

Report to: **Overview and Scrutiny Panel**  
Date: **1 April 2021**  
Title: **Annual Report 2020-21**  
Portfolio Area: **Cllr Nicky Hopwood (Lead Executive Member for Customer Service Delivery)**  
Wards Affected: **All**  
Urgent Decision: **N** Approval and clearance obtained: **N/Y**

Date next steps can be taken:

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 Panel notes the contents of the Report.**

**1. Executive summary**

- 1.1 The Overview and Scrutiny Panel 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 a 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 Overview and Scrutiny Panel.** The Panel's terms of reference include:
- (a) to provide and maintain high standards of conduct by Councillors (and co-opted members if appointed);
  - (b) to assist Councillors (and co-opted members) of the Council to observe the Council's Code of Conduct;
  - (c) 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;
  - (d) to advise and train Councillors (and co-opted members) on matters relating to the Code of Conduct; and
  - (e) to consider complaints alleging a breach of the Code of Conduct by District Councillors (and any co-opted members where relevant) and those members of town and parish councils in the District of South Hams.
- 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 West Devon Borough Council. The Independent Persons are appointed until May 2023.
- 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 by the Overview and Scrutiny Standards Panel where the complaint is serious or complex and it is considered to be in the public interest.

- 2.5 There have been 19 complaints in 2020/21. This compares with 23 complaints in 2019/20. None of the complaints received in the past two years have needed the Overview and Scrutiny Standards Panel to meet.
- 2.6 Although there have been a similar number of complaints this year, it has taken longer to resolve them due to competing priorities and vacancies within the Legal Services Team. This resulted in complaints being outsourced to Cornwall Council.
- 2.7 As Members will be aware from a recent e-mail sent by the Monitoring Officer to all Town and Parish Councils there has been a worrying increase in the number of allegations of town and parish clerks being bullied or harassed by members of their respective councils. The Monitoring Officer has advised all Town and Parish Councils that they should, as employers, put in place appropriate policies and procedures to prevent such bullying and harassment.
- 2.8 The other trend has been the use of the standards process by complainants to challenge decisions of parish councils with which they do not agree.
- 2.9 **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 paragraphs, timescales for acknowledging and dealing with complaints have not always been met.
- 2.10 **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 however recommended to create an updated model code of conduct and this has now been consulted upon and the final version published.
- 2.11 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. With regards to Recommendation 15, with the appointment of the “new Monitoring Officer” this can now be implemented.

2.12 **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.

### 3. Proposed Way Forward

3.1 The Annual Report summarises the Panel’s role and the events of 2020/21 relating to the standards of behaviour in local government and code of conduct complaints.

### 4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Overview and Scrutiny Panel is responsible for promoting and maintaining high standards of conduct by Members and it is important that the Panel 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 Panel 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