

Report to: **Overview and Scrutiny Committee**  
Date: **21 April 2022**  
Title: **Annual Report 2021-22**  
Portfolio Area: **Cllr Judy Pearce – Leader of the Council**  
Wards Affected: **All**  
Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: Immediately following this meeting.

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

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

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**RECOMMENDATION:**

**It is RECOMMENDED that the Committee notes the contents of the Report.**

**1. Executive summary**

- 1.1 The Overview and Scrutiny 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 an Annual Report, doing so is recognised as good practice. Not only does the report publicise the work of the Committee on standards to the general public, it is also a means for the Council itself to monitor standards of conduct.
- 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.

**2. Annual Report**

- 2.1 **The Overview and Scrutiny Committee.** The Overview and Scrutiny Committee is made up of 13 Members. The current membership is as follows:

- Councillor Lance Austen
- Councillor John Birch (Chairman)
- Councillor Matthew Chown
- Councillor Susan Jackson
- Councillor Louise Jones
- Councillor John McKay
- Councillor Denise O'Callaghan
- Councillor Trevor Pennington
- Councillor Joseph Rose
- Councillor Peter Smerdon (Vice-Chair)
- Councillor Barrie Spencer
- Councillor Jo Sweett
- Councillor Dan Thomas

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.

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 Table 1 sets out the annual number of complaints against members of the District Council and town/parish councillors received since 2019/20:

	2019/20	2020/21	2021/22	Total
District Council	8	8	7	23
Town and Parish Council	14	13	17	44
Total	22	21	24	67

Table 1: Breakdown of complaints for South Hams 2019-2022

- 2.6 By way of comparison, Table 2 provides the same information in respect of West Devon:

	2019/20	2020/21	2021/22	Total
Borough Council	0	4	2	6
Town and Parish Council	7	13	12	32
Total	7	17	14	38

Table 2: Breakdown of complaints for West Devon 2019-2022

- 2.7 65% of complaints in South Hams have been about town and parish councillors. This compares with 85% in West Devon. There are, of course, more town and parish councillors than District Councillors and therefore numerically it is to be expected that there would be more complaints against town and parish councillors.
- 2.8 Complaints involving town and parish councillors have tended to be confined to just a small number of councils and often then associated with a particular decision that has proven to be unpopular, for example a decision to spend money on refurbishing a playground. Common allegations are that councillors did not treat others with respect and bringing their council into disrepute.
- 2.9 83% of complaints against town and parish councillors in South Hams result in no further action at the initial assessment stage, or are rejected without getting that far. The figures are similar for complaints against District Councillors. Increasingly, complaints are rejected because they are concerned with matters that are outside of the standards regime, for example, the actions of clerks or those of the council as whole.
- 2.10 In those cases where a breach was found, complaints were dealt with by way of informal resolution in accordance with the Council's policy and procedure. This usually means that the complaint was dealt with by way of:
- apology
  - training
  - referring the matter back to the Parish/Town Council for local resolution (with any appropriate recommendations)

- 2.11 **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.
- 2.12 The adopted Policy and Procedure Guide envisages that a complaint will be acknowledged and an informal assessment carried out within 10 working days of receipt of the complaint. If a complaint is not rejected at that stage, then the Monitoring Officer will then give the member complained about, 14 working days to provide their comments in writing responding to the complaint, before consulting with one of the Independent Persons, who has a further 10 working days to provide their views. A decision notice will be issued within a further 5 working days. This equals approximately 8 weeks from start to finish (although if the complaint is subject to a formal investigation and hearing the period will be much longer).
- 2.13 Unfortunately, the Monitoring Officer has not met the timescales for acknowledging and dealing with complaints. This has led to a number of complaints, including one from a Parish Council that had been the subject of multiple complex complaints by one of its own councillors and also resulted in two complaints to the Local Government and Social Care Ombudsman. Table 3 shows the average length of time taken to deal with a complaint from the time received to completion of the formal assessment (excluding on-going complaints).

	2019/20	2020/21	2021/22	Average
Number of weeks	10.1	14.25	11.3	11.4

Table 3: Average time taken.

- 2.14 The average time taken does however mask the fact that some complaints have taken 26 weeks or more. As mentioned earlier, the responsibility for dealing with complaints is that of the Monitoring Officer. The approved establishment envisages that two deputies will support the Monitoring Officer. However, since the appointment of the previous Monitoring Officer to the role of Business Manager - Specialists, there has been an on-going deputy monitoring officer vacancy. During that time, as has been reported to Council, there has been an increased pressure on the Legal Services Team generally and the Monitoring Officer as the only full-time member of the team in particular, for legal services to the Council. Council has recognised this by agreeing to add two new full-time regulatory lawyer posts. This will allow the structure of the Legal Services Team to be reviewed, so that there will be two lead Principal Lawyers to free up and to provide more support to the Monitoring Officer. Unfortunately, since then two members of the team, including the remaining deputy monitoring officer, have left

the Council's employment for new jobs elsewhere in the public sector. The Council is however, working to fill the vacancies so that there is a properly resourced team in place as soon as possible.

- 2.15 The gap in resources for dealing with the assessment of complaints is being filled by Cornwall Council. Even so, dealing with complaints is time and resource-hungry, particularly as it is becoming apparent that increasingly complainants are less likely to be accepting of the decision and protracted correspondence can ensue.
- 2.16 On a more positive note, complaints are now being monitored through the Council's Liberty Create system. This will allow a more managed approach, resources permitting, and better quality management information.
- 2.17 **Training and development.** Training is an important part of promoting high standards of behaviour. However, due in part to the events of the past two years no training has been carried out. Training was last delivered to all members of the Council on 10 May 2019 and to Cllr Lucy Wood on 19 May 2021.
- 2.18 As Monitoring Officer, I would wish to work more closely with the Committee on identifying and meeting training needs. Regrettably, for the reasons mentioned previously that has not been possible.
- 2.19 In the absence of formal training, the Monitoring Officer has issued guidance to all members on the use of social media; informal briefings and declaring interests in meetings. While there is little evidence of inappropriate declarations of interest, it is clear that members are not yet familiar with the new terminology for describing interests used in the code of conduct adopted in May 2021.
- 2.20 The Monitoring Officer has also issued guidance on bullying to town and parish councils.

### 3. Proposed Way Forward

The Annual Report summarises the Committee's role and the events of 2021/22. The report provides an evidence base for further reports for future improvements, including a review of the procedures for dealing with standards complaints.

### 4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	N	The Overview and Scrutiny 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 Overview and Scrutiny 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
<b>Comprehensive Impact Assessment Implications</b>		
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		

**Background Papers:**

There are no background papers.