential time commitments on the Independent Persons that resulted from reviewing detailed complaints, that the Committee acknowledged there was a need two additional Members to be appointed. The Monitoring Officer confirmed that she would keep the workload of Independent Persons under ongoing review. In addition, the Committee was advised that a rota system was applied to ensure that there was a parity of workload for the Independent Persons;

- (c) the ability to co-opt up to two town/parish council representatives to serve on the Committee. Members were reminded of the constitutional provision whereby it could choose to co-opt representatives to serve on the Committee.

It was then **RESOLVED** that:

1. the Annual Report has been considered by the Committee and commented upon as recorded in the minutes above;
2. with effect from the Annual Council Meeting in May 2019 until the Annual Council Meeting in May 2023, General Dispensations be granted in accordance with Paragraph 2.4 of the presented agenda report so that:
  - a. Multi-hatted Members of the Borough Council are able to speak and vote on matters where they are Members of another Local Authority and in receipt of a Members' Allowance;
  - b. Housing – a Member can speak and vote when they (or their spouse or partner) holds a tenancy or lease with the Council (as long as the matter does not relate to the Member's particular tenancy or lease);
  - c. Statutory Sick Pay – a Member can speak and vote if (s)he receives this or is entitled to receive it;
  - d. A Member can speak or vote on an Allowance, Travelling Expense, Payment or Indemnity that Members are entitled to receive;
  - e. A Member can speak or vote on any Ceremonial Honour given to Members;
  - f. A Member can speak or vote when the Council Tax or a Precept is being set; and
3. Council be **RECOMMENDED** to appoint Mr Trevor Kirkin and Mr Peter Boreham to serve as West Devon Borough Council Independent Persons from the Annual Meeting in May 2019 until the Annual Meeting in May 2023.

#### **SC 4 REVIEW OF PROCEDURE FOR DEALING WITH STANDARDS COMPLAINTS**

Consideration was given to a report that presented a review into the Council's 'Dealing with Standards Complaints' Procedure. The report informed that the main purpose of the Procedure was to outline how the Council dealt with complaints alleging that Borough Councillors and West Devon Town and Parish Councillors had broken their respective Codes of Members' Conduct.

In discussion, the following points were raised:-

- (a) In response to Member concerns over the lack of any meaningful sanctions associated with the Standards Complaints process, the Monitoring Officer highlighted that a review was currently ongoing in this respect.

At the request of the Committee, it was agreed that relevant website links would be circulated to Members outside of this meeting;

(b) Before recommending approval of the revised procedure, Members requested inclusion of the following minor amendments:

- That all reference to 'dual-hatted' Members be amended to read 'multi-hatted' Members; and
- That the email address for the Monitoring Officer be updated to read: [monitoring.officer@swdevon.gov.uk](mailto:monitoring.officer@swdevon.gov.uk);

(c) The Monitoring Officer confirmed that she would reinstate the practice whereby the Committee Chairman was in receipt of monthly updates on Standards Complaints. As a general point, the Monitoring Officer also advised that the practice whereby Standards Complaints were now shared amongst the Council's Legal Officers had proven to be very successful;

(d) With regard to considering whether or not a Councillor was '*acting in his/her private capacity*', Members felt that this was a very fine judgement that was often difficult for them to determine.

It was then **RESOLVED** that Council be **RECOMMENDED** that:

1. with effect from the Annual Council meeting on 21 May 2019, the revised 'Dealing with Standards Complaints' procedure (as attached at Appendix A of the presented agenda report) be adopted subject to inclusion of the following minor amendments:
  - That all reference to 'dual-hatted' Members be amended to read 'multi-hatted' Members; and
  - That the email address for the Monitoring Officer be updated to read: [monitoring.officer@swdevon.gov.uk](mailto:monitoring.officer@swdevon.gov.uk); and
2. authority be delegated for the review of the associated Hearing Procedure to the Monitoring Officer, in consultation with the Chairman of the Standards Committee.

(The Meeting terminated at 11.40 am)

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**Chairman**

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Report to: **Standards Committee**

Date: **10 March 2020**

Title: **ANNUAL REPORT (2019-2020)**

Portfolio Area: **Cllr Edmonds (Resources & Performance)**

Wards Affected: **All**

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

Date next steps can be taken: **N/a**

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

Contact: [Catherine.Bowen@swdevon.gov.uk](mailto:Catherine.Bowen@swdevon.gov.uk)

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**RECOMMENDATIONS:**

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

## 1. Executive summary

- 1.1. The Standards Committee last met on 5 March 2019; the meetings are annual unless there is a reason to convene a special meeting. This is the scheduled meeting of the Standards Committee for the municipal year 2019/20 and presents to members an Annual Report for the period April 2019 to March 2020.
- 1.2. Dialogues are held regularly with the Chairman throughout the year on relevant standards matters.

## 2. Annual Report

- 2.1. The Standards Committee last met in March 2019 and Members are therefore asked to consider the following updates on standards issues. The Committee's terms of reference are attached at Appendix 1.

### 2.2. Standards Complaints

2.2.1. Under the Localism Act 2011 the Monitoring Officer is responsible for standards matters and the Council must have a policy for considering complaints about Borough Members and Parish and Town Councillors within the Borough of West Devon. This report covers complaints received since 1 April 2019.

2.2.2. During this period, the Council has received seven formal standards complaints. No complaints were received relating to a Borough Councillor, two

referred to Town Councillors and five referred to Parish Councillors. The complaints alleged a range of breaches including treating others with disrespect, bringing the council into disrepute, bullying, conferring an advantage and failure to declare an interest. The outcomes are 'no further action' for 5 of the complaints and two related complaints were referred for investigation. The final report has only just been received and informal resolution has been recommended.

2.2.3. From November 2017 to March 2018 eleven complaints were received (one against a Borough Councillor and 10 against Parish/Town Councillors). The Council received one standards complaint for the period April to November 2017, and three complaints were received in the previous calendar year (2016). The discrepancies in time frames are due to moving the Annual Standards Committee meeting from November to March.

2.2.4. The Standards sub-committee (three members of the Standards Committee) is responsible for considering complaints where (following an investigation) the Investigating Officer has found that there has been a breach of the Code, in the circumstances set out in the 'Dealing with Standards Complaints Policy'. The sub-committee has not met since November 2017 as no complaints have been referred for investigation where there was a finding of a breach of the Code.

2.2.5. The Monitoring Officer and Deputy Monitoring Officers provide 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. A review of the 'Dealing with Standards Complaints' Policy was carried out during 2019 and a revised Policy agreed and brought into effect from the Annual Meeting in May 2019.

2.3.2. The whole procedure has been reviewed but the main proposed amendments can be summarised as follows:

2.3.2.1. Management of Expectations - it was accepted that the previous procedure could be clearer through all stages of the process, as to what the standards procedure can and cannot consider, and what the potential outcomes could be if it is decided that the Code of Conduct has been broken. The Monitoring Officer also amended the complaints form and accompanying guidance notes to ensure further clarity and transparency.

2.3.2.2. The introduction of an 'Initial Assessment' stage which authorises the Monitoring Officer to reject complaints that do not satisfy three preliminary tests (the complaint must be about a named councillor; the councillor must have been a councillor at the time the allegation was made and, if proven, the complaint would disclose a breach of the Code of Conduct). The Monitoring Officer may also reject complaints at this stage if she considers that the complaint falls within one or more of the defined criteria set out in the Policy. If there is any doubt at this stage, then the complaint will progress to the formal assessment stage of the complaint process whereby the councillor's views are considered and the Independent Person's view sought.



- 2.3.2.3. Finding of breach by the Monitoring Officer without an investigation. The reasoning behind this provision is that, in some cases, it is not in the public interest to refer a case for investigation. For example, in some complaints it is apparent (and often accepted by the subject councillor) that there has been a breach of the Code during the assessment stage, and in some cases the Councillor has already provided a remedy for the issues raised by the complainant. Where there is any doubt, the matter will be referred for investigation. There will be a right to request a review by the Councillor where the Monitoring Officer has found a breach without an investigation. The complaint will be reviewed by a different officer.
- 2.3.2.4. Where a matter has been referred for an investigation and the Investigating Officer has found that there has been a breach of the Code, the Monitoring Officer has power to accept that decision and apply sanctions or make recommendations without the matter being referred to a hearing. Serious and complex matters will be referred to a hearing.
- 2.3.2.5. Where there has been a breach of the Code, the outcomes of the decisions will be published. A summary of the complaint and the decision will continue to be referred to the Standards Committee but also published on the Council's website. Where there is a decision to take no further action at the formal assessment stage, the Councillor has the option to decide whether or not to publish the decision.

## **2.4. Committee on Standards in Public Life**

- 2.4.1. In 2019 the Committee on Standards in Public Life issued a report which I commend Members to read: <https://www.gov.uk/government/news/local-government-ethical-standards-committee-publishes-report>
- 2.4.2. The rationale for the report was to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011. The Report makes a series of recommendations, some of which will need primary legislation (see page 15) and also some recommendations on best practice on changes and improvements the current ethical governance regime (see page 18).
- 2.4.3. In addition the Local Government Association (LGA) has issued a report called 'Civility in public life and the review of the model code of conduct' in response to growing concerns about the impact that an 'increasing level of public intimidation and toxicity of debate is having on our country's democratic process particularly at local level' The report at the following link responds to these concerns and sets out the LGA's proposed programme of work (which also includes a introduction of a model Code of Conduct by July 2020): <https://www.local.gov.uk/our-support/guidance-and-resources/civility-public-life-and-review-model-code-conduct>
- 2.4.4. Members are recommended to have a discussion around the issues set out in the reports.

## **2.5. Training**

- 2.5.1. Following the local elections in May 2019, sessions were included in the Member Induction programme on standards and ethical governance. In

addition, a workshop was held on Good Governance with an external trainer in June 2019 on what good governance looks like, understanding the roles and responsibilities of councillors and reflecting on councillors' engagement with others.

2.5.2. Further training was carried out in September 2019 by the Monitoring Officer on standards and good governance (with a session on social media from the Comms Lead). There was a morning session for Borough Members and an afternoon session for parish and town councils which was very well attended.

2.5.3. The Monitoring Officer is also in discussions with other Monitoring Officers across Devon together with DALC about standardising and sharing standards training across Devon.

### 3. Proposed Way Forward

3.1. The Annual Report provides a summary of the Standards Committee's responsibilities and the outcomes to date since the last scheduled Standards Committee in March 2019.

3.2. Members are asked:

3.2.1. To consider this Report and to make any necessary recommendations in order that the Committee can fulfil its responsibilities as set out in the Terms of Reference.

3.2.2. Consider what further training should be provided to Members and parish and town councils.

### 4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	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.  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.
Financial	N	There are no direct financial implications to this report.
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.

Climate Agenda and biodiversity		There are no implications arising from this report
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

**Background Papers:**

None

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# 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.



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