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To: The Chair and Members
of the Standards
Committee

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Date: 8 March 2023

Contact: Julia Jones

Email: julia.e.jones@devon.gov.uk

STANDARDS COMMITTEE

Thursday, 16th March, 2023

A meeting of the Standards Committee is to be held on the above date at 2.15 pm at Clinton Room, Committee Suite - County Hall to consider the following matters.

Donna Manson
Chief Executive

A G E N D A

PART I - OPEN COMMITTEE

1 Apologies for absence

2 Minutes

Minutes of the meeting of the Committee held on 17 November 2022, previously circulated.

3 Items Requiring Urgent Attention

Items which in the opinion of the Chair should be considered at the meeting as a matter of urgency.

MATTERS FOR DECISION

4 Standards Annual Report 2022/2023 (Pages 1 - 6)

In line with best practice the Committee has previously produced an Annual Report outlining the range of its activities and related developments during the year and identifying any issues for consideration or that might impact upon future arrangements. The draft Annual Report for 2022/23 submitted for endorsement and publication is attached. The publication, independently, of an Annual Report by this Committee complements and gives rigour to the Council's Annual Governance Statement which it is required to publish separately on an annual basis.

Recommendation: that the Annual Report for 2020/21 be approved and published.

STANDING ITEMS

5 Ethical Governance Framework: Monitoring (Pages 7 - 8)

Report of the Director of Legal and Democratic Services ([LDS/23/5](#)) on co-opted members' attendance at meetings of the Council, Cabinet and Committee meetings, monitoring compliance with the Council's ethical governance framework, attached.

MATTERS FOR INFORMATION

6 Local Determination of Complaints

Director of Legal and Democratic Services to report on complaints or allegations of a breach of the Council's Members' Code of Conduct received since the last meeting, if any.

7 Committee on Standards in Public Life - Leading in Practice Review

The Committee on Standards in Public Life has undertaken a review of leadership across the public sector, as well as the private and third sectors.

The review focuses on case studies regarding how ethical standards are upheld within organisations and examples of best practice.

The Committee on Standards in Public Life published its Report in late January 2023 which can be viewed here - <https://www.gov.uk/government/news/the-committee-on-standards-in-public-life-publishes-new-report-leading-in-practice>

The report identifies 20 questions for leaders to help them reflect on whether there is more they can do to support their people to think about the Principles of Public Life and integrate them into all aspects of how their organisation operates.

This is for the information of Members.

Electoral Divisions(s): All Divisions

PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED

8 Exclusion of Press and Public

Recommendation: that the press and public be excluded from the meeting for the following items of business under Section 100(A)(4) of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 and 2 of Schedule 12A of the Act namely, information relating to an individual and information likely to reveal the identity of an individual and in accordance with Section 36 of the Freedom of Information Act 2000, by virtue of the fact that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9 Allegation of Breach of Members Code of Conduct (Pages 9 - 26)

Documentation enclosed and attached as follows:

Report of the Assistant Director of Legal Services

a Report for Standards Committee on 5 July 2022 re: Allegation of Breach of Members Code of Conduct (Pages 27 - 126)

This report pack is from the Standards Committee held on 5 July 2022. A full list of the documentation is listed in the pack.

b CPS correspondence (Pages 127 - 142)

CPS Correspondence

- E-mail from Monitoring Officer to Devon and Cornwall Police 23 December 2021
- E-mail from Devon and Cornwall Police to Monitoring Officer 8 June 2022
- E-mail from Monitoring Officer to CPS 15 June 2022
- E-mail acknowledgement from CPS to Monitoring Officer 20 June 2022
- E-mail from CPS to Monitoring Officer 13 July 2022
- E-mail from CPS to Monitoring Officer 5 September 2022 together with secondary e-mail trail

- c Subject Member - Subsequent Correspondence (Pages 143 - 176)
- Email from Subject Member to Members of the Assessment Sub Committee 30 June 2022
 - Email from Subject Member to Deputy Monitoring Officer, Chair, Chief Executive, Independent Person and Head of Democratic Services 1 November 2022
 - Email from Monitoring Officer to Subject Member 9 November 2022 together with secondary email trail
 - Email from Subject Member to Assistant Director of Legal Services 9 January 2023 providing comments on the draft report
 - Email from Subject Member to Assistant Director of Legal Services 31 January 2023 together with secondary email trail
- d Independent Person's Comments (Pages 177 - 188)
- Email from Independent Person to Monitoring Officer 8 June 2022 with secondary email trail
 - Email from Independent Person to Subject Member 30 November 2022

Members are reminded that Part II Reports contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). They need to be disposed of carefully and should be returned to the Democratic Services Officer at the conclusion of the meeting for disposal.

MEETINGS INFORMATION AND NOTES FOR VISITORS

Getting to County Hall and Notes for Visitors

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Exeter has an excellent network of dedicated cycle routes. For further information see the [Travel Devon webpages](#).

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Visitors to County Hall are asked to report to Main Reception on arrival. If visitors have any specific requirements, please contact reception on 01392 382504 beforehand.

Membership of a Committee

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Committee Terms of Reference

For the terms of reference for any Committee, please [visit the Committee page](#) on the website and click on the name of the Committee. Under purpose of Committee, the terms of reference will be listed. Terms of reference for all Committees are also detailed within Section 3b of [the Council's Constitution](#).

Access to Information

Any person wishing to inspect any minutes, reports or background papers relating to an item on the agenda should contact the Clerk of the Meeting. To find this, [visit the Committee page](#) on the website and find the Committee. Under contact information (at the bottom of the page) the Clerk's name and contact details will be present. All [agenda, reports and minutes of any Committee are published on the Website](#)

Public Participation

The Council operates a Public Participation Scheme where members of the public can interact with various Committee meetings in a number of ways. For full details of whether or how you can participate in a meeting, please [look at the Public Participation Scheme](#) or contact the Clerk for the meeting.

In relation to Highways and Traffic Orders Committees, any member of the District Council or a Town or Parish Councillor for the area covered by the HATOC who is not a member of the Committee, may attend and speak to any item on the Agenda with the consent of the Committee, having given 24 hours' notice.

Webcasting, Recording or Reporting of Meetings and Proceedings

The proceedings of any meeting may be recorded and / or broadcasted live, apart from any confidential items which may need to be considered in the absence of the press and public. For more information [go to our webcasting pages](#)

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chair. Filming must be done as unobtrusively as possible without additional lighting; focusing only on those actively participating in the meeting and having regard to the wishes of others present who may not wish to be filmed. Anyone wishing to film proceedings is asked to advise the Chair or the Democratic Services Officer in attendance.

Members of the public may also use social media to report on proceedings.

Declarations of Interest for Members of the Council

It is to be noted that Members of the Council must declare any interest they may have in any item to be considered at this meeting, prior to any discussion taking place on that item.

WiFi

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Fire

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First Aid

Contact Main Reception (Extension 2504) for a trained first aider.

Mobile Phones

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Alternative Formats

If anyone needs a copy of an Agenda and/or a Report in another format (e.g. large print, audio tape, Braille or other languages), please contact the Customer Service Centre on 0345 155 1015 or email: committee@devon.gov.uk or write to the Democratic and Scrutiny Secretariat in G31, County Hall, Exeter, EX2 4QD.

Induction Loop available



The Standards Committee - Annual Report 2022/2023

.....The Standard Committee believes that high ethical standards are crucial in the work of any public body and that robust application is important. This summary report shows how the Committee has undertaken these tasks during the last 12 months and how it continues to contribute to and offer direction to shape the governance, culture and ethos of the organisation.

Membership

The Standards Committee has eleven persons, five being co-opted and the other seven Members being Councillors (not Cabinet Members) from the Membership of the Council.

Members of the Committee work together to promote the importance of high standards of behaviour and systems of governance to create a climate where complaints or problems are rare. The Chair of the Committee is held automatically by the Chair of the Council recognising the impartiality of that role. The Council has long recognised the added value brought by an independent voice on its Standards Committee, reinforced by the Co-opted Membership. More information about the Committee and its terms of reference is in the Council's Constitution and can be seen in the [terms of reference for the Standards Committee](#).

Purpose

The Committee acts as champion and guardian of the Council's ethical standards and is responsible for promoting / maintaining high standards of conduct. Article 3 of the Constitution makes it clear that any member of the public may complain to the Monitoring Officer about an alleged breach of the Members' Code of Conduct, set out in Part 6 of the Constitution.

The Council has in place appropriate arrangements for dealing with complaints against Members and a mechanism to deal with allegations that Members may have breached the Code of Conduct. The Council has appointed 'Independent Persons' in line with the requirements of the Localism Act 2011. More information about the Code of Conduct and the complaints process can be found in a prominent place on the [Council's website](#).

Meetings and Ethical Governance Monitoring

The Committee met 4 times in 2022/23, three being ordinary meetings and one specially convened Assessment Sub Committee to assess whether a complaint required further investigation.

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Co-opted Members also attended several other meetings of Committees to observe and monitor compliance with the Council's ethical governance framework. Co-opted Members attended meetings both remotely and in person. The Council felt it important to ask the members to continue their role as a check and balance that meetings were operating effectively and in line with governance frameworks. There were no specific behaviours observed which might have resulted in a breach of the code or that would warrant further action. However, steps were taken to address any practical matters identified.

Comments made included clear reports, pertinent questioning, good comments and chairing as well as and the presentation slides being excellent and professional.

There was reference to intermittent use of microphones which along with issues of broadband quality could have contributed to poor sound as well as issues with technology and sometimes difficulty in being able to see who was attending a meeting.

Member's Code of Conduct

In March 2020 (reported in last year's annual report) the Committee considered the current position on the proposed new Model Code of Conduct from the Local Government Association. As part of the review and consultation, mutual concerns had been expressed about the current codes, inconsistencies in application, a lack of guidance and sanctions.

The New Model Code of Conduct had been received in December 2020 but the guidance to accompany the Code was not received until July 2021 with further amendments received later in the Summer.

At the November meeting of the Committee, there was consideration of a Report which had analysed the content of the Model Code of Conduct and produced a comparison against the Council's current Code of Conduct.

The revised Code was considered at the March 2022 meeting of the Committee and whilst Member's felt that the Council's Code was robust and had been updated over the last two years in line with national best practice and therefore covered most elements (and in some case more) than the Local Government Association Model Code, there had been some suggested additions to the Council's Code.

The proposed new Devon Code included all those additional elements requested by the Committee and aimed to strengthen the current Code by inclusion and consideration of issues such as introductory statements, clearer definitions, application of the Code, social media, strengthening harassment definitions, gifts and hospitality and compliance with the Code and sanctions as well as declarations of interests.

The Council adopted the new Code of Conduct in May 2022.

Councillor Complaints Guidance

In March 2022, the Committee considered the streamlining of the current Councillor Complaints Guidance. This was in response to the LGA Guidance on Complaints Handling which had been produced in relation to the LGA Model Code of Conduct.

Whilst the Council had not adopted the LGA Model Code in its entirety, the Guidance on Complaints Handling had been reviewed to ensure current processes were fit for purpose.

The consensus was that the current guidance was fit for purpose, but that the current guidance be streamlined to make it easier to navigate.

The Committee noted the revisions were to streamline the content, make it more accessible and ensure it could be easily navigated on the website.

Local Government (Disqualification) Act 2022

The Committee considered the new Local Government (Disqualification) Act 2022 which updated the disqualification criteria for local authority Members. This Act came into force on 28 June 2022 and explicitly disqualified individuals who were subject to relevant notification requirements or orders due to sexual offences from standing for or remaining in public office.

The Standards Committee had previously submitted a response to the consultation on the original proposals.

Whilst the Committee was pleased to see the new Act, they were disappointed and concerned that it did not apply to Police and Crime Commissioners and Members of Parliament. As such, the Committee wrote to Government requesting them to bring in legislation that applied the same criteria to all local and national politicians.

A response was received from the Minister of State at the Department for Levelling Up, Housing and Communities (at the time Paul Scully MP) stating that standards and conduct for MPs and PCCs were governed under separate regimes with their own mechanisms to disqualify or sanction against unacceptable behaviour.

Committee on Standards in Public Life - Review of Local Government Ethical Standards and Government Response

During the year, the Committee reviewed the Governments response to the Committee on Standards in Public Life Review of Local Government Ethical Standards.

The Council had submitted a response to the original consultation (carried out by Committee on Standards in Public Life) and the formal report was published in 2019. This made several recommendations and in response the Council revised its guidance around bullying and

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harassment, adopted an annual review of the Code of Conduct, and published the gifts and hospitality register on Member profile pages, among other amendments.

The Government's response was that many of these suggestions did not need a legislative response but could be more appropriately, effectively, and swiftly taken forward by local authorities as best practice.

During the discussion, the Committee expressed concerns and asked for further work be carried out for options aiming to improve councillors' safety.

Standards in Public Life: Update on Councillors safety, work on reducing harassment, abuse and intimidation

In November 2022, a discussion was held on the work and steps taken around Councillors' safety and reducing harassment, abuse and intimidation.

Whilst the Council had amended the Members Code of Conduct to further help Members undertake their role without intimidation, abuse, bullying or threatening behaviour from anyone, including the public, the LGA had launched their 'debate not hate campaign'.

All the guidance from the Local Government Association about handling intimidation had been published on the Members Sharepoint Site. The Committee also agreed to contact all Members of the Council to give them a choice of whether to publish their home addresses on their profile pages on the website.

In addition, the question of personal safety was added to Member Wellbeing Survey.

Work continues on this very important agenda.

Ethical Governance

The Council last tested its approach to ethical governance in 2019 and the Committee considered the responses of the latest survey.

When asked about engagement with democracy and the local community, nearly 74% of respondents felt the Council made information easily available about matters considered by the Cabinet and other committees.

In contrast a more negative response to a question about whether officers were trusted by the local community and only 32.6% answered yes. Responses regarding communication of

the Council's value to local residents and familiarity of annual statements were also highlighted as something for consideration.

Attention was also drawn to the comments about maintaining or improving standards of conduct within the Council which included issues such as accessibility for people with a range of disabilities, language, and member training.

The Committee's debate considered whether more work should be done around engagement with democracy and the local community, the culture for challenging decisions, the importance of Code of Conduct awareness sessions (noting one was planned for May 2022), and Member training in its widest sense.

Feedback and Monitoring

The Committee has a role in monitoring the Council's feedback and complaints processes and considers regular reports on compliments, representations and complaints received under the corporate feedback system.

The Committee previously agreed that future reporting would be on an annual basis, although reporting on any exceptions on a six monthly basis.

Complaints Against Councillors

Between 1 April 2022 and 9th March 2023, there had been 7 complaints concerning alleged breaches of the Members Code of Conduct.

The complaints raised included behaviour at a Parish Council meeting, failure to respond, unavailability, chairing of a committee meeting, lack of courtesy and respect, confrontational behaviour and procedural matters. Following an initial assessment of each of the complaints and consultation with an Independent Person appointed by the Council, it had been agreed that in four of the seven complaints there had been no breach of the Code. The latter was rejected due to it not falling within the scope of the complaints process.

The complaints of failing to treat others with courtesy and respect and confrontational behaviour were found to be a breach of the Code and the Member accepted this and gave an apology.

There was one complaint from December 2021 which was ongoing with the Report expected to be presented to the Committee in March 2023 and another complaint outcome also reporting in March.

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Dispensations

No individual dispensations were granted to Members of the Council to allow them to speak and vote on any matter before the Council and / or Committee. However, the general dispensation is always under review and was last updated in December 2021.

Looking Ahead

Looking ahead, much of the work of the Committee is demand led. However, it will continue to monitor elected Members performance at meetings of the Council, Cabinet and Committees (whether remote or in person) and adherence to the Council's ethical governance framework; to monitor reports on compliments, representations and complaints received under the corporate feedback system and consider any feedback arising from complaints to the Ombudsman. It will also identify and support provision of regular training and refresher events for elected Members of the Council (particularly on the importance of the Code of Conduct and high standards of ethics and probity). This is scheduled for May 2022.

There is also a hope that, in light of comments made by Local Authorities over the last two or three years, Government will give consideration to more sanctions being available to local authorities (many Local Authority submissions in 2020/2021 made the point that current sanctions didn't go far enough).

The work on intimidation, abuse, bullying or threatening behaviour will be consolidated with some more guidance to Members on the support available to them.

A Governance Review is expected to commence shortly, which will cover issues such as Member Engagement Strategy, Elected Member learning and development, officer development & governance engagement, Democratic engagement, Member's Code of Conduct and Arrangements, decision making, the Constitution including Contract Procedure Rules, Financial Regulations, Council Procedure Rules and Scheme of Delegation

The Agenda and Minutes of the Committee, together with all Reports considered at meetings are published [online](#).

[Previous Annual Reports](#) are also published on the website.

Prepared by Devon County Council's Monitoring Officer. Copies may be obtained from the Democratic Services & Scrutiny Secretariat, County Hall, Topsham Road, Exeter, EX2 4QD. Or email committee@devon.gov.uk.

ETHICAL GOVERNANCE FRAMEWORK MONITORING

Report of the Director of Legal and Democratic Services

Recommendation: that the report be noted.

1. The Standards Committee agreed previously that the independent, co-opted, members of the Committee should attend meetings of the Council, the Cabinet and Committees on an ad-hoc basis to observe and monitor compliance with the Council's ethical governance framework, in line with the agreed protocol.
2. Members have, since the report to the previous meeting, attended the following meetings virtually and their views/feedback are summarised below.

| Meeting | Date | Co-opted Member/Observer |
|--|-------------|--------------------------|
| Children's Scrutiny Committee | 26 January | Ruth Saltmarsh |
| Standing Advisory Council on Religious Education | 9 February | Ian Hipkin |
| Cabinet | 10 February | Ray Hodgins |
| Council | 16 February | Ruth Saltmarsh |
| Devon Authorities Strategic Waste Committee | 22 February | Anne Mayes |
| Audit Committee | 28 February | Ian Hipkin |

3. The table below summarises feedback received from Members on a number of general issues common to all meetings.

| Observations: | 1 = Very Poor and 5 = Very Good | | | | |
|---|---------------------------------|---|---|---|---------|
| | 1 | 2 | 3 | 4 | 5 |
| Punctuality and Attendance of Members | | | ✓ | | ✓✓✓✓✓ |
| Appearance and presentation | | | | | ✓✓✓✓✓✓✓ |
| Speeches: clear, relevant, understandable, audio levels, use of microphones etc., | | | ✓ | ✓ | ✓✓✓✓ |
| Use of appropriate language | | | ✓ | ✓ | ✓✓✓✓ |
| Members' Conduct & Behaviour | | | | ✓ | ✓✓✓✓✓ |

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| | | | | | |
|--|--|--|--|---|---------------|
| Clear identification and declaration of interests (where so declared) | | | | | n/a ✓✓ n/a ✓✓ |
| Effective Chairmanship/conduct of meeting | | | | ✓ | ✓✓✓✓✓ |
| Adherence to Agenda | | | | | ✓✓✓✓✓✓ |
| Listening and responding to advice (from Officers) | | | | | ✓✓✓✓✓✓ |

4. While there were a number of other issues raised by co-opted Members in their observations, as set out below, there were no reports of any specific actions or behaviors that might be felt to have resulted in a potential breach of the Code or warranted further action.

- Concern about lack of paperwork available until arrival at the meeting
- Audio was clearer for those speaking and attending virtually than for those in the room and there were no microphones
- Might wish to consider where public sit in committee rooms so they can see screens
- Is enough being done to encourage the public to attend meetings?
- The meeting was interesting with plenty of appropriate discussion.
- Very well-run meeting
- Long meeting and members seemed to come and go all the way through – would a short break mid-way mean less toing and froing?
- When members stand to speak the mics are further away than if they sat down
- Lots of information, meeting was well organised, structured and with excellent documents, managed a significant amount of business effectively and efficiently
- Hybrid meeting – difficult to assess punctuality and appearance, meeting was late starting – furniture moving and sorting echo in the audio.
- Inappropriate language used on a couple of occasions, and meeting was full of acronyms
- The meeting was well chaired to accommodate extensive discussion.

5. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements relating to the conduct of meetings, to safeguard the Council's position.

MARIA PRICE

[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

Contact for Enquiries: J Jones

Tel No: 01392 380547 Room: G31

| <u>Background Paper</u> | <u>Date</u> | <u>File Reference</u> |
|-------------------------|-------------|-----------------------|
|-------------------------|-------------|-----------------------|

Nil

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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Regulation 21(1)(A) of the Local Authorities (Executive
Arrangements) (Access to Information) (England)
Regulations 2000.

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of the Local Government Act 1972.

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