

West Devon Standards Committee



West Devon
Borough
Council

Title:	Agenda
Date:	Tuesday, 9th March, 2021
Time:	2.00 pm
Venue:	Teams
Full Members:	<p style="text-align: center;">Chairman Cllr Leech Vice Chairman Cllr Yelland</p> <p><i>Members:</i> Cllr Bolton Cllr Ratcliffe Cllr Musgrave</p>
Interests – Declaration and Restriction on Participation:	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.
Committee administrator:	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 - 2**
Meeting held on 10 March 2020
- 5. LGA Model Code of Conduct** **3 - 36**
Report of the Monitoring Officer (Appendix C –to follow)
- 6. Annual Report 2020/21** **37 - 46**

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 **10th** day of **MARCH 2020** at **10.00am**.

Present:

Cllr A F Leech – Chairman
Cllr M Davies – Vice-Chairman

Cllr C R Musgrave
Cllr J Yelland

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

*** SC 1 APOLOGIES FOR ABSENCE**

An apology for absence was received from Cllr T Bolton.

*** SC 2 CONFIRMATION OF MINUTES**

The Minutes of the Committee Meeting held on 12 March 2019 were confirmed and signed by the Chairman as a true and correct record.

*** SC 3 DECLARATIONS OF INTEREST**

The Chairman invited Members to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

*** SC 4 ANNUAL REPORT (2019-2020)**

The Committee considered its Annual Report for the period April 2019 to March 2020.

Following an introduction from the lead Hub Committee Member, a debate ensued and particular reference was made to:-

(a) Member Training. Whilst recognising the role of the Member Development Steering Group in leading on the Member Learning and Development Plan, the Committee asked that the following views be reported to the next Group meeting:

- There was a need to check if there were any Members who had still to complete the training that had been identified as being 'compulsory' following the May 2019 Elections;
- In light of the changing nature of the Member role, the Committee felt that there was a need to include a session on the Learning and Development Plan in relation to Conflict Management and Resolution; and
- The importance of Members being in receipt of regular Planning and Code of Conduct Refresher training sessions was reiterated;

- (b) the contents of the report issued in 2019 by the Committee on Standards in Public Life. Members welcomed the proposal to increase the sanctions that were available to the Standards Committee. The Members considered that additional sanctions would have the potential to protect other Members and town and parish council clerks and felt it to be important that all Members familiarised themselves with the content of this report;
- (c) a revised draft model Code of Conduct. The Monitoring Officer confirmed that, as and when it was published, a revised draft Code would be subject to a full consultation exercise before any changes were recommended to Council;
- (d) the role of the Independent Persons. The comments of the Monitoring Officer that the working arrangement whereby the five Independent Persons were shared with South Hams District Council was proving to be very successful were welcomed by the Committee;
- (e) monthly reports to the Committee Chairman and Vice-Chairman. The Committee asked that the practice be reinstated whereby the Chairman and Vice-Chairman of the Committee be in receipt of monthly progress reports that indicate the number of unresolved standards complaints (separated by Borough and Town/Parish Council).

It was then **RESOLVED** that:

1. the Annual Report has been considered by the Committee and commented upon as recorded in the minutes above; and
2. the Committee Chairman and Vice-Chairman be in receipt of monthly progress reports that indicate the number of unresolved standards complaints (separated by Borough and Town/Parish Council).

(The Meeting terminated at 10.55 am)

Chairman

Report to: **Standards Committee**

Date: **9 March 2021**

Title: **LGA Model Code of Conduct**

Portfolio Area: **CLlr Chris Edmonds (Resources and Performance)**

Wards Affected: **All**

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

Date next steps can be taken: The recommendation(s) of the Committee will be considered by Full Council at its next meeting on 30 March 2021.

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

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RECOMMENDATION

It is RECOMMENDED that the Committee recommends that the Council adopts the Code set out in Appendix C from the date of the next Annual Council.

1. Executive summary

- 1.1 The Local Government Association has produced a New Model Member Code of Conduct which is appended to this report at Appendix A.
- 1.2 The Standards Committee is responsible for monitoring the Code of Conduct and for making recommendations to Full Council on any changes to the Code.
- 1.3 The Committee is asked to recommend that Council adopts the code of conduct in Appendix C which is a customised version of the LGA Model Code, in accordance with the best practice recommendations of the Committee for Standards in Public Life.

2. Background

- 2.1 The Council has a statutory duty to promote and maintain high standards of conduct by Councillors and Co-opted Members of the authority. To that end the Council is required to adopt a Code of Conduct consistent with the Nolan Principles of good governance and to appoint at least one Independent Person whose views must be sought and taken into account before the Council makes any decision about an alleged breach of the Code that has been investigated.
- 2.2 The Council's current Code of Conduct is appended to this report as Appendix B.
- 2.3 The Committee on Standards in Public Life (CSPL) in the January 2019 [Report on Local Government Standards](#) found that there was considerable variation in the length, quality and clarity of codes of conduct. This the CPSL said created confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct the CPSL said failed to address adequately important areas of behaviour such as social media use and bullying and harassment. It therefore recommended that an updated model code of conduct should therefore be made available to local authorities to enhance the consistency and quality of local authority codes. The model was to be voluntary and local authorities should be able to adapt it so they had ownership.
- 2.3 The Local Government Association (LGA) has published a Model Councillor Code of Conduct following consultation with stakeholders and examining good practice in local government and other professions (Appendix A).
- 2.4 The LGA model code is largely self-explanatory. However, the following points are to be noted:
- (a) The LGA Model Code seeks to build upon the CSPL's seven "Nolan Principles" of public life (selflessness; integrity; objectivity; accountability; openness; honesty and leadership). It builds on these principles with a set of "general principles" developed specifically for the role of the councillor. These are, like the Council's Code of Conduct phrased in the first person, which reinforces ownership by councillors.
 - (b) The LGA Model Code uses "respect" rather than "civility" which had been suggested in earlier drafts. There is a definition of respect in case it is not immediately obvious or perhaps as a useful reminder to reflect upon. The model code confirms that councillors can "express, challenge, criticise and disagree with views, ideas, opinions and

policies in a robust but civil manner” but that they should not “subject individuals, groups of people or organisations to personal attack”. The model code also confirms that councillors have a right to expect respectful behaviour from the public, other councillors and employees.

- (c) The LGA Model Code contains specific references to councillors not bullying or harassing others and includes definitions of bullying and harassment.
- (d) The preamble to the LGA Model Code makes it clear that the code applies to “all forms of communication and interaction” including online meetings, on the telephone and via social media.
- (e) The LGA Model Code contains new duties to undertake code of conduct training and to cooperate with any code of conduct investigation undertaken.
- (f) The LGA Model Code uses the terminology of “disclosable pecuniary interests”, “other registerable interests” (and “non-registerable” interests. This contrasts with the Council’s Code’s references to disclosable pecuniary interests and personal or other interests.
- (g) The LGA Model Code requires gifts and hospitality with a value of £50 or more to be declared. This is an increase over the Council’s current requirement to register gifts and hospitality in excess of £25.

2.5 Although the Council’s present Code of Conduct is largely fit for purpose, adoption of the LGA Model Code of Conduct would bring about improvements and greater consistency.

3. Outcomes/outputs

- 3.1 High standards of conduct in local government are needed to demonstrate that decisions are taken in the public interest and to maintain public confidence. The adoption of the LGA Model Code of Conduct will help address areas that are not covered by the Council’s present Code of Conduct.
- 3.2 The Model Code as customised for adoption by the Council is appended to this report as Appendix C. The “customisation” relates to a revised introduction and the replacement of references to the LGA with the Council in the main body.

4. Options available and consideration of risk

- 4.1 The CPSL identified a number of risks in local government. It said that the current rules around conflicts of interest, gifts, and hospitality were inadequate; and the increased complexity of local

government decision-making was putting governance under strain. It therefore recommended that there should be a new model, but voluntary, code of conduct.

4.2 The Committee has a number of options at this stage, including:

- (a) Recommend to Full Council the adoption of the LGA Model Councillor Code of Conduct;
- (b) Recommend to Full Council the adoption of the LGA Model Councillor Code of Conduct with potential amendments;
- (c) Reject the LGA Model Councillor Code of Conduct and resolve to continue with the existing Code of Conduct; or
- (d) Resolve to await the outcome of the Government consideration of the Committee for Standards in Public Life recommendations, and in the meantime invite parish and town councils, community organisations, neighbouring authorities and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the LGA's Model.

5. Proposed Way Forward

5.1 It is proposed that the Committee recommends to Council the adoption of the Code of Conduct appended to this report as Appendix C with effect from the Annual Meeting. Given the extensive consultation undertaken by the LGA in the lead up to the publication of the Model Code and the parties involved in the drafting it is not suggested that the Council needs to undertake its own consultation.

5.2 An important consideration in adopting the Model Code is whether doing so will remove confusion among councillors who represent more than one tier of local government. To that end, the positions of the other districts in Devon and the County Council will be reported verbally to the Committee. A number of parishes across both West Devon and South Hams have approached the Monitoring Officer about the adopting the Model Code.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Section 27 of the Localism Act 2011 requires all local authorities to have a code setting out the standards of behaviour expected of councillors. Although the adoption of a model code of conduct

		was recommended by the CSPL there is no legal requirement to do so.
Financial implications to include reference to value for money	N	There are no financial implications arising from the report.
Risk	Y	The adoption of a new Code of Conduct would provide clarity on a number of issues and provide clear expectations of councillors regarding their conduct. Delaying the adoption until the date of the Annual Council will link to the formal adoption of the Constitution (and any changes arising from the adoption of the code).
Supporting Corporate Strategy	Y	The operation of a robust Code of Conduct supports the proper delivery of all of the Council's functions and therefore the Corporate Strategy.
Climate Change - Carbon / Biodiversity Impact	N	There are no direct climate change, carbon or biodiversity impacts arising from this report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no direct equality and diversity implications arising from this report.
Safeguarding	N	There are no direct safeguarding implications arising from this report.
Community Safety, Crime and Disorder	N	There are no direct community safety, crime and disorder implications arising from this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications arising from this noting report.
Other implications		

Supporting Information

Appendices:

Appendix A – LGA Model Code

Appendix B - The Council's Members' Code of Conduct

Appendix C – Customised LGA Model Code (*to follow*)

Background Papers:

None

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Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering

interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable pecuniary interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it

is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
--	-------------------------------------------------------------------------------------------------------------------------

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

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Part 5 (a)

Members' Code of Conduct

Members' Code of Conduct

PART 1 GENERAL PROVISIONS

Public Duty and Private Interests: An introduction

- 1 This Code applies to you as a Member or a Co-opted Member of **West Devon Borough Council** ('the Council').
 - 1.2 When acting in your capacity as a Member or Co-opted Member of the Council, you should have regard to the Principles of Public Life namely:
 - Selflessness
 - Honesty/Integrity
 - Objectivity
 - Accountability
 - Openness,
 - Personal judgement,
 - Respect for others
 - Duty to uphold the law,
 - Stewardship and
 - Leadership.
 - 1.3 When acting in your capacity as a Member or Co-opted Member of the Council:
 - (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate;
 - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
 - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
 - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
 - (e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council or contained in its Constitution,

- (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
 - (g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Council's reasonable requirements;
 - (h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council;
 - (i) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- 1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5 Do nothing as a Member which you could not justify to the public.
- 1.6 The reputation of the Council depends on your conduct and what the public believes about your conduct.
- 1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8 It is your responsibility to comply with the provisions of this Code.

Definitions

2. In this Code:

'close associate' includes someone you are in either regular or irregular contact with over a period of time who is more than just an acquaintance and who is someone a reasonable member of the public might think you would be prepared to favour or disadvantage

'family' includes your parents; parent-in-law; son/daughter; brother/sister; son/daughter-in-law; stepson and stepdaughter; grandparent; grandchild; nephew/niece; uncle/aunt; or any of the above of a partner; any partners of these people

'interest or interests' have the meanings set out in Part 2 of this Code

'meeting' means any meeting of:

- the Council;
- any of the Council's Committees, Sub-Committees or Joint Committees,
- one or more Members, formal or informal and with or without officers, relating to the discharge of the Council's functions where a formal record is made by a Council Officer.

'Member' includes a co-opted member

'Relevant Person' means:

- you or
- your spouse or civil partner, or
- a person with whom you are living as husband and wife or as civil partners

and you are aware that that other person has an interest

'relevant period' means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest

'the Regulations' means 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI2012/1464)' or any statutory amendment of them.

Scope

3. You must comply with this Code whenever you are acting in your official capacity, when:
 - (a) you are engaged on the business of the Council; or
 - (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council.

General obligations

4. You must:
 - (a) treat others with courtesy and respect,
 - (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest **and** have reasonable regard to any relevant advice provided to you by an officer of the Council.
5. You **must not**:
 - (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

- (b) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
- (d) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct;
- (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- (f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (a) in the public interest; and
 - (b) made in good faith and
 - (c) in compliance with the reasonable requirements of the Council;
- (g) prevent another person from gaining access to information to which that person is entitled by law;
- (h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

PART 2 INTERESTS

Registration of Interests

6. You **must, within 28 days** of:

- (a) this Code being adopted by, or applied to, the Council; or
- (b) your taking office as a Member or Co-opted Member of the Council,

whichever is the later, and annually thereafter, provide written notification to the Council's Monitoring Officer of:

- (i) any disclosable pecuniary interest as defined by Regulations, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and
- (ii) any other personal interest laid down by the Council, as set out at paragraph 7 below;

which will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at: www.westdevon.gov.uk

6.1 **Within 28 days** of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Council's Monitoring Officer.

6.2 Whether or not an interest within paragraphs 7.1 and 7.2 below has been entered onto the Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.

6.3 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within **28 days** beginning with the date of disclosure.

6.4 In relation to **disclosable pecuniary interests** in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

'body in which the relevant person has a beneficial interest'	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
'director'	includes a member of the committee of management of an industrial and provident society

'land'	excludes an easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
'relevant authority'	means the authority of which you are a member
'relevant person'	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
'securities'	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

Disclosable Pecuniary Interests

7. The interests you **must** register are:

7.1 Those **disclosable pecuniary interests** defined by the Regulations, namely:

- (a) **Employment** - any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) **Sponsorship** - any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) **Contracts** - any contract which is made between you or, so far as you are aware, a relevant person (as defined at Paragraph 2 above) (or a body in which the relevant person has a beneficial interest) and the Council:
 - (1) under which goods or services are to be provided or works are to be executed; and
 - (2) which has not been fully discharged
- (d) **Land** - any beneficial interest in land held by you, or so far as you are aware, a relevant person, which is within the area of the Council;
- (e) **Licence** - any licence (alone or jointly with others) to occupy land held by you, or so far as you are aware, a relevant person in the area of the Council which will last for a month or longer

- (f) **Corporate Tenancies** -any tenancy where (to your knowledge):
- (1) the landlord is the Council; and
 - (2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
- (g) **Securities** - any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
- (1) that body (to your knowledge) has a place of business or land in the area of the Council and
 - (2) either:
 - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Personal or other interests

- 7.2 **Those other personal interests** specified by the Council, including:
- (a) Your membership of any body to which you have been appointed by the Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.
 - (b) In addition to those interests listed at 7.1 and 7.2 (a) above which you are required to register, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a Councillor.
 - (c) the name and address of any person or body from whom you have received a gift or hospitality with an estimated value of at least (£25.00)
- 7.3. Where a matter arises at a Meeting which affects the wellbeing or financial interest or position of you, any relevant person, member of your family or close associate (other than a Disclosable Pecuniary Interest) more than it would affect the majority of people living within the ward or electoral division affected by the matter.
- 7.4 Where the Council's Monitoring Officer agrees that any information relating to your interests is '**sensitive information**' namely information whose

availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

- 7.5 You must, **within 28 days** of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

Declaration of Interests and participation in meetings

8. Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by the Regulations and you must also observe any restrictions the Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Paragraph 7 above.

- 8.1 Where you have **any** interest in **any** business of the Council and you attend **any** meeting at which that business is to be considered, you must:

- (a) disclose to that meeting the existence and nature of that interest (unless it is a sensitive interest in which case you need only disclose the fact that there is a disclosable pecuniary interest in the matter concerned);
- (b) **disclose any interest** in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (c) where you have a **disclosable pecuniary interest**, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (d) where you have an interest under **Paragraph 7.3** you shall not take part in the discussion or vote on that matter save that you may speak on the matter before withdrawing from the Meeting room if members of the public are also allowed to speak at the Meeting.
- (e) not seek to influence improperly any decision about that business;

unless you have obtained a dispensation from the Council's Monitoring Officer or (Standards Committee).

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Report to: **Standards Committee**

Date: **9 March 2021**

Title: **Annual Report 2020-21**

Portfolio Area: **Cllr Chris Edmonds (Resources and Performance)**

Wards Affected: **All**

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

Date next steps can be taken:
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

Contact: **Telephone: 01803 861359/email: david.fairbairn@swdevon.gov.uk**

Recommendations:

It is recommended that the Committee notes the contents of the Report.

1. Executive summary

- 1.1 The Standards Committee is responsible for promoting and maintaining high standards of conduct by Councillors and co-opted Members.
- 1.2 Although there is no legislative requirement for Standards Committees to produce an Annual Report, doing so is recognised as good practice. Not only does the report publicise the work of the Committee to the general public, it is also a means for the Council itself to monitor the Committee's work.
- 1.3 The Annual Report is for noting and provides information on the number and outcome complaints made during the current year together with any trends that have been identified. The report notes the progress on the Committee for Standards in Public Life's recommendation that there should be a model code of conduct for councillors, which is considered elsewhere on the agenda.

2. Annual Report

2.1 **The Standards Committee.** The Standards Committee is made up of 5 members. The current membership is as follows:

- Cllr T Bolton
- Cllr A F Leech (Chair)
- Cllr C R Musgrave
- Cllr B Ratcliffe
- Cllr J Yelland

2.2 **Independent Persons.** Under the Localism Act 2011, the Council is required to appoint one or more Independent Persons to assist in the standards process. The functions of the Independent Persons are:

- (a) To be consulted by the Council before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decide on action to be taken in respect of that Member; and
- (b) to be consulted by the Council in respect of a standards complaint at any other stage and they may be consulted by a Member or a co-opted member.

2.3 The Council shares its Independent Persons with South Hams District Council.

2.4 **Code of Conduct complaints.** The Monitoring Officer has been delegated by the Council 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, if appropriate, to determine whether a complaint merits formal investigation. Wherever practicable, the Monitoring Officer seeks resolution of complaints without formal investigation. The Monitoring Officer has a discretion to refer the outcome of a formal investigation for a hearing where the complaint is serious or complex and it is considered to be in the public interest.

2.5 There have been 16 complaints in 2020/21. This compares with just 8 complaints in 2019/20. The bulk of those complaints were about Sampford Courtenay Parish Council (6) and Lamerton Parish Council (6). Of these 12 only in one was a breach found and an apology was given. The remainder were either rejected at informal assessment or warranted no further action following a formal assessment. In many instances this was because that it was evident that the complaint is about a decision of the Council with which the complainant disagreed. Using the standards regime to question an unpopular decision is, unfortunately, an emerging trend.

- 2.6 Not only have there been more complaints this year, but it has taken longer to resolve them due to competing priorities and vacancies. This resulted in Lamerton and Sampford Courtenay complaints being outsourced to Cornwall Council.
- 2.7 **Policy and Procedure.** The Council has an adopted policy and procedure for dealing with code of conduct complaints. The policy and procedure was last reviewed in 2019. The aim of the policy and procedure is to manage expectations as to what can and cannot be considered, while providing transparency as to how any complaint will be handled. Unfortunately, for the reasons explained in the previous paragraph, timescales for acknowledging and dealing with complaints have not always been met.
- 2.8 **Committee for Standards in Public Life (CSPL).** In its 2019 report [Local Government Ethical Standards](#) the CSPL reviewed the standards framework to see if it was conducive to promoting and maintaining the standards expected by the public. Having expressed concerns about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making, the CSPL made a number of recommendations. Most of the recommendations were made the responsibility of Government as they required legislative changes. The Local Government Association was recommended to create an updated model code of conduct and this has now been consulted upon and the final version published.
- 2.9 The CSPL made a number of best practice recommendations directed to local authorities in the expectation that they would implement them. The Council responded to a follow-up questionnaire from the CSPL in November 2020. This is appended to this report as Appendix A
- 2.9 **Training and development.** Training is an important part of promoting high standards of behaviour. However, due to the events of the past year no training has been carried out. Training was last delivered to all members of the Council in June 2019. Training would therefore be expected to take place in 2021/2022 and if a new code of conduct is adopted with effect from the Annual Meeting, this will be essential.

4. Proposed Way Forward

- 4.1 The Annual Report summarises the Committee's role and the events of 2020/21 relating to the standards of behaviour in local government and code of conduct complaints.

6. 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.
Financial implications to include reference to value for money	N	There are no financial implications arising from the report.
Risk	Y	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
Supporting Corporate Strategy	Y	Maintaining high standards of behaviour supports the proper delivery of all of the Council's functions and therefore the Corporate Strategy.
Climate Change - Carbon / Biodiversity Impact	N	There are no direct climate change, carbon or biodiversity impacts arising from this report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no direct equality and diversity implications arising from this report.
Safeguarding	N	There are no direct safeguarding implications arising from this report.
Community Safety, Crime and Disorder	N	There are no direct community safety, crime and disorder implications arising from this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications arising from this noting report.
Other implications		

Supporting Information

Appendices:

Appendix A – Progress in implementing best practice recommendations (Nov 2020).

Background Papers:

None

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed/sign off	Yes/No
SLT Rep briefed/sign off	Yes/No
Relevant Heads of Practice sign off (draft)	Yes/No
Data protection issues considered	Yes
Accessibility checked	Yes

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CSPL local government ethical standards 15 best practice recommendations

Name of local authority:

South Hams District Council and West Devon Borough Council

1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Progress:

The codes of the two Councils include a definition of bullying, but not harassment. The two Councils are reviewing their corporate policies on bullying and harassment so there is a need for those policies and the codes to be aligned with each other. Equally, the Councils recognise that the Local Government Association template code will reflect all of the best practice recommendations and understand that publication of the template code is imminent. The Councils are therefore reluctant to adopt codes giving effect to any amendments to their existing codes required by these Best Practice Recommendations when it is likely they will look to adopt the LGA code of conduct shortly afterwards

2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Progress:

The Councils recognise that the Local Government Association template code will reflect all of the best practice recommendations and understand that publication of the template code is imminent. The Councils are therefore reluctant to adopt codes giving effect to any amendments to their existing codes required by these Best Practice Recommendations when it is likely they will look to adopt the LGA code of conduct shortly afterwards.

3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Progress:

In accordance with previous best practice an Annual Standards Report is presented to the respective Council's committee responsible for standards. This will identify any issue that have arisen during the year and will, if considered appropriate, make recommendations for amendments of the code of conduct.

The Councils will consider wider consultation, but adoption of the LGA template code may influence the extent to which this is done and the frequency of any such consultation.

4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Progress:

Completed

5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Progress:

The Councils will consider further.

6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Progress:

The Councils recognise that the Local Government Association template code will reflect all of the best practice recommendations and understand that publication of the template code is imminent. The Councils are therefore reluctant to adopt codes giving effect to any amendments to their existing codes required by these Best Practice Recommendations when it is likely they will look to adopt the LGA code of conduct shortly afterwards.

7: Local authorities should have access to at least two Independent Persons.

Progress:

Completed

8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Progress:

The Councils already do this as part of their procedures.

9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Progress:

The Councils already do this as part of their procedures.

10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Progress:

Completed.

11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Progress:

The Councils are uncertain about how this can be required and will continue to accept complaints from the clerk.

12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Progress:

Completed.

13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Progress:

The Councils procedures deal with conflicts of interest. Completed.

14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Progress:

The Councils' Leadership Team has been advised of the recommended best practice

15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Progress:

The Councils will look to adopt this recommendation following the appointment of a new Monitoring Officer within the next month.
