

Phil Norrey
Chief Executive

To: The Chair and Members of the
Standards Committee

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

(See below)

Your ref :
Our ref :

Date : 27 March 2019
Please ask for : Karen Strahan 01392 382264

Email: karen.strahan@devon.gov.uk

STANDARDS COMMITTEE

Thursday, 4th April, 2019

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

P NORREY
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 12 November 2018, 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 Member Profile Pages - DBS Checks and Sanctions (Pages 1 - 6)

Members are asked to consider adding further information to Councillor profile pages in terms of publishing DBS checks and / or sanctions or that a Councillor has no sanctions against them.

An example from Wigan Council is attached for information.

5 Councillor Complaints Process

Members are asked to consider making an amendment to the Councillor complaints process. At present a Subject Member (who has had a complaint made against them and the matter proceeds to a full investigation by an independent investigator) has the right to see a draft of the investigators Report.

It is suggested that this be amended so that the Subject Member has sight of both the draft report and the final report.

STANDING ITEMS

6 Customer Feedback Monitoring Report (Pages 7 - 16)

Report of the Head of Digital Transformation & Business Support on feedback, compliments, representations and complaints received and handled by the Council for Quarter 3 (October 2018 to December 2018), attached.

7 Ethical Governance Framework: Monitoring (Pages 17 - 20)

Report of the County Solicitor ([CSO/19/1](#)) on co-opted Members' attendance at meetings of the Council, monitoring compliance with ethical governance frameworks, attached.

MATTERS FOR INFORMATION

8 Local Government Ethical Standards - A Review by the Committee in Public Life (Pages 21 - 36)

Executive Summary of 'Local Government Ethical Standards - A Review by the Committee in Public Life', attached.

Members will recall that this Committee submitted a [response](#) to the Consultation.

The full Report of the Committee on Standards in Public Life can be found [here](#).

The recently published Municipal Journal (the MJ), the management journal for local authority business referred to the recently published Report, in light of the Judicial Review outcome into the Standards regime in Devon, article attached.

9 Standards Committee Annual Report 2018/2019 (Pages 37 - 40)

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 2018/19 is submitted for endorsement and publication is attached.

The publication 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 2018/19 be approved and published.

10 Local Determination of Complaints

County Solicitor to report on complaints or allegations of a breach of the Council's Members' Code of Conduct received since the last meeting.

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

NIL

Members are reminded that Part II Reports contain confidential information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s).

Members are also reminded of the need to dispose of such reports carefully and are therefore urged to return them to the Committee Secretary at the conclusion of the meeting for disposal

MembershipCounty Councillors

Councillors C Chugg (Chair), M Asvachin, R Bloxham, P Colthorpe, A Connett, J Mathews and P Twiss

Co-opted Member

Sir Simon Day, I Hipkin, R Hodgins, A Mayes and R Saltmarsh

Declaration of Interests

Members are reminded that they 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.

Access to Information

Any person wishing to inspect any minutes, reports or lists of background papers relating to any item on this agenda should contact Karen Strahan 01392 382264.

Agenda and minutes of the Committee are published on the Council's Website and can also be accessed via the Modern.Gov app, available from the usual stores..

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Induction loop system available

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The nearest mainline railway stations are Exeter Central (5 minutes from the High Street) and St David's and St Thomas's both of which have regular bus services to the High Street. Bus Service H (which runs from St David's Station to the High Street) continues and stops in Wonford Road (at the top of Matford Lane shown on the map) a 2/3 minute walk from County Hall, en route to the RD&E Hospital (approximately a 10 minutes walk from County Hall, through Gras Lawn on Barrack Road).

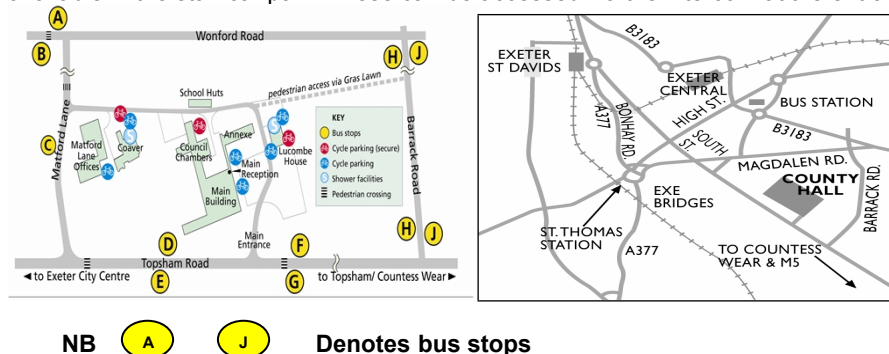
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First Aid

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Register of interests

Voting record

Surgery details

Councillors Brown holds her surgery at the following venue:-

Shevington Library, Gathurst Lane, Shevington, WN6 8HA.

First and third Saturday of the month, 9.30 - 10.30am.

Contact information

Home address:

80 Miles Lane

Shevington

WN6 8EW

Bus. mobile: 07795302858

Bus. email: Janet.Brown@wigan.gov.uk

Download Councillor Janet Brown contact details as VCard

Committee appointments

Children and Young People Scrutiny Committee

Confident Places Scrutiny Committee

Council

Health and Social Care Scrutiny Committee

Term of Office

03/05/2018 - 05/05/2022

Biography

This Councillor has a valid DBS certificate.

http://democracy.wigan.gov.uk/mgCommitteeDetails.aspx?ID=499&a=1

W A Z A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

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03/05/2012 - 05/05/2016
05/05/2016 - 07/05/2020

Sanctions

The following sanctions have been imposed upon this Councillor:

November 2014

The formal Decision Notice of the outcome of the hearing is to be published on the Council's website and details of the outcome in a newspaper circulating in the Hindley Green area;

The Member be asked to submit unconditional written apologies (assisted by the Monitoring Officer) to all those who have been offended, which the Council may publicise for circulation to all the complainants by 5th December 2014;

That a report is to be submitted to the Standards Committee and Council setting out the outcome from the hearing and noting whether the Member has submitted written apologies to the Monitoring Officer;

That the report to Council include a recommendation that the Member be censured;

The Member is to engage with a programme facilitated by an external provider that will address his issues and behaviour with a signed agreement as to what outcomes are to be achieved. This is to be done within six months of receipt of his apologies;

Due to his continued pattern of unreasonable behaviour, it is to be recommended that the Councillor continues to engage with specialist support to help him address his issues;

The Sub Committee endorsed the process whereby all emails Councillor Brierley sends to officers continue to be managed before delivery to the officer. They should only be forwarded on to the relevant officer to respond to if they are respectful and courteous and do not contain abuse, rudeness or ridicule and are not considered to be harassing either in the content of the email or volume of emails he sends to the officer. Officers are to respond to emails from the Councillor only to the Councillor's Council email address;

Having particular regard to the nature and pattern of bullying behaviour consistently shown, the

Customer Feedback Monitoring Report for Quarter 3 (October 2018 – December 2018)

1. Purpose

- 1.1 This report provides a quarterly update to Standards Committee on the volumes and themes for all types of customer feedback (Compliments, Comments and Complaints), letters from Members of Parliament and Complaints being dealt with by the Local Government and Social Care Ombudsman about Devon County Council. In addition, it provides information regarding the Council's performance in responding to and learning from the outcomes of complaints.

2. Activity overview

- 1.1 Please see appendix 1 for a summary of feedback related activity within the reporting year to date. Please notes that "complaints – local" refers to any complaint dealt with locally e.g. by a service manager. "Complaints – escalated" is any complaint escalated to any stage within the relevant procedure.

3. Stage 1 complaints

- 3.1 We have seen a continuous reduction in the number of Stage 1 complaints received quarter on quarter during this reporting year; the only exception to this is in Children's Services which have seen an increase (Appendix 2 – table 3).
- 3.2 The majority of services have had a significant reduction in performance in quarter 3 compared to previous quarters. Exceptions are in Communities, Public Health, Environment and Planning, and Digital Transformation and Business Support, where performance has improved. It should however be noted that in Adult Care and Health the adult complaint regulations allow for a negotiation to the deadline for response to be made with the customer, and therefore all responses could realistically be made within time. Despite this, the service achieved only 64% of responses in time (Appendix 2 – table 4).
- 3.3 The following actions are being taken to support services to improve their complaint handling:
- Regular complaint handling workshops with staff
 - CRT attendance at service team meetings to discuss learning from complaints.
 - Specific case reminders to staff from the Customer Relations Team
 - Messages about response times are included in quarterly reports where provided
 - Learning events facilitated by the Customer Relations Team for complex complaints
- 3.4 In quarter 3 services upheld or partially upheld 34% of Stage 1 complaints. The percentage of upheld complaints is not in itself an indicator of poor performance however if this increases significantly in future it may suggest that a further review of the activity within that service is required (Appendix 2 – table 5).
- 3.5 Appendix 2 – table 6 shows the most prevalent issues raised within complaints across all services, and the percentage upheld or partially upheld in each quarter, and an overall summary across the reporting year to date. It remains a concern that the perceived attitude or rudeness of staff continues to feature in the top 3 issues, particularly as 38% of complaints where this issue was raised were upheld in quarter 3. The quality of service provided features highly in the top issues however there was a lower percentage upheld in quarter 2 than quarter 1; the percentage upheld has increased again in quarter 3.

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4. Stage 2 Complaints

- 4.1 There has been a continual decrease in Stage 2 complaints received quarter on quarter in this reporting year, however the numbers being received per quarter are still higher on average than each quarter in 2017-18. Children's Services are an exception, experiencing increases in numbers received throughout the reporting year. The comparative increase between 2017-18 and 2018-19 is not necessarily an indicator of poor service. Alternatively, it may suggest increased access to the complaints procedure (Appendix 2 – table 7).
- 4.2 There were 29 Stage 2 complaints closed in quarter 3, however only 34% of the responses were sent in time (Appendix 2 – table 8). Some of these delays can be attributed to capacity issues within the Customer Relations Team, however many of the delays relate to difficulty in obtaining relevant information from services within the investigation.
- 4.3 As in quarter 2, in quarter 3 there has continued to be a significant increase in the percentage of complaints upheld compared to those upheld at Stage 1. This is concerning as it demonstrates that independent scrutiny of the complaints at Stage 2 is producing a different outcome than Stage 1 (Appendix 2 – table 9).

5. Local Government and Social Care Ombudsman Complaints

- 5.1 The Local Government and Social Care Ombudsman (LGSCO) investigate complaints about councils, adult social care providers, including care homes and agencies, and some other organisations providing local public services. They assess for fault and make findings in relation to maladministration of process and subsequent injustice to the customer. The Council is required by law to cooperate with the Ombudsman's investigations and provide the requested information within given timeframes. The Customer Relations Manager acts as the LGSCO Link Officer and coordinates all communication between the LGSCO and the Council.
- 5.2 Whilst there was a gradual decline in numbers of LGSCO complaints received in 2017-18, the numbers received are increasing again in 2018-19 (Appendix 2 – table 10).
- 5.3 There has however been a decrease in maladministration and injustice findings within 2018-19 compared to 2017-18, which is positive although there was a significant drop in any findings being made by the LGSCO in quarter 2. Only 18% of the complaints were upheld over the previous reporting year; this compares to 29% across the 2018-19 to date and may suggest an upward trend. This is however not a high number and reflects that while customers do not agree with the Council's decisions, scrutiny by the Ombudsman shows that we are generally following due policy and process as the majority of complaints are closed with no further action required (Appendix 2 – table 11).
- 5.4 In quarters 1 and 2, the Council mostly maintained an excellent response rate to the LGSCO. In quarter 3 this has dropped significantly and in the main is attributable to delays in services providing the relevant information. Mitigating action is being taken to ensure that wherever possible deadlines are extended and services reminded of the need provide information in a timely manner (Appendix 2 – table 12).
- 5.5 All LGSCO final decisions can be viewed on the LGSCO website – www.lgo.org.uk
- 5.6 The Council has been required to pay financial remedies totalling £250 to complainants as a result of recommendations made by the Ombudsman in quarter 3 (Appendix 3).

6. Compliments

- 6.1 Capturing compliments is important for the Council, as they serve to acknowledge provision of excellent service, enable staff to be recognised and the Council to build upon good practice.

- 6.2 It should be noted that the Customer Relations Team is unable to report on compliments that are not shared with us and therefore this is only likely to be a partial picture. Compliments experienced an increase over the previous reporting year, however this has unfortunately dropped off again in 2018-19 (Appendix 2 – graph 1).

7. MP Enquiries

- 7.1 The number of MP Enquiries received in quarters 2 and 3 2018-19 showed a decrease compared to the quarter 1. The reason for this is not known (Appendix 2 – graph 2).
- 7.2 All MP Enquiries should be responded to within 20 working days of receipt. Several service areas experienced a decrease in their MP Enquiry response performance in quarter 3 compared to quarter 2, although DTBS have maintained a 100% response rate throughout the year to date, and Adult Social Care have shown an improvement between quarters 2 and 3 (Appendix 2 – table 13).
- 7.3 There is however a need for improvement in response times to MP Enquiries for the majority of services, and Children's Services in particular within only 60% of responses made in time in quarter 3.

8. Representations

- 8.1 A representation is a comment or concern that is not intended or eligible to be a formal complaint but requires a formal response.
- 8.2 The Council continues to see a significantly lower number of representations received than in previous years, and the lowest number of representations received in the last 2.5 years was recorded in quarter 2 2018-19; there has been a slight increase in numbers received in quarter 3. The general reduction is likely to be partially attributable to Highways managing their own representations rather than Customer Relations handling or logging them in any way. This information is therefore unlikely to give the full picture of all levels of representations being received within the Council (Appendix 2 – graph 3).
- 8.3 All Representations should be responded to within 20 working days of receipt. Some services achieved a high response rate to Representations in quarter 3, or made improvements from quarter 2. Significant improvements are however required in Children's Services and Adult Social Care, with only 40% and 55% of responses in time respectively in quarter 3 (Appendix 2 – table 14).

Helen Wyatt
Customer Relations Manager

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Appendix 1

Table 1

| Period | 2018 Qtr 1 | 2018 Qtr 2 | 2018 Qtr 3 | Total |
|------------------------|------------|------------|------------|-------|
| Complaints - local | 444 | 377 | 327 | 1148 |
| Complaints - escalated | 50 | 41 | 47 | 138 |
| Complaints - Ombudsman | 13 | 19 | 18 | 50 |
| Compliments | 260 | 257 | 220 | 737 |
| MP Enquiries | 196 | 156 | 141 | 493 |
| Representations | 78 | 52 | 60 | 190 |
| Total | 1041 | 902 | 813 | 2756 |

Table 2

| | Q1 | | | | Q2 | | | | Q3 | | | | Q4 | | | | 17-18 YTD | | | |
|--|------------|-------------|-----------------|--------------|------------|-------------|-----------------|--------------|------------|-------------|-----------------|--------------|------------|-------------|-----------------|--------------|------------|-------------|-----------------|--------------|
| | Complaints | Compliments | Representations | MP Enquiries | Complaints | Compliments | Representations | MP Enquiries | Complaints | Compliments | Representations | MP Enquiries | Complaints | Compliments | Representations | MP Enquiries | Complaints | Compliments | Representations | MP Enquiries |
| Children's Services | 102 | 28 | 11 | 42 | 93 | 32 | 5 | 30 | 119 | 40 | 6 | 46 | | | | | 314 | 100 | 22 | 118 |
| Adult Care & Health | 45 | 115 | 39 | 17 | 62 | 103 | 19 | 19 | 39 | 91 | 12 | 19 | | | | | 146 | 309 | 70 | 55 |
| Communities, PH, Environment and Prosperity | 26 | 12 | 10 | 14 | 24 | 6 | 16 | 33 | 33 | 11 | 11 | 21 | | | | | 83 | 29 | 37 | 68 |
| Highways, Infrastructure Development and Waste | 290 | 87 | 10 | 103 | 228 | 85 | 9 | 69 | 195 | 55 | 17 | 51 | | | | | 713 | 227 | 36 | 223 |
| Legal, Communications, and Human Resources | 5 | 12 | 2 | 2 | 8 | 30 | 1 | 1 | 1 | 13 | 1 | 0 | | | | | 14 | 55 | 4 | 3 |
| Devon Finance Services | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 5 | 0 | 0 | | | | | 0 | 5 | 0 | 1 |
| Digital Transformation & Business Support | 18 | 6 | 5 | 10 | 5 | 1 | 1 | 1 | 5 | 5 | 13 | 4 | | | | | 28 | 12 | 19 | 15 |
| Total | 486 | 260 | 77 | 189 | 420 | 257 | 51 | 153 | 392 | 220 | 60 | 141 | 0 | 0 | 0 | 0 | 1298 | 737 | 188 | 483 |

Appendix 2

Table 3

| Stage 1 complaints received 2018-19 | | | | | |
|--|------------|------------|------------|----|-------------|
| Service Area | Q1 | Q2 | Q3 | Q4 | YTD |
| Children's Services | 80 | 73 | 89 | | 242 |
| Adult Care & Health | 37 | 55 | 36 | | 128 |
| Communities, Public Health, Environment and Prosperity | 26 | 20 | 25 | | 71 |
| Highways, Infrastructure Development and Waste | 246 | 194 | 172 | | 612 |
| Legal, Communications, and Human Resources | 5 | 6 | 1 | | 12 |
| Devon Finance Services | 0 | 0 | 0 | | 0 |
| Digital Transformation & Business Support | 17 | 4 | 4 | | 25 |
| All services | 411 | 352 | 327 | | 1090 |

Table 4

| Stage 1 responses - % within 20 working days 2018-19 | | | | |
|--|----------------------|----------------------|----------------------|-----------------------|
| Department | Q1 | Q2 | Q3 | Total |
| Children's Services | 65% (51/79) | 64% (47/74) | 60% (47/78) | 63% (145/231) |
| Adult Social Care | 69% (25/36) | 72% (28/39) | 64% (28/44) | 68% (81/119) |
| CoPHEP | 100% (24/24) | 91% (21/23) | 92% (24/26) | 95% (69/73) |
| County Solicitors | 50% (2/4) | 60% (3/5) | 50% (1/2) | 55% (6/11) |
| Digital Transformation & Business Support | 80% (12/15) | 82% (9/11) | 100% (5/5) | 84% (26/31) |
| Highways, Infrastructure Development & Waste | 81% (216/266) | 82% (166/203) | 68% (117/171) | 78% (499/640) |
| Finance Services | n/a (0/0) | 100% (1/1) | n/a (0/0) | 100% (1/1) |
| Total | 78% (330/424) | 77% (275/356) | 68% (222/326) | 75% (827/1106) |

Table 5

| Stage 1 Outcome 2018-19 | Q1 | Q2 | Q3 | Total |
|-------------------------|------------|------------|------------|-------------|
| No Finding | 94 | 70 | 29 | 193 |
| No response at Stage 1 | 3 | 7 | 1 | 11 |
| Not upheld | 208 | 188 | 160 | 556 |
| Partly upheld | 84 | 66 | 65 | 215 |
| Resolved upon receipt | 3 | 2 | 4 | 9 |
| Upheld | 32 | 23 | 33 | 88 |
| Total | 424 | 356 | 292 | 1072 |

Table 6

| Most common complaint issues & % upheld 2018-19 | | |
|---|--|-----|
| Q1 | Delay in providing service | 16% |
| | Attitude/rudeness/inappropriate comments | 39% |
| | Quality of service provided | 44% |
| Q2 | Delay in providing service | 19% |
| | Inappropriate action or service | 31% |
| | Quality of service provided | 24% |
| Q3 | Quality of service provided | 38% |
| | Inappropriate action or service by team | 44% |
| | Attitude/rudeness/inappropriate comments | 38% |
| YTD | Inappropriate action or service by team | 41% |
| | Quality of service provided | 37% |
| | Delay in providing service | 22% |

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Table 7

| Stage 2 complaints received 2018-19 | | | | | |
|--|-----------|-----------|-----------|----|------------|
| Service Area | Q1 | Q2 | Q3 | Q4 | YTD |
| Children's Services | 14 | 19 | 20 | | 53 |
| Adult Care & Health | 0 | 0 | 0 | | 0 |
| Communities, Public Health, Environment and Prosperity | 0 | 0 | 7 | | 7 |
| Highways, Infrastructure Development and Waste | 42 | 30 | 20 | | 92 |
| Legal, Communications, and Human Resources | 0 | 2 | 0 | | 2 |
| Devon Finance Services | 0 | 0 | 0 | | 0 |
| Digital Transformation & Business Support | 1 | 1 | 0 | | 2 |
| All services | 57 | 52 | 47 | | 156 |

Table 8

| Stage 2 complaint responses - % in time 2018-19 | | | | | |
|--|------------|------------|------------|----|------------|
| Service Area | Q1 | Q2 | Q3 | Q4 | YTD |
| Children's Services | 0% | 33% | 0% | | 10% |
| Adult Care & Health | n/a | n/a | n/a | | n/a |
| Communities, Public Health, Environment and Prosperity | n/a | n/a | 50% | | 50% |
| Highways, Infrastructure Development and Waste | 60% | 83% | 41% | | 65% |
| Legal, Communications, and Human Resources | n/a | n/a | 100% | | 100% |
| Devon Finance Services | n/a | n/a | n/a | | n/a |
| Digital Transformation & Business Support | n/a | n/a | n/a | | n/a |
| Total | 40% | 71% | 34% | | 51% |

Table 9

| Stage 2 complaint outcomes - % upheld or partially upheld 2018-19 | | | | | |
|---|------------|------------|------------|----|------------|
| Service Area | Q1 | Q2 | Q3 | Q4 | YTD |
| Children's Services | 20% | 80% | 90% | | 70% |
| Adult Care & Health | n/a | n/a | n/a | | n/a |
| Communities, PH, Environment and Prosperity | n/a | n/a | 0% | | 0% |
| Highways, Infrastructure Development and Waste | 13% | 42% | 35% | | 35% |
| Legal, Communications, and Human Resources | n/a | n/a | 100% | | 100% |
| Devon Finance Services | n/a | n/a | n/a | | n/a |
| Digital Transformation & Business Support | n/a | 100% | n/a | | 100% |
| Total | 15% | 50% | 54% | | 46% |

Table 10

| LGSCO complaints received 2018-19 | | | | | |
|--|-----------|-----------|-----------|----|-----------|
| Service Area | Q1 | Q2 | Q3 | Q4 | YTD |
| Children's Services | 6 | 5 | 10 | | 21 |
| Adult Care & Health | 8 | 7 | 3 | | 18 |
| Communities, Public Health, Environment and Prosperity | 0 | 2 | 1 | | 3 |
| Highways, Infrastructure Development and Waste | 2 | 6 | 3 | | 11 |
| Legal, Communications, and Human Resources | 0 | 0 | 0 | | 0 |
| Devon Finance Services | 0 | 0 | 0 | | 0 |
| Digital Transformation & Business Support | 0 | 0 | 1 | | 1 |
| All services | 16 | 20 | 18 | | 54 |

Table 11

| LGSCO outcome 2018-19 | Q1 | Q2 | Q3 | Q4 | YTD |
|--|-----------|-----------|-----------|-----------|------------|
| Upheld - maladministration & injustice | 3 | 2 | 4 | | 9 |
| Upheld - maladministration No Injustice | 1 | 0 | 0 | | 1 |
| Not Upheld - No Further Action | 2 | 1 | 0 | | 3 |
| Not Upheld - No Maladministration | 3 | 1 | 2 | | 6 |
| Closed after initial enquiries - no further action | 3 | 1 | 4 | | 8 |
| Closed after initial enquiries - out of jurisdiction | 0 | 0 | 2 | | 2 |
| Premature | 0 | 1 | 5 | | 6 |
| Total | 12 | 6 | 17 | 0 | 35 |

Table 12

| LGSCO complaint responses - % in time 2018-19 | | | | | |
|--|-------------|------------|------------|-----------|------------|
| Service Area | Q1 | Q2 | Q3 | Q4 | YTD |
| Children's Services | 100% | 88% | 42% | | 65% |
| Adult Care & Health | 100% | 100% | 50% | | 87% |
| Communities, Public Health, Environment and Prosperity | n/a | 100% | n/a | | 100% |
| Highways, Infrastructure Development and Waste | 100% | 67% | 100% | | 80% |
| Legal, Communications, and Human Resources | n/a | n/a | n/a | | n/a |
| Devon Finance Services | n/a | n/a | n/a | | n/a |
| Digital Transformation & Business Support | 100% | 100% | 100% | | 100% |
| Total | 100% | 91% | 50% | | 79% |

Table 13

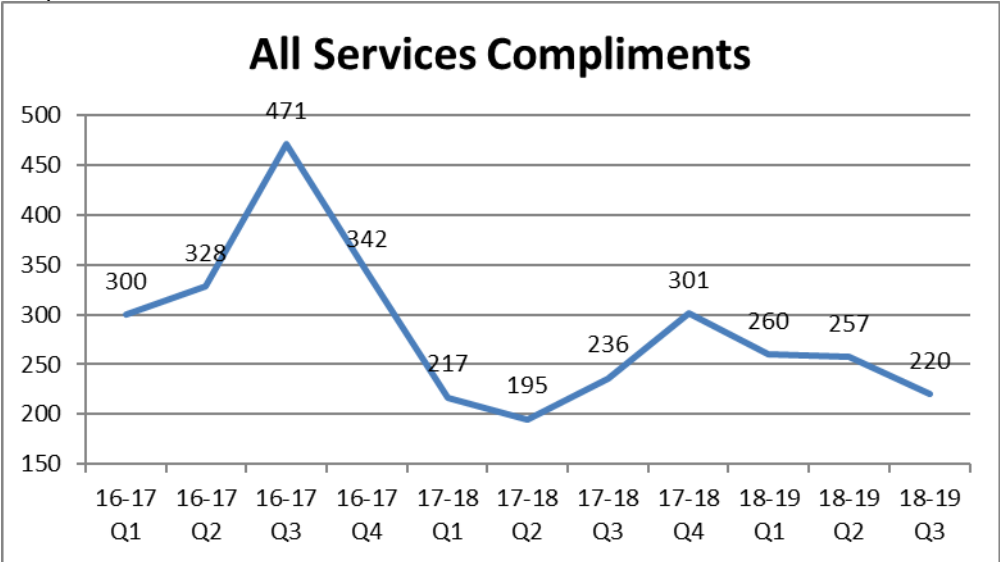
| MP Enquiry responses - % within 20 working days 2018-19 | | | | |
|--|----------------------|----------------------|----------------------|----------------------|
| Department | Q1 | Q2 | Q3 | Total |
| Children's Services | 84% (32/38) | 75% (33/44) | 60% (25/42) | 73% (90/124) |
| Adult Social Care | 93% (27/29) | 75% (15/20) | 82% (18/22) | 85% (60/71) |
| CoPHEP | 96% (23/24) | 87% (20/23) | 84% (26/31) | 88% (69/78) |
| County Solicitors | 100% (2/2) | 0% (0/2) | n/a (0/0) | 50% (2/4) |
| Digital Transformation & Business Support | 100% (10/10) | 100% (3/3) | 100% (1/1) | 100% (14/14) |
| Highways, Infrastructure Development & Waste | 81% (87/108) | 88% (68/77) | 72% (43/60) | 81% (198/245) |
| Finance Services | 100% (1/1) | n/a (0/0) | n/a (0/0) | 100% (1/1) |
| Total | 86% (182/212) | 82% (139/169) | 72% (113/156) | 80% (434/537) |

Table 14

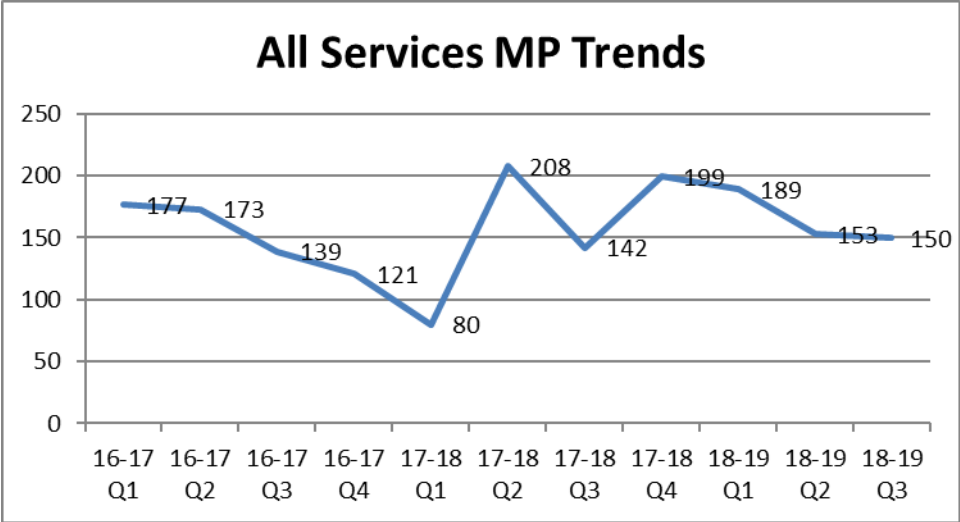
| Representation responses - % within 20 working days 2018-19 | | | | |
|--|--------------------|--------------------|--------------------|----------------------|
| Department | Q1 | Q2 | Q3 | Total |
| Children's Services | 80% (8/10) | 70% (7/10) | 40% (2/5) | 68% (17/25) |
| Adult Social Care | 81% (34/42) | 68% (17/25) | 55% (12/22) | 71% (63/89) |
| CoPHEP | 100% (8/8) | 93% (13/14) | 92% (11/12) | 94% (32/34) |
| County Solicitors | 0% (0/1) | 50% (1/2) | n/a (0/0) | 33% (1/3) |
| Digital Transformation & Business Support | 80% (4/5) | 100% (1/1) | 100% (2/2) | 88% (7/8) |
| Highways, Infrastructure Development & Waste | 78% (7/9) | 83% (10/12) | 92% (12/13) | 85% (29/34) |
| Finance Services | n/a (0/0) | n/a (0/0) | n/a (0/0) | n/a (0/0) |
| Total | 81% (61/75) | 77% (49/64) | 72% (39/54) | 77% (149/193) |

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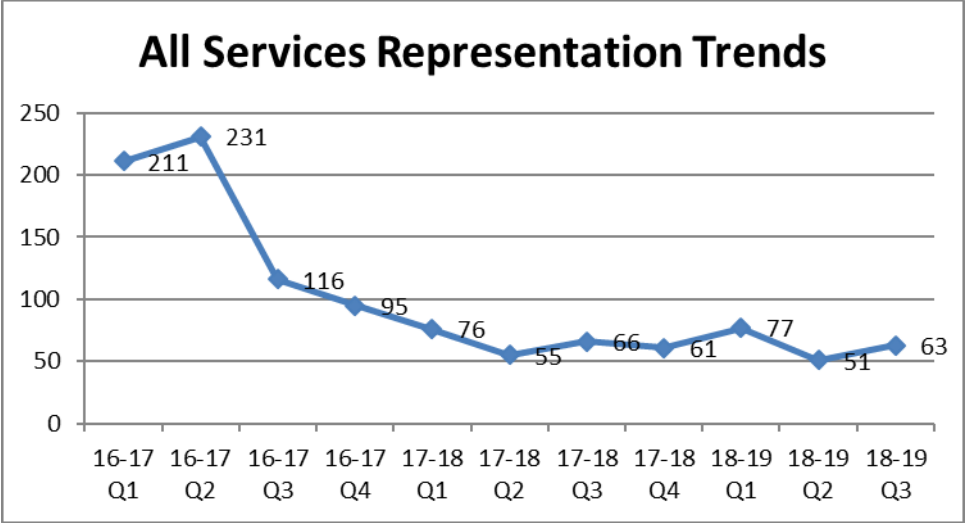
Graph 1



Graph 2



Graph 3



Appendix 3

Local Government and Social Care Ombudsman Recommendations – Q3 2018-19

Adult Care and Health:

- Carry out a thorough review and, if needed, revise the complainant's care plan.
- Remind staff that they must not be changing support without carrying out a thorough review and revision of the care plan;
- Identify any cases where the Council has not carried out a review in the last 12 months and put together an action plan to address this.
- Send a written apology to the complainants for the distress caused to them by failing to provide sufficient information for them to be fully aware of the potential costs of residential care before their mother was admitted to the care home
- Make a payment of **£150** to the complainant to acknowledge the distress and avoidable time and trouble caused to her; make a payment of **£100** to the other complainant for the distress caused to her.
- Review procedures to ensure service users and their families/appointees are provided with the Council's factsheets on charging for residential care and other relevant information to ensure they are fully aware of the potential costs of residential care when looking for a care home and before accepting a place.
- Consider how the option of a draft report can be included within the complaints process where appropriate
- Consider how the Council can address the complainant's concerns about comments attributed to her, whether by meeting with the complainant or adding an addendum to the report.

Children's Services:

- Send a written apology to the complainants as they were not afforded the opportunity to have their complaint dealt with through the statutory 3 stage process.
- Provide training for relevant employees about the Council's complaints process and eligibility for each process.

ETHICAL GOVERNANCE FRAMEWORK MONITORING

Report of the County Solicitor

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 and their views/feedback are summarised below.

| Meeting | Date | Co-opted Member/Observer |
|---|------------------|--------------------------|
| Public Rights of Way | 15 November 2018 | Mr Hipkin |
| County Council | 6 December 2018 | Mrs Saltmarsh |
| Cabinet | 12 December 2018 | Mrs Mayes |
| Health & Wellbeing Board | 13 December 2018 | Mr Hodgins |
| | | |
| Cabinet | 9 January 2019 | Ian Hipkin |
| Children's Scrutiny | 21 January 2019 | Ruth Saltmarsh |
| Local Enterprise Partnership Joint Scrutiny | 14 February | Ruth Saltmarsh |
| Investment & Pension Fund | 22 February 2019 | Ray Hodgins |
| Farms Estates | 25 February 2019 | Anne Mayes |
| Devon Education Forum | 20 March 2019 | Mr Hodgins |
| Health and Adult Care Scrutiny | 21 March 2019 | Sir Simon Day |

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

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| 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 | | | ✓ | ✓ | ✓✓✓✓✓✓✓✓✓✓ |
| Clear identification and declaration of interests (<i>where so declared</i>) | | | ✓ | ✓ | ✓✓✓✓✓ |
| 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.

- Meeting was well chaired, with appropriate and subtle humour in places;
- map slides were useful and informative (in addition to having them in the documentation), as this facilitated explanation and discussion.
- ECC and DCC Members present and with no name plates it was tricky working out who everybody was, especially with many officer's present and also public presence.
- the committee spent a significant amount of time discussing detail and issues which Councillors wished to raise, often with individual Councillors by the public. Whilst

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individuals' issues are important, the Committee should be concerned with the bigger picture – in other words acting more strategically;

- there were 20 items on the Agenda might be difficult to give the appropriate level of consideration to all these items;
- Clerk was very good at giving advice on procedure when necessary and this was readily accepted;
- suggest Chair and Clerk might discuss the best ways to get some of the issues resolved outside the meeting so that the committee could concentrate on being more strategic and also streamlining the agenda so that the meeting would be a bit less protracted;
- usual difficulties with the microphones, but Chair announced that a bid had been submitted for a new system;
- forenames used extensively;
- Councillors didn't always introduce themselves;
- meeting was well organised with good supportive paperwork;
- In this Item (5) a small number of people presented their petitions to the Council.... It was good to see that members of the public were able to do this. One was the Exeter Deaf Academy Council who presented a petition asking for support for their campaign that British Sign Language Interpreters be used for the News on main stream TV News programmes. I think those young people would probably have gone back to the Academy feeling really pleased with what they had done;
- Members of the public had been told the time limit to their presentations but no indication was given publicly as to what would happen next to their petitions;
- advice sought from the Chair and the County Solicitor about the behaviour of Labour Members who staged silent walk outs apparently in protest when a particular member spoke. The Member felt it was disruptive and discourteous. Whilst not noticing how many members of the public were present, I felt it was discourteous and undignified;
- surprising that Members appeared to wander in and out of the Council meeting....including in the middle of someone saying;
- observation regarding the microphones applies only to members of the public that spoke from the table in the middle of the Daw Room. For those sitting at the back it was not easy to hear what they were saying (use of microphones by the chair, councillors and others was fine);
- less coming and going by Members than at many other meetings I have attended;
- only one person appeared to go out to answer their phone which was good;
- microphones had something of a problem in that Members had some difficulty getting them to switch on: everybody attempted to use them;
- chair started the meeting on time and explained that the order of the Agenda would be slightly altered;
- officers presented their reports and responded fully to questions from Members;
- senior officers attended for the part of the meeting in which they were involved, using their time as effectively as possible;
- No issues reported – a very well run meeting;
- No name plates;
- An "in" joke made at the meeting;
- Intermittent use of Mic's (although meeting not webcast);
- Agenda referred to Minutes on a particular date but there was a second issue which not all Members had seen;
- only one apology for absence and meeting not as well attended as it might have been;
- small number of items on the agenda;

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- difficult to identify who was who in this meeting, even though name plates were used. Might have been helpful to from where the members were from and to have introduced the contributor;
 - microphone system not at its best;
 - lots of searching questions and positive suggestions and ideas;
 - meeting well chaired and a willingness to move forward in a constructive way;
 - Forenames used extensively; and
 - Speakers not always clearly identified.
6. 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.

JAN SHADBOLT

[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

Contact for Enquiries: K Strahan

Tel No: 01392 382264 Room: G31

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

Nil

Local Government Ethical Standards

**A Review by the
Committee on
Standards in Public Life**

**Committee on
Standards in
Public Life**



Dear Prime Minister,

I am pleased to present the 20th report of the Committee on Standards in Public Life, on the subject of ethical standards in local government.

The Committee has had a long-standing interest in local government, which was the subject of its third report, and which it has considered a number of times since then. This review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.

Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence.

It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.

Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of

appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public.

A number of these recommendations involve legislative change which we believe the government should implement. We have also identified 'best practice' for local authorities, which represents a benchmark for ethical practice which we expect that any authority can and should implement.

It is clear to us that local government in England has the willingness and capacity to uphold the highest standards of conduct; our recommendations and best practice will enable them to do so.

I commend the report to you.

Lord Evans of Weardale
Chair, Committee on Standards in Public Life

Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned 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.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.

There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.

Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be

written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.

List of recommendations

| Number | Recommendation | Responsible body |
|--------|--|------------------------------|
| 1 | The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government. | Local Government Association |
| 2 | The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests. | Government |
| 3 | Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches. | Government |
| 4 | Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority. | Government |
| 5 | The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy. | Government |
| 6 | Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct. | Government |

| Number | Recommendation | Responsible body |
|-----------|--|------------------------------------|
| 7 | Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”. | Government |
| 8 | The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once. | Government |
| 9 | The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes. | Government |
| 10 | A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction. | Government |
| 11 | Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed. | Government / all local authorities |
| 12 | Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions. | Government |
| 13 | Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct. | Government |

| Number | Recommendation | Responsible body |
|--------|---|------------------|
| 14 | The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority. | Government |
| 15 | The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied. | Government |
| 16 | Local authorities should be given the power to suspend councillors, without allowances, for up to six months. | Government |
| 17 | The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary. | Government |
| 18 | The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished. | Government |
| 19 | Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks. | Parish councils |
| 20 | Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code. | Government |
| 21 | Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority. | Government |
| 22 | The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal. | Government |

| Number | Recommendation | Responsible body |
|--------|---|--|
| 23 | The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website. | Government |
| 24 | Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998. | Government |
| 25 | Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules. | Political groups National political parties |
| 26 | Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards. | Local Government Association |

List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

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 as a whole, 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.

Standards bearers

The local standards regime for councils has faced allegations that it is insufficiently robust. Will the 20th report from the Committee on Standards in Public Life on ethics in local government lead to positive change? **Heather Jameson** reports

Last week the former leader of Devon CC, Cllr Brian Greenslade was refused permission to challenge a ruling by the council's standards committee. Under the committee's ruling, he can no longer visit council premises unless he gives prior warning and is accompanied by an officer.

The case centred on whether the council had the legal power to exclude him from its premises – and the court ruled it did and it could. Until now it has not been clear – but it could be in future after the latest report on standards called for clarity from the Government on the issue.

It is just one of the recommendations in the 20th report from the Committee on Standards in Public Life on ethics in local government. More crucially, it calls for local standards committees to have more sanctions when it comes to dealing with councillors in breach of standards rules – but it doesn't recommend a return to a centralised system.

Ever since the Standards Board for Local Government was abolished in 2012, the local standards regime has faced allegations that it lacks teeth. While local standards committees may pontificate over the behaviour of councillors, they have very little actual power – particularly against councillors who refuse to abide by the rules.

The vast majority of members and officers behave with integrity, but when they don't, the impact can resonate round the sector for years to come. The reputation of the sector hangs on the misdemeanours of the few.

The committee's report, launched yesterday, calls for more powers claiming: 'The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.'

'Local authorities should therefore be given the power to suspend councillors without allowances for up to six months.'

But what the report doesn't do is call for the return of the Standards Board, or the introduction of another centralised body. It says: 'There is no reason to reintroduce a centralised body and local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government (see box).'

It is a balance that takes into account views from across the sector. Last summer, *The MJ* reported on evidence put forward to the committee, with a clear difference between the views of officers and members.

Some of the recommendations include:

- Local authorities should be given the power to suspend councillors, without allowances, for up to six months
- Councillors should be presumed to be acting in an official capacity in their public conduct, including on social media
- Councillors should have the right to appeal to the Local Government Ombudsman
- The Government should clarify if councillors may lawfully bar councillors from council premises
- The LGA should create an updated model code of conduct
- Those standing for public office should not have to publicly reveal their address
- Declaration of interest should extend to unpaid, charity or policy related roles
- Councillors should record gifts and hospitality of over £50 in value, or £100 over a year
- Independent Persons should be appointed for a fixed term of two years, renewable once
- Councillors should only be suspended if the Independent Person agrees
- Local authorities should provide legal indemnity to Independent Persons
- Parish council clerks should have an appropriate qualification
- Disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal
- Whistleblowing policies should give specific contacts for the external auditor
- Political groups should give councillors compulsory induction training
- LGA peer reviews should include councils' processes for maintaining ethical standards

The Society of Local Authority Chief Executives (SOLACE) argued for a tougher regime with more independent monitoring and a 'power of recall' similar to that faced by national politicians.

Writing in *The MJ*, SOLACE managing director Graeme McDonald suggested the

pressures of austerity and polarised politics had contributed to 'create an environment where individuals with a disregard for proper standards can act more easily, but one where others can be pushed closer or even over that line without intention'.

Local Government Association

(LGA) chairman Lord Porter suggested the standards regime failed to protect councillors who were increasingly subjected to physical threats and online abuse.

The LGA submission said: 'The existing, locally-led approach to standards is the

No entry: Devon CC's standards committee decision was challenged in court



The seven Principles of Public Life:

Selflessness
Integrity
Objectivity
Accountability
Openness
Honesty
Leadership

Best practice recommendations include:

Prohibitions on bullying and harassment, including a definition, should be included in codes of conduct

The code should require councillors to comply with standards investigations, and prohibit malicious or trivial allegations from councillors

Codes should be reviewed each year, and should be easily available on the council website

Hospitality registers should be published quarterly

Standards decisions should be published on council websites as soon as possible

Councils should report on separate bodies they have set up as part of their annual governance statements. These bodies should abide by the Nolan Principles

Senior officers should meet political group leaders or whips regularly to discuss standards issues

correct approach and must be maintained.

'While we are not complacent about this issue it should be recognised that ethical standards across local government are very high.'

As a back up to the sanctions – and to ensure councillors are also protected – the committee has called for councillors to be given the right to appeal to the Local Government Ombudsman.

Dr Jane Martin, an independent member of the committee, told *The MJ*: 'We don't want another centralised body but the current system has no teeth, it needs strengthening.' But she said the key was the importance of having an ethical culture within individual authorities. 'As well as making technical changes which will strengthen the system, it's about local authorities strengthening their ethical culture.'

As a result, the report highlights best practice local authorities can adopt, including updating the code of conduct regularly and ensuring it is easily accessible on the website.

The report also calls for the LGA to create an updated code of conduct that can be adopted across the board, with amendments for local circumstances. Dr Martin said: 'As well as consistency, the code does need to be updated. It needs to be more practical and it needs to be updated to take social media into account.'

And then there is recommendation 17 – for the Government to clarify if councils may lawfully ban councillors from their premises. Devon, along with other councils, will wait to see if the Government takes the committee report on board. ■

districtview



By Lawrence Conway

A fellow chief executive once said to me that after you had been in the job a few years, you start to notice how things from the past keep coming back around again. That colleague had been in the job for 15 years.

Having got my own head around CCG/NHS ICS's, STP's and five year plans, and having explained the intentions and complexity to my cabinet portfolio holder, I am now faced with a new 10-year plan from the NHS.

I think we are at about year three of the last one and I'm not sure that it has been assessed for its success, but I am interested to hear my health colleagues discuss the issues of prevention, social care, housing and employment in a way that might mean some potential progress across the wider determinants of health.

These wider determinants and the positive impact prevention can have on our communities and the NHS budget is something district councils have been promoting for quite some time. It does however feel like *déjà vu*.

New faces, new ideas and new ways of working seem to kick the action back down the road for a further period of time. What was new becomes old very quickly and plans become redundant in a much shorter space of time.

Better qualified individuals have commented on the pros and cons of short-termism – and many more have varying views on the issues that currently face the country.

Corporate memory in the public sector is a valuable, scarce resource often undervalued, yet it is this earned wisdom that helps us avoid the pitfalls of the past. Is the place we are in today any better than it was 10 years ago? Is life better for the people we serve? I'm sure in many areas it is, but there are also many where this may be questionable.

Making a plan and sticking to it seems to be outdated thinking. Perhaps it takes a crisis for anyone to listen, especially the old hands. At some point, they will not be around anymore, and those that are may be conditioned to the short-term planning that seems to prevail at present.

District councils will no doubt continue to play their part in ensuring our collective knowledge past, present and future, informs our long-term future plan for our local communities' prosperity. ■

Lawrence Conway is chief executive of Lakeland DC

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

Standards Committee

Members:

County Councillors:

Councillor Chugg (Chair)

Councillor Asvachin

Councillor Bloxham

Councillor Polly Colthorpe

Councillor Alan Connatt

Councillor John Mathews

Councillor P Twiss

Co-opted Members:

Sir Simon Day

Mr Hipkin

Ray Hodgins

Anne Mayes

Ruth Saltmarsh

The Council's 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 also. More information about the Committee and its terms of reference, is in the Council's Constitution and can be seen on the [website](#).

The Committee acts as champion (and guardian) of the Council's ethical standards and is responsible for promoting / maintaining high standards of conduct by both elected and co-opted Members of the Council. 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 Committee met 4 times in 2018/19 with 3 ordinary meetings and 1 convened to consider the outcome of an investigation. Co-opted Members attended a further 23 meetings of the Council, Cabinet or Committees to observe and monitor compliance with the Council's ethical governance framework. A number of practical observations were made about speaking, use of microphones, identification, use of nameplates and punctuality, but no specific behaviours were observed which might have resulted in a breach of the code or would warrant further action. Steps were taken to address those practical matters identified.

The Council has in place appropriate arrangements for dealing with complaints against Members and a mechanism to deal with any 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 Council's processes, the Code of Conduct and the complaints process can be found on the Council's website at:

<https://new.devon.gov.uk/democracy/councillors-nav/making-a-complaint-about-a-devon-county-councillor>

The Committee recently approved additional guidance to help the Council deal with complaints about sensitive personal issues, such as alleged harassment (including sexual harassment), bullying or victimisation alongside issues of confidentiality and / or anonymity of the complainant. This included an acceptable conduct and guidance note to be read alongside the Code of Conduct and the Council's Acceptable Behaviour Policy.

Agenda Item 9

11 complaints were received under the Members Code of Conduct alleging breaches of the code (there were 3 complaints in relation to one incident and 2 complaints in relation to a second) relating to undemocratic behaviour, failing to treat others with respect, speaking rudely to Members of the public, failure to deal with a constituent enquiry, intimidatory behaviour, bringing the Council into disrepute, publication of 'erroneous' statements, misuse of email and displays of aggressive behaviours.

Following an initial assessment of each complaint involving the Independent Person appointed by the Council, no further action was taken on 10 of the complaints on the basis that either there had been no material breach of the code that would warrant further investigation, or that the Councillor had been acting in a personal capacity and in one case the Subject Member apologised and the complaint was subsequently withdrawn.

There was 1 case where formal investigation was required, following consultation with the Independent Person, relating to the subject Member failing to apply one or more of the Principles of Public Life, in particular, they had allegedly breached the provisions set out at paragraphs 1.3 (i), 4(a), 5(b), 5(c), 5 (h) of the Code in that they failed to promote and support high standards of conduct when serving in a public post, failed to treat others with courtesy and respect, acted in a way which may have caused the County Council to breach a statutory duty or any of the equality enactments, that their actions could be characterised as bullying or intimidation and/or a potential abuse or misuse of power and that they had conducted themselves in a manner to bring their office and/or the Council into disrepute.

The outcome was heard by the Committee in July 2018, who determined there had been a breach of the Code of Conduct in relation to all the above allegations. The Committee agreed a number of sanctions including a formal censure, recommendations to remove the Subject Member from Committee / Sub Committees and outside bodies, have access to County Council premises restricted and undertake relevant training.

The Committee continues to monitor the operation of the Council's feedback and complaints processes and receives reports on compliments, representations and complaints received under the corporate feedback system. Whilst not being complacent, the highly satisfactory results of that monitoring were again commendable. The last report received by the Committee (Q2 of 2018/2019) showed a decrease in complaints at all stages (1, 2 and 3) and the number of compliments had remained fairly static between quarter 1 and 2. There had been a drop in MP letters received and the number of representations received. The number of Local Government and Social Care Ombudsman complaints had seen a small rise from 17 in Q1 to 20 in Q2.

Following the outcome of the above complaint and the resolution of the Standards Committee, the Council arranged Sexual Harassment Training for all Members of the Council. The 4-hour workshop aimed to increase knowledge and confidence in recognising, reporting, responding to and preventing sexual harassment and was delivered by external providers. It was an interactive session exploring Members' roles as a Community Leaders, increasing knowledge of the law, prevalence of the issue, increasing understanding of the impacts and building confidence to recognise, challenge and prevent such incidents taking place.

Members were also encouraged to watch a recent documentary / social experiment which explored what sexual harassment was and how different people interpret behaviours at work, as well as providing some clear guidance in respect of the law and definition of sexual harassment.

Agenda Item 9

The Committee acknowledged that no procedural issues had been raised by the Local Government and Social Care Ombudsman following complaints made to them during 2017/2018 (following the Ombudsman's Annual Review Letter). There had been a decrease in the number of complaints to the Ombudsman in 2017/18 to 102 (118 in 2016/2017 and 148 in 2015/2016) which was a positive shift.

Of the 98 Devon County Council complaints the Ombudsman made decisions on in 2017/18, 32 were progressed to a full investigation and of these 17 were upheld; this represented a 53% uphold rate for complaints that progressed to full investigation.

During 2018 /19 the Council agreed a policy that Members of the Council would undergo a Basic DBS, notwithstanding a Councillor may undertake certain roles which, in line with the legislation, required them to undergo an enhanced DBS check, contributing to good governance, transparency to the public and heightening confidence in Elected Members. The Council also approved a Risk Assessment which would be followed in the event of a positive disclosure. The Risk Assessment has regard to the Council's responsibilities for safeguarding and corporate parenting but also the need for Councillors to maintain the highest standards of conduct in both their personal and professional lives.

Both the policy guidance and risk assessment forms part of the Constitution. The process to DBS check all Members commenced in January 2019.

In last year's Report, it was noted that the Committee had responded to the Government consultation on proposals to update the disqualification criteria for both Councillors and Elected Mayors to bring it into line with both modern sentencing practice and the high standards of behaviours the electorate have a right to expect. The Government have now responded and where behaviour has led to a conviction or enforcement action resulting in an individual being subject to one or more of the following: the notification requirements in the Sexual Offences Act 2003; a Sexual Risk Order; a Civil Injunction; a Criminal Behaviour Order, the Government is looking to shortly legislate to ensure that they are disqualified from standing for office as local authority Members or Mayors.

The proposals would not apply retrospectively.

Ethics and Ethical Governance a review was carried out by the Devon Audit Partnership in early 2018 and confirmed that the Council has a robust ethical framework in place, set out in the Code of Corporate Governance (Constitution), which takes account of statutory obligations, Government guidance as well as local Codes of Ethics. The framework is based on the principles & sub-principles of corporate governance contained within the CIPFA/SOLACE Framework (2016). The review found there to be clear dissemination, delivery, monitoring and maintenance of ethical standards. Particular areas of strength identified was the monitoring being carried out by the Standards Committee and Member induction training.

Whilst a few recommendations were made in that Report, they sought to further enhance what is already robust ethical frameworks, e.g. formalising a sub-delegation within the scheme of delegation.

A high standard was reported which means the system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place.

Agenda Item 9

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

During 2018/19 the Monitoring Officer continued to hold 'open house' sessions for Members prior to Council meetings to discuss ethical governance issues:

- meetings procedures / rules of debate and speaking*
- declarations of Members' Interests & Conduct Issues*
- representing the Council on other organisations*

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 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). The main issue for 2018/19 will be the continuation of training and development activities, finalising the DBS checks process and keeping a watching brief for new regulations anticipated in early 2019, which may mean an overhaul of current regimes. Early indications were that new features of the guidance could be stronger roles for monitoring officers, more sanctions available to local authorities (many LA submissions made the point that current sanctions didn't go far enough), potential for a national code of conduct, guidance on interests (e.g. current code not recognising family members), strengthening the role of the Independent Person, guidance on bullying and harassment and clarity on acting in what capacity (private verses acting in public office as a councillor). The Committee awaits this with interest and will review in full on its receipt including any revision to current processes required.

A [third] ethical governance audit and self-assessment survey of Councillors and Officers is planned over the next few months – to gauge both the understanding of newly elected Members and the effectiveness of Induction Training and Member Development provided following the 2017 elections.

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