



Phil Norrey Chief Executive

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To: The Chair and Members of the

Standards Committee

County Hall Topsham Road Exeter Devon EX2 4QD

(See below)

Your ref: Date: 9 March 2020 Our ref:

Please ask for: Karen Strahan 01392 382264

Email: karen.strahan@devon.gov.uk

STANDARDS COMMITTEE

Tuesday, 17th March, 2020

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

AGENDA

PART I - OPEN COMMITTEE

- 1 Apologies for absence
- 2 <u>Minutes</u>

Minutes of the meeting of the Committee held on 4 November 2019, 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 CONSIDERATION

4 Customer Service Centre - Call Data and Training

Customer Services Centre Manager to attend the meeting and report on Call Data and Training.

Electoral Divisions(s): All Divisions

5 Standards Committee Annual Report for 2019/20 (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 2019/20 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 2019/20 be approved and published.

Electoral Divisions(s): All Divisions

6 <u>Model Code of Conduct - Update</u> (Pages 7 - 8)

Report of the County Solicitor: Chief Officer for Legal, Human Resources and Communications (CSO/20/8) giving a position statement on the proposed Model Code of Conduct, attached.

Electoral Divisions(s): All Divisions

STANDING ITEMS

7 <u>Ethical Governance Framework: Monitoring</u> (Pages 9 - 12)

Report of the County Solicitor: Chief Officer for Legal, Human Resources and Communications (CS0/20/3) on co-opted members' attendance at meetings of the Council, Cabinet and Committee meetings, monitoring compliance with the Council's ethical governance framework, attached.

Electoral Divisions(s): All Divisions

MATTERS FOR INFORMATION

8 Local Determination of Complaints

County Solicitor: Chief Officer for Legal, Human Resources and Communications to report on complaints or allegations of a breach of the Council's Members' Code of Conduct received since the last meeting, if any.

Electoral Divisions(s): All Divisions

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

9 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.

10 <u>Allegation of Breach of Members' Code of Conduct</u> (Pages 13 - 48)

Report of the County Solicitor: Chief Officer for Legal, Human Resources and Communications and Monitoring Officer, attached.

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

Membership

County Councillors

Councillors J Mathews (Chair), M Asvachin, R Bloxham, P Colthorpe, A Connett, C Slade 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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In addition, 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. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chair or the Democratic Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use Facebook and Twitter or other forms of social media to report on proceedings at this meeting. An open, publicly available Wi-Fi network (i.e. DCC) is normally available for meetings held in the Committee Suite at County Hall. For information on Wi-Fi availability at other locations, please contact the Officer identified above.

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Induction loop system available

NOTES FOR VISITORS

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SatNav - Postcode EX2 4QD

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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).

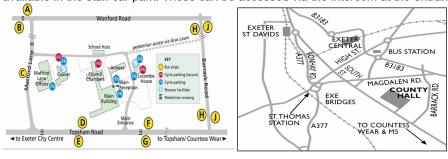
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NB 🔼



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First Aid

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



The Standards Committee...

2019/20

......believes that high ethical standards are crucial in the work of any public body and that robust application is particularly important. This summary report shows how the Committee has undertaken these 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 John Mathews (Chair) Councillor Marina Asvachin Councillor Ray Bloxham Councillor Polly Colthorpe Councillor Alan Connett Councillor Colin Slade Councillor Phil Twiss Co-opted Members: Sir Simon Day Mr Ian Hipkin Mr Ray Hodgins Mrs Anne Mayes Mrs 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. 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. 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.

In 2018/2019, the Committee approved additional guidance to help the Council deal with complaints about sensitive personal issues, such as alleged harassment (including sexual harassment), bullying, or

The Committee met 4 times in 2019/20 with 3 ordinary meetings and 1 convened to consider a complaint and whether the matter warranted a full investigation. Co-opted Members attended a further 21meetings of 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, overuse of forenames, use of nameplates, and punctuality, but no specific behaviours were observed which might have resulted in a breach of the code or that would warrant further action. Steps were taken to address those practical matters identified, including the installation of new microphones and briefing with Committee staff.

Page 1

Report Annual tandard

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.

In November 2019 the Code of Conduct was amended again to reflect best practice guidance issues by the Committee on Standards in Public Life. This included the expectation that Members were expected to comply fully with any formal Standards process / investigation that might occur.

Between 1 April 2019 and 31 March 2020, 7 complaints were received under the Members Code of Conduct alleging breaches of the Code. These related to the promotion of an election candidate in the pre-election purdah period and failing to treat others with courtesy and respect, failing to respond to constituent queries, intimidating and disrespectful behaviour, improperly conferred an advantage, failed to observe the 'principles of public life' and act in the public interest, damaged the reputation of the Council, bullying and intimidatory behaviour.

Following an initial assessment of each complaint involving the Independent Person appointed by the Council, no further action was taken on 4 of the complaints on the basis that either there had been no material breach of the code that would warrant further investigation, there was no public interest in progressing the complaint further or that the Councillor was not acting in the capacity of a County Councillor.

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 4(a), 5(c) and 5 (h) of the Code in that they failed to treat others with courtesy and respect, that their actions could be characterised as bullying or intimidation 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 2019, who determined there had been a breach of the Code of Conduct in relation to 4(a) and 5(h), but not 5(c). The Committee agreed sanctions that the Subject Member issue a formal and robust apology to the complainants, that training be organised focusing particularly on anger management and the use and knowledge of Council processes and that the Subject Member did not participate in the Council's Spotlight Review until such times that the agreed actions had been undertaken.

The outcome of one of the complaints (2 subject Members) was due to be considered by the Committee on 17 March 2020.

Members also determined that an amendment be made to the Councillor complaints process to ensure that a Subject Member (who had a complaint made against them and the matter proceeded to a full investigation) had the right to see both the draft Report and the final Report and the opportunity to comment and their feedback be presented to the Standards Committee. The previous practice was to only see the draft Report and comment accordingly.

The Committee continues to monitor the Council's feedback and complaints processes and considers regular reports on compliments, representations and complaints received under the corporate feedback system. Whilst not being complacent, the results of that monitoring were again highly satisfactory. The last report received by the Committee (Q2 of 2018/2019) showed the number of stage 1 complaints continuously reduced through most of 2018-19 and had remained low in quarters 1 and 2 of 2019-20. There was also a continual decrease in Stage 2 complaints received quarter on quarter in 2018-19 and the number received in 2019-20 has remained low.

The number of compliments recorded in quarter 1 was higher than in each of the quarters in 2018-19, which was also encouraging.

The Committee considered the Report 'Local Government Ethical Standards - A Review by the Committee in Public Life' and had previously submitted a response to the Consultation. A number of the recommendations (26 in total) involved legislative change which would be a matter for Government to implement.

The Committee discussed the identified 'best practice'. Much of this was already in train, for example: prohibitions on bullying and harassment in codes of conduct; regular meetings with leadership officers and compliance with the best practice suggestions regarding Independent Persons; consultation mechanisms; publication timescales of decision notices; and accessible guidance on the website. However a number of additional suggestions were made that the Council adopted such as amending the code of conduct to require Councillors to comply with any formal standards investigation, agreeing to review the code of conduct annually, publish the gifts and hospitality register which was now available on Members profile pages and the writing of a public interest test which was also available on the website.

There had been a drop in MP letters received and the number of representations received. Additionally, the number of Local Government and Social Care Ombudsman complaints had seen a decline in numbers received in 2018-19, which continued into the first half of 2019-20.

The Committee had also asked that the Leadership Group be asked to re-emphasise to their management teams the importance of dealing with complaints in a timely manner.

The Committee acknowledged that no procedural issues had been raised by the Local Government and Social Care Ombudsman following complaints made to them during 2018/2019 (following the Ombudsman's Annual Review Letter). There had been a slight increase in the number of complaints to the Ombudsman in 2018/19 to 116, following decreases in the preceding three years (102 in 2017/2018, 118 in 2016/2017 and 148 in 2015/2016).

Of the 110 Devon County Council complaints the Ombudsman made decisions on in 2018/19, 34 were progressed to a full investigation with only 22 (20%) of those upheld, which is a slight but not significant increase than the previous year, where 17% were upheld. Of the 22 complaints investigated and upheld there were 19 where the Ombudsman felt that the fault caused an injustice and recommended a remedy.

The Committee considered the results of a fourth Ethical Governance Survey which was conducted between 27 August 2019 and 20th September 2019 via an online multiple-choice survey from Members, Leadership Group, Heads of Service and their direct reports to demonstrate how the Council was supporting ethical governance in its policies, procedures, culture and values. This was following similar surveys carried out in 2009 and 2013.

The overall response rate was 60-65%, with 47% (or 28 out of the 60 Councillors) responding. 63 officers also responded (which would be in the region of 75%). The majority of responses to each question were positive, particularly in relation to engagement with democracy and the local community. Both Councillors and Officers felt that the Council considered ethical conduct and high standards as an important component of its vision for the future.

One point of note related to training on the code of conduct where some 34% of respondents said they had not received such training. However further analysis showed that this was in fact only 1 Councillor who said they had not received any training. Three further Members said they had received training 'to some extent', so it was felt there might be more work to do in this regard.

The Committee also welcomed the qualitative responses received which again appeared to give reassurance in terms of good standards of Governance.

Members also asked that future Standards Annua Reports be published on the Council's 'Inside Devo publication. During 2018/19 the Council agreed a policy that Members of the Council would undergo a Basic DBS, notwithstanding that 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. Both the policy guidance and risk assessment formed part of the Constitution.

All Devon County Councillors have now undergone the DBS check process and a list is published on the website.

In line with one of the best practice recommendations from the 'Local Government Ethical Standards - A Review by the Committee in Public Life' the Committee reviewed its Code of Conduct, noting it had been amended to reflect that best practice guidance to include the matter of Members complying with any formal Standards process / investigation that might occur.

Whilst no changes to the Code were suggested, Members commented that a unified code for all Authorities would be beneficial for those in twin or triple hatted positions.

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 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 2019/20 will be the continuation of training and development activities and watching for the new regulations and a Model Code of Conduct anticipated in the summer of 2020, which may mean an overhaul of current regimes. Early indications were that the guidance could include a stronger role for Monitoring Officers, more sanctions available to local authorities (many Local Authority 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 (fourth) ethical governance audit and self-assessment survey of Councillors and Officers is planned for 2022 to gauge both the understanding of newly elected Members and the effectiveness of Induction Training and Member Development provided following the 2021 quadrennial elections.

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.

CSO/20/8 Standards Committee 17 March 2020

New Model Code of Conduct Update

Report of the County Solicitor

<u>Recommendation:</u> that the update and timeline outlined below be noted and the Committee agree to establish a special meeting (in April) to consider the Consultation on the Model Code of Conduct from the Local Government Association (LGA).

Introduction

- 1. Members will be aware that this Committee had previously considered the Report of the Committee on Standards in Public Life 'Local Government Ethical Standards A Review by the Committee in Public Life'. This final report was published on 30 January 2019.
- 2. Members will also further recall that this Committee submitted a response to the original Consultation.

Background

3. Whilst the Report covered a number of issues surrounding behaviours and governance in public life, there was a recommendation that the LGA should create an updated model code of conduct. This should be in consultation with representative bodies of Councillors and officers of all tiers of Local Government and representatives thereof.

<u>Update</u>

- 4. The Board of the LGA on the 11th September 2019 agreed to commence reviewing the Code ahead of central Government's response to all the recommendations of the report.
- 5. The work being undertaken by the LGA is part of a wider programme on civility in public life and in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement.
- 6. The LGA appointed Hoey Ainscough through a competitive exercise to work with them to review the Code.
- 7. If the code is completed before any Government response, Local Authorities will be able to adopt the Code. However, some of the recommendations in the report, for example, the power to suspend Councillors (recommendation 16), requires legislation which means that such provisions cannot be included in the Code.
- 8. The first stage of the review has been completed. This was the gathering of views and good practice examples, and a series of workshops were held with national representative bodies (Monitoring and Democratic Services officers and elected members from the main parties), to review what worked and develop some broad principles.
- g. Three workshops took place in January 2020 and there were mutual concerns expressed by both Members and Officers about the current codes, inconsistences in application, lack of guidance and sanctions.

- 10. The aim of the LGA is to develop a code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It will set out the duties and expectations of persons in public office as well as their rights, particularly their right to be protected from abuse and intimidation resulting from their undertaking of public office.
- 11. In terms of the Government response to the recommendations of the original report, the Ministry of Housing, Communities and Local Government (MHCLG) have scheduled a network meeting with Monitoring officers for 13 March 2020, where it was hoped that an update would be received.

<u>Timeline</u>

- 12. The next stages of the review process are set out below.
 - 3 February –2 March preparation of draft code and report for LGA Board;
 - 11 March Draft Code to Board for consideration and approval for consultation;
 - W/C 16 March launch of consultation period (6 weeks up to Friday 24 April);
 - W/C 16 March Round table discussion with key stakeholders (including LGO);
 - RISK 26 March start of pre-election period for local government elections;
 - 24 April close of consultation;
 - 27 April 15 April (3 weeks) review of consultation findings and final drafting;
 - 15 May deadline for final draft from Hoey Ainscough;
 - w/c 18 May Drafting of report for Board /final edits to code;
 - 25 May LGA deadline for submission of report for Board;
 - 3 June Final copy to Board for approval;
 - 8 June LGA design and print and final editing for launch; and
 - 30 June Launch at the first day of LGA conference.

Summary and Conclusion

- 13. This is a really significant issue and could be the first major rewrite of a model code of conduct for a number of years. It is therefore important that this Committee has the opportunity to comment on the proposals.
- 14. Given the consultation is due to launch the week commencing the 16th March and this Committee meets on the 17th March, it is suggested that a special meeting is arranged in mid April to consider the revised Code and submit a response to the Consultation before the deadline of 24th April 2020.
- 15. 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

Background Paper Date File Reference

Nil

CSO/20/03 Standards Committee 17 March 2020

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
Exeter Highways and Traffic Orders Committee	11 November 2019	Mr Hodgins
Cabinet	13 November 2019	Mrs Mayes
Devon Education Forum	20 November 2019	Mr Hodgins
Development Management	27 November 2019	Mrs Saltmarsh
Health and Wellbeing Board	16 January 2020	Mr Hipkin
SACRE	13 February 2020	Mrs Saltmarsh
Cabinet	14 February 2020	Mrs Mayes
Council	20 February 2020	Sir Simon Day
Farms Estate	24 February 2020	Mr Hipkin

3. The table overleaf 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				√	44444
Attendance of					
Members					
Appearance and					
presentation					
Speeches: clear,			1	1	\
relevant,				✓	
understandable, audio					
levels, use of					
microphones etc.,					
Use of appropriate					
language					
Members' Conduct &			\checkmark		
Behaviour					
Clear identification				//	/////
and declaration of					
interests (where so					
declared					
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
 - Some Councillor's talking between themselves, making it difficult to hear who was speaking;
 - Nameplates useless for those at the back. Would be helpful if officials are invited to speak using their name and role rather than just their first name, which were frequently used;
 - Hard to hear what was said by the Councillors who sit with their backs to us (quite a few people at the back on this occasion);
 - Good to see water and glasses on the back table;
 - Forenames used extensively, so difficult to know who was speaking;
 - Meeting well attended. There was a delay in the start of the meeting for technical reasons so meeting not webcast although staff used roving microphones very efficiently. The delay was explained by the Chair to Members and the public at the outset. There were representatives from the local community for one agenda item who wished to object and they each used their allocated time correctly. The Chair chaired the meeting very effectively, with many Members expressing their opinions and paying attention to the matters the Objectors had raised. The Chair paid attention to some of the key points the Objectors raised, as well as the suggestions and recommendations made by Members. In

all agenda items Members raised a number of queries and concerns and made suggestions and recommendations. The meeting appeared to be constructive and forward thinking with some positive suggestions being made and the Chair was good at keeping Members to the point and being focussed on the tasks of the meeting;

- The Chair and other members of the committee handled sensitive issues with great compassion and presentations provided a great deal of quantitative information, with useful interpretation;
- Meeting ran very smoothly;
- Some Members and Officers were scruffily dressed;
- Meeting was well chaired. There was good, critical discussion which questioned assumptions and decisions;
- Well attended (SACRE) and well chaired;
- Valuable contributions by Diocesan Education Officer and Adviser;
- Meeting very positive, constructive and for those who wanted help and advice with particular issues, was very helpful. Many positive contributions and a commitment to doing things well, challenge, try, promote information and get people more involved.
- There were approximately 40 people but a feeling of involvement and commitment from those who attended....... without doubt one of the most friendly meetings I have attended.
- 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

Background Paper Date File Reference

Nil

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.