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To: The Chair and Members
of the Standards
Committee

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Date: 14 March 2022

Contact: Karen Strahan 01392 382264

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STANDARDS COMMITTEE

Tuesday, 22nd March, 2022

A Teams meeting of the Standards Committee is to be held on the above date at 2.15 pm at Teams Meeting to consider the following matters.

Phil 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 4 November 2021, 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 **Streamlining of Councillor Complaints Process** (Pages 1 - 18)

Report of the County Solicitor (Interim) (CSO/22/7) proposing a streamlining of the current Councillor Complaints Guidance, attached.

Electoral Divisions(s): All Divisions

5 **New Devon County Council Code of Conduct** (Pages 19 - 32)

Report of the County Solicitor (Interim) (CSO/22/3) outlining a proposed new Code of Conduct for adoption by the Council, attached.

Electoral Divisions(s): All Divisions

6 **Standards Committee Annual Report for 2021/22** (Pages 33 - 38)

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 2021/22 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.

Electoral Divisions(s): All Divisions

STANDING ITEMS

7 **Ethical Governance Framework: Monitoring** (Pages 39 - 40)

Report of the County Solicitor (Interim) (CSO/22/8) 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 to report on complaints or allegations of a breach of the Council's Members' Code of Conduct received since the last meeting, if any.

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

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

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Induction Loop available



Revised Member Complaints Process

Report of the County Solicitor (Interim)

Recommendation:

That the Committee be asked to agree and endorse the streamlined Member Complaints Process, for publication to the website.

Summary

1. A revised Councillor Complaints Process is being submitted to the Committee for their review and attention. The County Solicitor (Interim) recently received the LGA Guidance on Complaints Handling which had been produced in relation to the LGA Model Code of Conduct (available at <https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>). The Standards Committee, at its meeting on 4th November 2021, reviewed the LGA Model Code of Conduct and agreed that a revised Code of Conduct would be brought back to the next meeting of the Committee, encompassing the issues raised at the meeting, rather than adopting the Model Code in its entirety. This issue is the next item on the agenda. The LGA Guidance on Complaints Handling was reviewed in full to ensure any best practice could be taken on board and current processes were fit for purpose. The consensus was that the current guidance was fit for purpose, but the County Solicitor (interim) wished to streamline the current guide on the website, given the current guidance was confusing to navigate in places.

Introduction and Background

2. Following review, it was clear that the LGA Guidance on Complaints Handling was designed to assist monitoring officers, and anyone nominated by a monitoring officer to carry out investigations on their behalf. It is a very detailed document that gives helpful advice on matters such as carrying out interviews and how these should be conducted and how a report should be compiled for example.
3. The guidance also acknowledged that Local Authorities may have different practices and arrangements in place, and in accordance with the Localism Act, Local Authorities only need to have a mechanism in place for dealing with complaints. How this is done is a matter for individual authorities, but

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what is important is that the principles of fairness, proportionality, transparency and impartiality apply to the process.

4. The Guidance quotes this Council in that any investigation must abide by the principles of natural justice (R (**Greenslade**) v **Devon County Council** 2019). That means that the Councillor must know what they are accused of and be given the opportunity to comment on the allegations. This is clearly covered in the process.
5. On balance, it is felt that the 40 pages of LGA guidance was a helpful source of information for practitioners, but the level of detail would not be helpful for the public or Members in understanding the steps to be taken in a complaint against an elected Member.
6. The proposed changes are intended to streamline and clarify the process by reducing the wordy nature of it and also incorporating the assessment criteria and public interest tests as appendices to the guide.

Changes Made to the Complaints Procedure

7. Please see below for a summary of the changes made to the current Councillor complaints process. The text of the original guide is still on the website at - <https://www.devon.gov.uk/democracy/councillors-nav/making-a-complaint-about-a-devon-county-councillor>.
 - Adjusting the chronological sequence of events to make it clear that any criminal allegations or an offence under the Localism Act may be passed to the Director of Public Prosecutions at the outset of the complaints process.
 - Clarificatory changes to the criteria where the complaint will not usually progress beyond the initial assessment stage. Clarifying that the preliminary assessment is carried out by the Monitoring Officer or their designated Deputy.
 - Embedded links have been inserted to an explanation of what is meant by 'public interest' when this term is used in specific parts of the complaints procedure. Also, this explanation was previously located in a separate document; now, it has been moved to Appendix 1 of this guide.
 - The Assessment Criteria, which is an essential component of Part 5 "*What happens to my complaint – how is it processed and dealt with?*" has been moved from Part 12 to a new Appendix 2 with appropriate cross references in Section 5. All the relevant information as to the Assessment Criteria and available options is now in a single location, with minor clarifications, thereby avoiding duplication and potential confusion.

Conclusion

8. The Committee is asked to endorse the revisions to the complaints process, noting that there have been no new elements added or previous aspects removed. The revisions have been made to streamline the content, make it more accessible and ensure it can be easily navigated on the website.
9. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed.

ANDREW YENDOLE

[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>
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Nil

Making a Complaint about a Devon County Councillor

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<https://www.devon.gov.uk/democracy/>



Part 1 - How do I make a complaint?

The Code of Conduct for Members is set out in the [County Council's Constitution](#).

If you believe that a County Councillor has breached the Code of Conduct for Members and you would like to make a complaint, you may do so by submitting a complaint in writing to:

Andrew Yendole (County Solicitor)
Devon County Council
County Hall
Topsham Road
Exeter
EX2 4QD

who will arrange for it to be considered by the Council's Standards Committee or for any other course of action to be taken, as appropriate. You may use the official [Complaint Form](#) referred to below or simply set out your complaint in a letter. Complaints may be sent in by post to the above address or by email (members.services@devon.gov.uk). If you are unable to download a copy of the form from the Council's website a copy may be sent to you upon request. We can also help if English is not your first language.

If you are unable to make a written complaint we will offer to transpose your complaint onto a complaint form with an accompanying written statement (if required) which you will then be asked to sign or otherwise indicate to the Council's satisfaction that you wish to make a complaint in those terms. If you are unwilling to sign the documentation or fail to indicate to the Council's satisfaction that you wish to make a complaint in those terms it will not take any further action on the complaint unless the Monitoring Officer is satisfied that the circumstances justify a departure from this position. If you make a verbal complaint and simply decline to confirm the complaint in writing for reasons which the Council does not consider to be justifiable it will take no further action on the complaint. The Council does understand that complaints about sensitive personal issues, such as alleged harassment, bullying or victimisation may need to be progressed while preserving the confidentiality or anonymity of the complainant.

Some complaints will fall outside of the scope of this Procedure. If that happens the complaints will be forwarded to the relevant officers in the Council the complainant will be advised of this. Similarly if your complaint is about a District, Unitary or Town or Parish Councillor then you should send it to the relevant District or Unitary Council – in other words, the Council that collects your council tax.

Part 2 - What is a Standards Committee?

The County Council's Standards Committee is a group of people appointed by the Council to help it maintain and promote high ethical standards. The Committee is made up of Councillors and co-opted members drawn from the community (who are not councillors or employees of the County Council).

<https://www.devon.gov.uk/democracy/>



Part 3 - What complaints does the Standards Committee deal with?

The Standards Committee can only deal with complaints about the behaviour of a County Councillor. It will not deal with complaints about things that are not covered by the Members' Code of Conduct. If you make a complaint to the Standards Committee it must be in writing. You should say which County Councillor it is about and why you think they have not followed the Code of Conduct. The Committee cannot look at complaints that:

- are about incidents that happened before the Councillor was elected or chosen to serve;
- are about incidents that happened before the Council adopted the Code of Conduct other than incidents of alleged harassment, bullying or victimisation;
- are about the way the Council conducts or records its meetings; or
- would not disclose a breach of the Code of Conduct.

Complaints about:

- the actions of the Council's employees;
- the way the Council has or has not done something;
- or decisions of the Council or one of the services it provides;

are the subject of a separate complaints system which can be accessed on the County Council's [Feedback/Complaints](#) system (please follow the link). If using this complaints system you think the Council has not dealt with the matter properly and has failed to resolve a complaint locally, you can ask the Local Government and Social Care Ombudsman to investigate. The Local Government and Social Care Ombudsman cannot be used for complaints against Elected Members.

Part 4 - How should I set out my complaint?

It is very important that you set your complaint out fully and clearly and provide all the information at the outset. You should also provide any documents or other material that you believe is relevant and wish to be considered, wherever possible.

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each County Councillor you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it in the summary of your complaint.

You should be as specific as possible and substantiate your complaint where you can, to demonstrate why you believe that the Councillor(s) complained about has breached the Code of Conduct.

It is very important that you set your complaint out clearly and provide at the outset all the information you wish the Council to consider. The Monitoring Officer may need to contact you to seek clarification of your complaint but this will not, hopefully, delay consideration of your complaint.

Part 5 - What happens to my complaint – how is it processed and dealt with?

When a complaint is received (which is within the scope of the Councillor complaints process) the Council aims to acknowledge receipt within 3 working days.

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If the Monitoring Officer considers that the allegation concerned may disclose an offence under the Localism Act 2011 or otherwise, they will, in appropriate circumstances, pass to the police or Director of Public Prosecutions. No prosecution can be brought without the consent of the Director of Public Prosecutions.

If it transpires that no offence was committed, whether following trial or otherwise, the complaint could be reintroduced to this procedure for determination of any breach of the code and appropriate sanction, if any.

The Monitoring Officer or their nominated representative(s) will carry out a preliminary assessment of whether the alleged behaviour falls within the Code of Conduct – and collect any information they deem necessary.

This will normally be done within 10 working days. If the allegation is about a matter outside of the Code of Conduct (see Part 3, above) or is within one of the criteria set out below, the complaint will not usually progress beyond the initial assessment stage and the complainant will be notified accordingly, for example:

- if the complaint is substantially the same as a complaint previously dealt with
- if the period since the alleged behaviour is so significant that it is unreasonable or not in the public interest to pursue
- if the complaint is trivial
- if the complaint discloses a minor breach of the Code that it is not in the public interest to pursue
- if the complaint is / appears to be malicious, politically motivated or tit-for-tat and the complaint doesn't disclose sufficiently serious potential breaches of the Code.
- if the complaint is covered by the Council's persistent and vexatious complaints policy and the complaint doesn't disclose sufficiently serious potential breaches of the Code.
- if the Member against whom the allegation has made reasonable efforts to put things right and the complaint does not disclose sufficiently serious potential breaches of the Code
- if the complaint is about a person who is no longer a member of the Council

During the preliminary assessment, the Monitoring Officer will write to the subject member, attaching a copy of the complaint, and consider any comments the subject member has regarding the complaint. The Monitoring Officer will consult with the Independent Person. The name of the complainant will be disclosed to the subject member unless confidentiality has been requested and the Monitoring Officer considers that request to be justified.

The Monitoring Officer will, following consultation with the Independent Person, determine what action is to be taken on the complaint in accordance with the Assessment Criteria at **Appendix 2**. The options available are set out in paragraphs 1 to 6 of Appendix 2.

If the Monitoring Officer is of the view that a local settlement is unachievable, or the complaint warrants it, they shall, following consultation with the Independent Person, institute a formal investigation and report the findings of that investigation together with the views of the Independent Person to the full Standards Committee for determination (with neither the complainant nor the subject member having the right of attendance).

The Monitoring Officer may refer the complaint to an Assessment Sub-Committee (comprising 3 Members of the Standards Committee and at least one shall be a co-opted member) to determine whether or not the allegation appears to disclose a failure to observe the Code of Conduct and then, if it judges such a failure, whether the matter merits investigation. Thereafter the Monitoring Officer can:

- consult the Independent Person if the Assessment Sub-Committee suggest any action other than a formal investigation

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- institute a formal investigation if the Assessment Sub-Committee is of the view that the matter merits investigation
- report the findings of that investigation together with the views of the Independent Person on those findings to the full Standards Committee for determination (with neither party having the right of attendance).

The Monitoring Officer and the subject member may seek the views of the nominated Independent Person at any time during the process.

The assessment and determination of complaints will normally be conducted by an Assessment Sub-Committee or the full Standards Committee in 'Part II or closed' session and information relating thereto will be considered exempt under the provisions of the Local Government (Access to Information) Act 1985 and Schedule 12A of the Local Government Act 1972, subject to the application of the public interest test, as appropriate.

Data protection requirements will be complied with and may prevent the public disclosure of information relating to complaints.

When the Committee has considered the complaint, the outcome will be sent to the subject member and the complainant and the decision notice (i.e minutes of the meeting) published. This will be available on the Councils website.

Below is a summary of the above process.

Step	Action
1	If the circumstances of the complaint indicate that an offence under Chapter 7 of Part 1 of the Localism Act 2011 may have been committed and that the complaint ought to be investigated, by the police, then this will be forwarded accordingly.
2	The Monitoring Officer will consider whether the complaint falls within the Councillor Complaints Procedure. If so, the Monitoring Officer will write to the subject member with details of the complaint, including who has complained (unless any confidentiality request has been agreed). The Monitoring Officer will also provide the subject member with the details of the Independent Person who has been appointed to advise on the complaint and who the subject member may contact to seek their views. The subject member is given an opportunity to provide a written response to the complaint. There may be a time limit given for providing this written response.
3	The subject member can provide a written response and any additional evidence or indicate that they do not wish to provide such a response.-
4	The Monitoring Officer will consider the complaint again in the context of any written submissions and supporting documentation provided by the subject member.

5	<p>The Monitoring Officer will, following consultation with the Independent Person, determine what action to be taken on the complaint.</p> <p>The other options could be:</p> <p>(i) to make no finding as to whether there has been a breach of the Code and take no further action;</p> <p>(ii) to make no finding as to whether there has been a breach of the Code but determine that some action other than an investigation is appropriate including, for example, some form of local settlement or conciliation;</p> <p>(iii) to find no breach of the Code;</p> <p>(iv) to find a breach of the Code without an investigation but take no action;</p> <p>(v) to find a breach of the Code without an investigation and take some action;</p> <p>(vi) to refer the complaint to an Assessment Sub Committee to determine whether or not the complaint should be formally investigated</p> <p>(vii) to require the complaint to be formally investigated;</p>
6	<p>Where a complaint is investigated, a report shall be generated which shall be presented to the Standards Committee. Before that happens, the subject Member will be consulted on both the draft report and final report (with 10 working days to respond) and their views be reported to the Standards Committee alongside the investigation report. Having considered the investigation report the Standards Committee shall make a finding as to whether or not there has been a breach of the Code and, if there is a finding of a breach, what action should be taken.</p>
7	<p>The outcome of the determination of the complaint will be notified in writing to the complainant and the subject member within 5 working days.</p>

[NB: Steps 1 to 5 above will normally be conducted within 28 days of receipt of the complaint. If it is not possible to complete any such tasks within that time the complainant and subject member will be contacted and advised of the delay and when the Steps will be completed.]

Part 6 - What happens after my complaint has been looked at?

If potential criminal offences are identified and the complaint referred for investigation with a view to prosecution the appropriate procedures of the police or Council will be followed so as to protect the integrity of their investigation.

When a decision has been reached on your complaint the Council will notify you in writing telling you what that decision is and what action has or will be taken.

<https://www.devon.gov.uk/democracy/>



Any action or investigation will be implemented. If other action is determined as appropriate and either party declines to cooperate that will be reported to the Monitoring Officer who may decide to progress the original complaint through the process as set out above.

Any investigations and hearings following the Standards investigation are outside of the scope of this procedure and will be subject to separate procedural rules.

<https://www.devon.gov.uk/democracy/>



Part 7 - Withdrawal of complaints

Any request to withdraw a complaint will normally be granted but in considering such a request from the complainant the Monitoring Officer will consider the following factors:

- (i) whether the public interest in taking action on the complaint outweighs the complainant's desire to withdraw it;
- (ii) whether the complaint is such that action can or should be taken on it without the complainant's participation; and
- (iii) whether there appears to be an identifiable underlying reason for the request to withdraw the complaint such as whether there is information to suggest that the complainant may have been pressurised into withdrawing the complaint.

Part 8 - Complainant confidentiality

The subject member will, in normal circumstances, be told from the outset who has complained about them. If a complainant asks for their identity to be withheld their request will be considered by the Monitoring Officer prior to the member being notified that a complaint has been made.

Each request for confidentiality will be considered on its merits and in determining such a request the following will be considered:

- (i) whether the complainant reasonably believes that they, or those connected to them, will be at risk of harm if their identity is disclosed;
- (ii) whether the complainant is alleging harassment, bullying, or victimisation;
- (iii) that the complainant is reasonably concerned about the consequences to their employment, or those connected to them, if their identity is disclosed;
- (iv) that the complainant, or somebody closely connected to them, suffers from a medical condition and there is evidence of medical risks associated with their identity being disclosed or confirmation from an appropriate medical professional that that is the case; and
- (v) the public interest. In some cases the public interest in proceeding with the complaint may outweigh the complainant's wish to have their identity withheld.

If it is not considered appropriate to grant a request for confidentiality the complainant will be offered the opportunity to withdraw the complaint rather than proceed with it.

Complainants must recognise that maintaining confidentiality may hinder the effectiveness of any investigation.

<https://www.devon.gov.uk/democracy/>



Part 9 - Conflicts of interests

If any Officer has any personal or professional conflict of interest in relation to a complaint, they must have no involvement or no further involvement in dealing with that complaint other than such reasonable steps as are necessary to ensure that the complaint is dealt with by someone other than them. Any conflicts identified during the course of a matter will be managed appropriately by the Monitoring Officer or their nominee.

An Officer who has previously advised a subject member or has given advice to the complainant about the issues giving rise to a complaint must seek advice from their line manager as to whether they can properly be involved in the conduct of a related complaint. Public perception and the public interest will be considered.

If any Independent Person has any personal or professional conflict of interest in relation to a complaint, they must have no involvement or no further involvement in dealing with that complaint other than such reasonable steps as are necessary to ensure that the complaint is dealt with by someone other than them. Where this occurs another Independent Person will be appointed and the appropriate person(s) notified

Part 10 - Retention of Records

All records relating to any complaint and the consideration thereof will be stored in accordance with the County Council's records management policy and procedures and the provisions of the Local Government (Access to Information) Act 1985 and Schedule 12A of the Local Government Act 1972.

Part 11 - Generally

All complaints will be considered on their merits and according to the facts.

The Assessment Criteria, which are subject to review by the County Council's Standards Committee, will be used as guidance in the consideration and determination of complaints, but the Monitoring Officer or other decision maker, which will be an Assessment Sub- Committee or the full Standards Committee when it is not the Monitoring Officer, are entitled to depart from these criteria when they consider it appropriate to do so.

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Appendix 1 – Councillor Complaints Process - Public Interest

When considering the public interest, the Monitoring Officer and Independent Person consider each of the following public interest factors set out below.

These factors are not exhaustive, and not all may be relevant in every case.

The weight to be attached to each of these factors, and the factors identified, will also vary according to the facts and merits of each case.

- the seriousness of the breach, for example, has the Member brought the Council seriously into disrepute? The more serious the breach the more likely investigation and referral for further consideration is required;
- has the Member deliberately sought personal gain for himself or another person at the public expense? If there is evidence of this, it is likely that the complaint will be investigated and referred for further consideration;
- are the circumstances of the breach such that a Member has misused a position of trust or authority and caused harm to a person? If there is evidence of this it is likely that the complaint will be investigated and referred for further consideration;
- was the breach motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity? If a member's conduct is motivated by any form of discrimination it is likely that the complaint will be investigated and referred for further consideration;
- is there evidence of previous similar behaviour on the part of the Member? If so and the matter complained about is serious enough it is likely that the complaint will be investigated and referred for further consideration;
- is the breach such that an investigation or referral to the Standards Committee is required to maintain public confidence in elected Members of Devon County Council? If so it is likely that the complaint will be investigated and referred for further consideration; and
- is investigation or referral to the Standards Committee a proportionate response? namely, would the cost of an investigation or consideration by the Standards Committee be regarded as excessive when weighed against any likely sanction?

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Appendix 2 – Assessment Criteria

It is recognised that while complaints may relate to the same aspect of the Code they may differ considerably in terms of the facts and how serious they are. There may be huge differences in the relevance and amount of detail regarding the complaint. For these reasons these Assessment Criteria can only be a guide.

Overriding criteria

The following tests will be applied during the initial assessment of a complaint:

- is the complaint about one or more named members of the County Council?
- was the subject member in office at the time of the alleged conduct?
- did the incident complained of happen before the Council adopted the Code of Conduct?
- if proven, would the complaint disclose a breach of the Code of Conduct?

1. No finding of whether there is a breach of the Code and take no further action

If on the facts it is not possible to determine whether there has been or may have been a breach of the Code and the alleged conduct does not merit an investigation, having regard to the public interest, this is the appropriate finding to make.

2. No finding of whether there is a breach of the Code but action other than investigation is appropriate

If on the facts it is not possible to determine whether there has been or may have been a breach of the Code, the alleged conduct does not merit an investigation, having regard to the public interest, but the allegation and any response from the subject member disclose an underlying issue that action such as mediation or training on the Code or council procedures might assist with, this is the appropriate finding to make. The other action information below needs to be considered in these circumstances.

3. Finding of no breach of the Code

If the facts available demonstrate on the balance of probabilities that there has been no breach of the Code, this is the appropriate finding to make. If there is no breach of the Code a sanction cannot be imposed but other action such as mediation, conciliation, training or some other form of local settlement might still be considered.

4. Finding of a breach of the Code without an investigation

A finding that the Code of Conduct has been breached without the need for an investigation will usually be appropriate in the following circumstances:

- it can clearly be shown that from the information that has been provided by the subject member and the complainant that a breach of the Code has occurred without the need for an investigation
- the subject member has admitted to the breach of the Code, whether or not they have offered to remedy the breach

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- it can be shown that an investigation is unlikely to be able to establish any further independent relevant evidence regarding the complaint or that the cost of obtaining any further evidence would not be justified having regard to the public interest and that on the evidence supplied a breach of the Code can be shown

A breach of the Code without investigation may be found if the complaint satisfies the circumstances outlined above and that it can be clearly shown, on the balance of probabilities, that a breach of the Code of Conduct has occurred.

(a) No Further Action

If a breach of the Code is found but it is trivial, a technical breach or otherwise of limited effect it may be appropriate to take no further action.

(b) Referral for other action

A complaint may be referred for other action in the circumstances listed below. However, in general, other action may be used where the complaint discloses a widespread problem rather than a specific one concerning the members conduct.

Referring a matter for other action effectively closes the door on a review of the decision as the matter cannot subsequently be referred for investigation if the complainant is dissatisfied with the outcome of the other action. As such, other action should be exercised only where appropriate. If necessary the assessment of a complaint can be deferred while further information is obtained and other action is being considered. In addition, the subject Member and the complainant can be contacted to see if they will accept other action as a way of resolving the complaint, such as by way of an apology.

The following should be considered in determining whether it is appropriate to refer a complaint for other action:

- does taking further action provide an opportunity to resolve the issue and to prevent any similar issues arising in the future and promote good governance?
- does the complaint present a potentially less serious breach of the Code than would require the matter to be referred for investigation and is any benefit to be gained from referring the matter for investigation?
- is the subject member a member of an authority which appears to have a poor understanding of the Code and relevant procedures?
- is the Council suffering from a widespread breakdown in internal relationships and trust where a course of action other than an investigation of a complaint may be more appropriate?

5. Refer the complaint to an Assessment Sub Committee to determine whether or not the complaint should be formally investigated

The Assessment Sub-Committee will comprise 3 Members of the Standards Committee and at least one shall be a co-opted member) to determine whether or not the allegation appears to disclose a failure to observe the Code of Conduct and then, if it judges such a failure, whether the matter merits investigation.

<https://www.devon.gov.uk/democracy/>



6. Referral for Investigation

A complaint should usually be referred for investigation in the following circumstances:

- the complaint has passed the initial tests
- the subject member has denied the allegations but the information presented indicates that there may be a breach of the Code
- on the information provided the potential breach of the Code of Conduct is sufficiently serious that an investigation should be undertaken to discount or substantiate the complaint and to determine what action, if any, is appropriate

<https://www.devon.gov.uk/democracy/>



Proposed New Code of Conduct

Report of the County Solicitor (Interim)

Recommendation:

That the Committee be asked to endorse the revised Code of Conduct, attached, and recommend its adoption to the Council.

Summary

1. A proposed new Code of Conduct has been drafted for the attention of Members, based on discussion, debate and decision at the November 2021 meeting of the Committee. The proposed new Code (attached) includes all those additional elements requested by the Committee and aims to strengthen the current Code by inclusion and consideration of issues such as introductory statements, clearer definitions, application of the Code, social media, strengthening harassment definitions, gifts and hospitality and compliance with the Code and sanctions as well as declarations of interests.

Introduction and Background

2. The Local Government Association (in September 2019) agreed to produce a new Code of Conduct as part of a wider programme on civility in public life.
3. The purpose of the new LGA Code of Conduct was to assist Councillors in modelling the behaviour expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken. The LGA Code set out general principles of conduct expected of all Councillors and their specific obligations in relation to standards of conduct.
4. The Council responded to the Consultation on the new Code. Whilst many of the additions to the new Code were welcomed, for example the inclusion of social media and other electronic communications, the lack of sanctions was still a cause for concern, although it was acknowledged these require primary legislative changes. Many felt that the new Code missed an opportunity to strengthen current Standards regimes.
5. One of the overriding reasons for a new Code was for all Local Authorities to adopt it, ensuring consistency across many tiers of Local Government. However, conversations with colleagues and other District Councils showed

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a mixed picture, with some proposing to adopt the new Code but with local tweaks and others in its entirety and others proposing to adopt parts of the new Local Government Association Code into their own Code which they feel is more robust than the new offering.

LGA and Devon County Council Code Comparison

6. On the 4th November 2021, the Standards Committee discussed the Report of the County Solicitor which had analysed the content of the Local Government Association Model Code of Conduct and produced a comparison against the Council's current own Code of Conduct.
7. Members were asked to consider the various discussion points with a view to retaining the current Code or any suggested amendments.
8. Whilst the Council's Code was robust and had been updated over the last two years in line with national best practice and therefore covered most elements (and in some cases more) than the Local Government Association Model Code, there were some suggested additions to the Council's Code for consideration.
9. Members' comments for additions and changes to the Council's current Code of Conduct were as follows:
 - Joint statement - a supporting statement for the Council's Code should be produced, including reference to social media;
 - Definition of Councillor – the Council's Code should include a definition of 'Co-opted' (voting and non-voting co-opted members);
 - Purpose – the Council's Code should include an explanation as to the purpose of the Code;
 - Application of Code – the scope of the Council's Code should be widened to include issues such as social media;
 - (Section 1) Standards of Councillor conduct – the Council's Code should be expanded to include a definition of respect, to include the reference to the public and representatives of partner organisations and volunteers as well as respect towards Councillors;
 - (Section 2) Bullying, harassment and discrimination – include a reference to the Protection from Harassment Act in the Council's Code;
 - (Section 8) Complying with the Code of Conduct - the Council's Code should include a reference to the importance of Code of Conduct training and that Members endeavour to attend, particularly induction sessions;
 - (8) Complying with the Code of Conduct - the Council's Code should include reference to sanctions;
 - (10) Gifts and Hospitality – ensure a cross reference from the Code of Conduct to financial regulations and other advice on gifts and hospitality. This included retaining the current guideline of £25 as the threshold for when gifts have to be declared and also ensuring the

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guidance places a duty on Members to declare a gift and / or hospitality that had been declined.

- Interests.....
 - ensure that unpaid directorships were included on the register of interests form (not currently explicit); and
 - that given the Council's Code was silent on the issue of the interests of family and / or friends, this should be strengthened;
- Members also noted that the guidance which accompanied the Model Code outlined that Members who received an allowance from another Authority and or body (e.g. Fire Authority) should declare it as a Disclosable Pecuniary Interest.

10. The Committee RESOLVED that (a) a revised Code of Conduct be brought back to the next meeting of the Committee, encompassing the issues raised above; and (b) that the Declaration of Interests form and general dispensation be amended to deal with the issue of allowances received from another public body in line with the delegated powers of the County Solicitor.

Conclusion

11. The Committee is asked to endorse the new Code and recommend its adoption to the Council in order to strengthen Governance arrangements and application of the Code.

12. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed.

ANDREW YENDOLE

[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>
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Nil

MEMBERS' CODE OF CONDUCT

Foreword, Statement and Purpose

(this Foreword, Statement and Purpose does not form part of the Members' Code of Conduct. It is intended to set out the background, purpose, and importance of the Code)

The role of Councillor is a vital part of democracy and it is important that Councillors can be held accountable and adopt the behaviours and responsibilities associated with the role.

Councillors represent local residents, work to develop better services and deliver local change. The public trust Councillors to represent the local area and take decisions fairly, openly, and transparently. There is both an individual and collective responsibility to meet the expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, Councillors should be able to undertake their role without intimidation, abuse, bullying or threatening behaviour from anyone, including the general public.

The Council's Code is designed to encourage good conduct and safeguard the public's trust in local government.

The Council will undertake an annual review of its Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.

The **purpose of the Code of Conduct** is to assist Councillors in modelling the behaviour that is expected, to provide check and balance, and to set out the type of conduct that could lead to action being taken. The Code is also there to protect Councillors, the public, fellow Councillors, Local Authority Officers and the reputation of Local Government. It sets out general principles of conduct expected of all Councillors and specific obligations in relation to standards of conduct.

Induction and training on Governance issues, including this Code of Conduct is important and the Council will provide this with updates as required. It is incumbent on Councillors to endeavour to attend.

PART 1: GENERAL PROVISIONS

Public Duty and Private Interests: An introduction

1.1. This Code applies to you as a Member or a Co-opted Member of Devon County Council *(For the purposes of this Code, a “Co-opted Member” means a person who is not a member of Devon County Council but who:*

(a) is a member of any committee or sub-committee of Devon County Council; or

(b) is a member of, and represents Devon County Council on, any joint committee or joint sub-committee of Devon County Council,

irrespective of whether or not that person is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.)

1.2. When acting in your capacity as a Member or Co-opted Member of the County Council, you should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.

1.3. When acting in your capacity as a Member or Co-opted Member of the County Council –

(a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;

(b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;

(c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;

(d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;

(e) you must be as open as possible about your decisions and actions and the decisions and actions of the County Council

and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the County Council or contained in its Constitution,

- (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
 - (g) you must declare any offered gift or hospitality over the value of £25 and whether this was accepted or declined, in line with the Council's Policy Statement on the Proper Conduct of Business and [Financial Regulations](#). Declarations will be published on the Council's website.
 - (h) you must, when using or authorising the use by others of the resources of the County Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the County Council's reasonable requirements;
 - (i) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the County Council;
 - (j) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
-
- 1.4. Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
 - 1.5. Do nothing as a Member which you could not justify to the public.
 - 1.6. The reputation of the County Council depends on your conduct and what the public believes about your conduct.
 - 1.7. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
 - 1.8. It is your responsibility to comply with the provisions of this Code and also any formal Standards processes, investigations or sanctions that may occur.

Definitions

2. In this Code –

- *“interest or interests”* have the meanings set out in Part 2 of this Code
- *“Relevant person”* means:
 - you or
 - your spouse or civil partner, or
 - a person with whom you are living as husband and wife or as if they were civil partners or in a same sex marriage and you are aware that that other person has an interest
- *“relevant period”* means a period of 12 months ending with the date on which you notified the Monitoring Officer of an interest
- *“meeting”* means any meeting of –
 - the County Council;
 - the Cabinet of the County Council;
 - any of the Council’s or the Cabinet’s, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area Committees;
 - one or more Members, formal or informal and with or without officers, relating to the discharge of the County Council’s functions where a formal record is made by a Council Officer.
- *“member”* includes a co-opted member

Scope

3. You must comply with this Code.....

3.1. whenever you are acting in your official capacity, when:

- (a) you are engaged on the business of the County Council; or
- (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the County Council.

3.2 noting that the Code applies to all forms of communication and interaction, including;

- face-to-face
- online / telephone meetings
- written / verbal communication
- non-verbal communication and electronic & social media communication, posts, statements and comments

General obligations

4. You **must** –

- (a) treat others with courtesy and respect, including the public, fellow Councillors, Local Authority employees and also employees and representatives of partner organisations and those volunteering for the local authority; and
- (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the County Council.

(Respect means politeness and courtesy in behaviour, speech, and in the written word. Having different views is part of a healthy democracy and Councillors can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. However, there should be no subjecting individuals, groups of people or organisations to personal attack.

Contact with the public should always be polite and courteous.

In return, you have a right to expect respectful behaviour from the public. If this is not the case and Councillors are being subjected to abusive, intimidatory or threatening behaviour, they should seek support and assistance from the Monitoring Officer)

5. You **must not** –

- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) do anything which may cause the County Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010, **which places specific duties on Local Authorities**);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear. **It can happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be noticed by others**);

(d) harass any person (the Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence. It must involve such conduct on at least two occasions and can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person).

(e) intimidate or attempt to intimidate any person who is or is likely to be –

- i) a complainant,
- ii) a witness, or
- iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or

(f) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the County Council;

(g) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where–

- i) you have the consent of a person authorised to give it;
- ii) you are required by law to do so;
- iii) the disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
- iv) the disclosure is:
 - a. in the public interest; and
 - b. made in good faith and
 - c. in compliance with the reasonable requirements of the Council;

(h) prevent another person from gaining access to information to which that person is entitled by law;

(i) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

[NB: A complaint may be made to the Monitoring Officer or Standards Committee where any person thinks they have evidence which they think shows that a councillor has not followed the Council's Code of conduct; see

http://www.devon.gov.uk/index/councildemocracy/county_councillors/councillorcomplaints.htm]

PART 2: INTERESTS

Registration of Interests

6. You must, within 28 days of—

- (a) this Code being adopted by, or applied to, the County Council;
or
- (b) your taking office as a Member or Co-opted Member of the County Council,

whichever is the later, and annually thereafter, provide written notification to the County Council's Monitoring Officer of:

- i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife; and
- ii) any other personal interest laid down by the County Council, as set out at paragraph 7 below;

which will be recorded in the County Council's Register of Members' Interests and made available for public inspection including on the Council's website.

- 6.1.** Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the County Council's Monitoring Officer.
- 6.2.** Whether or not an interest within paragraphs 7.1. and 7.2 below has been entered onto the County Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.
- 6.3.** Following any disclosure of an interest not on the County Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 6.4.** In relation to disclosable pecuniary interests, in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

“body in which the relevant person has a beneficial interest”	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
“director”	includes a member of the committee of management of an industrial and provident society
“land”	excludes an easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
“relevant authority”	means the authority of which you are a member
“relevant person”	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
“securities”	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

7. The interests you **must** register are:

7.1. - those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) as set out below, namely:

- (a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) any payment or provision of any other financial benefit (other than from Devon County Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) any contract which is made between you or, so far as you are aware, a relevant person (as defined at Para 2 above) (in which the relevant person has a beneficial interest) and the County Council:
 - 1) under which goods or services are to be provided or works are to be executed; and
 - 2) which has not been fully discharged

- (d) any beneficial interest in land held by you, or so far as you are aware, a relevant person which is within the administrative area of the County Council;
- (e) any licence (alone or jointly with others) to occupy land in the administrative area of the County Council for a month or longer
- (f) any tenancy where (to your knowledge):
 - 1) the landlord is Devon County Council; and
 - 2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
- (g) any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
 - 1) that body (to your knowledge) has a place of business or land in the administrative area of the County Council and
 - 2) either:
 - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- 7.2. - those other personal interests laid down by the County Council, namely your membership of any body to which you have been appointed by the County Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.
- 7.3. In addition to those interests listed at 7.1 and 7.2 above which you are required to register, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a County Councillor, such as membership of the Freemasons or any similar body, **including any unpaid Directorships.**
- 7.4. Where the County Council's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

- 7.5. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the County Council's Monitoring Officer asking that the information be included in the County Council's Register of Members' Interests.

Declaration of Interests

8. Unless a dispensation has been granted*, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at Para 6(b)(i) and you must also observe any restrictions the County Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Para 7 above.

*[*See explanatory note appended to this Code, below].*

- 8.1. Where you have any interest in any business of the County Council and you attend any meeting at which that business is to be considered, you must:
- (a) disclose to that meeting the existence and nature of that interest but where your interest is sensitive you are not required to disclose the interest but merely the fact that there is a disclosable pecuniary interest in the matter concerned;
 - (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
 - (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you; and
 - (d) not seek to influence improperly any decision about that business.
- 8.2. You also have an interest where a reasonable person with knowledge of the relevant facts would regard you, your relative, or your close friend as having an interest in any business of the County Council that is being considered at a meeting that you attend where the matter affects the financial interest or well-being of yourself, your relative or your close friend to a greater extent than it affects the financial interests of the majority of residents of the area affected by the decision such that it is likely to prejudice your view of the wider public interest.

unless you have obtained a dispensation from the County Council's Monitoring Officer.

The Standards Committee - Annual Report 2021/2022

.....The Standard Committee 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 last 12 months and how it continues to contribute to and offer direction to shape the governance, culture and ethos of the organisation.

Membership

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

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

Purpose

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

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

Guidance on Member Model Code of Conduct Complaints Handling

The Council received the above guidance to assist monitoring officers, and anyone nominated by a Monitoring Officer to carry out investigations on their behalf and to also assist Councillors in understanding the process.

The guidance acknowledges that Local Authorities may have different practices and arrangements in place, but the principles of fairness, proportionality, transparency and

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impartiality will still apply. The Monitoring Officer undertook a review of the guidance and ensured the Council's complaints process was robust and this demonstrated that the Council's procedures were generally in line. The guidance was more akin to being used as a tool for investigators on how you might conduct investigations, interviews and then write reports which on balance was felt to be too detailed to form part of the complaints process.

Meetings and Ethical Governance Monitoring

The Committee met 3 times in 2021/22, all being ordinary meetings.

Co-opted Members also attended several other meetings of Committees to observe and monitor compliance with the Council's ethical governance framework. Due to the ongoing impact of the COVID pandemic and the need to maintain social distancing in meeting spaces and the limitations of the room sizes, Co-opted Members attended those meetings remotely. The Council felt it important to ask the members to continue their role as a check and balance that meetings were operating effectively and in line with governance frameworks. There were no specific behaviours observed which might have resulted in a breach of the code or that would warrant further action. However, steps were taken to address any practical matters identified. Co-opted Member attendance would be carefully monitored and in person attendance would be resumed as soon as it was safe and practical to do so.

Model Code of Conduct

In March 2020 the Committee considered the current position on the proposed new Model Code of Conduct. As part of the review and consultation, mutual concerns had been expressed about the current codes, inconsistencies in application, a lack of guidance and sanctions.

The New Code was received in December 2020 but because additional guidance was anticipated on the application of the Code, feedback was obtained from the Committee with a view to proposing a new Code for adoption for the new Council post Elections in May. The guidance accompanying the Model Code was not received until July 2021 with further amendments received later in the Summer.

At the November meeting of the Committee, they discussed and considered a Report which had analysed the content of the Local Government Association Model Code of Conduct and produced a comparison against the Council's current Code of Conduct. Whilst the Council's Code was robust and had been updated over the last two years in line with national best practice and therefore covered most elements (and in some case more) than the Local Government Association Model Code, there were some suggested additions to the Council's Code for consideration, for example a supporting statement, improved definitions of co-opted members, a paragraph to explain the purpose of the code and a wider application to include matters such as social media.

Other suggested changes included a definition of respect, including reference to the public and representatives of partner organisations and volunteers, reference to the Protection from Harassment Act and also sanctions. A number of other additions were suggested such as gifts and hospitality, the role of unpaid directorships and to strengthen the Code on the interests of family and friends.

A revised Code was due to be considered at the March meeting of the Committee with a view to asking the Council to adopt it in May 2022.

Local Government & Social Care Ombudsman Annual Review Letter

The Committee also considered the Local Government & Social Care Ombudsman Complaints Annual Review Letter for 2020/21, which outlined that the Ombudsman had continued to move focus away from volumes of complaints received and instead focus on the outcomes from complaints and what could be learned. Statistics were included on three key areas, being complaints upheld, compliance with recommendations and satisfactory remedy provided by the authority. They compared the three key annual statistics for each authority with similar types of authorities to work out an average level of performance. The annual data was uploaded to an interactive map - [your council's performance](#).

There had been 84 complaints decided on by the Ombudsman in 2020-21, with only 13 (15%) of those being upheld.

The Council welcomed the oversight from the Ombudsman, and looked forward to further work to help drive improvements in services. This included greater measures to ensure it took a person-centred approach and evidence that the Council learned from complaints and used these to improve.

Ethical Governance

In the previous year, the Committee had considered the results of a third Ethical Governance Survey which was conducted between 27 August 2019 and 20th September 2019 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 the majority of responses to each question being 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. 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.

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Feedback and Monitoring

The Committee monitors the Council's feedback and complaints processes and considers regular reports on compliments, representations and complaints received under the corporate feedback system. Due to the COVID pandemic, the Committee had not received such monitoring information as regularly as it might during 2020. This was in line with LGSCO guidance issued at that time, that the Council should only accept complaints that raised high risk or safeguarding matters.

However, it did consider Customer Feedback for the Financial Year 2020-21 (1st April 2020 to 31st March 2021) in June 2021 which covered volumes and themes for all types of customer feedback (Complaints, Representations and Compliments), letters from Members of Parliament (MP Enquiries) and complaints being dealt with by the Local Government and Social Care Ombudsman (LGSCO). It was noted the numbers of complaints that escalated to the LGSCO had been low across the whole organisation.

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

Complaints Against Councillors

Between 1 April 2021 and 11th March 2022, there had been 21 complaints concerning alleged breaches of the Members Code of Conduct.

These allegations related to Councillors failing to act in the public interest regarding rural and urban parts of a parish, the conduct and chairing of a committee meeting, failure to observe the 'principles of public life' and act in the public interest, revealing confidential information about individuals, bringing the Council into disrepute, being influenced by previous business transactions, interference with Officers in planning issues, failing to treat others with respect, inappropriate / offensive content on social media, highways issues and using ones position to their own advantage, a lack of response to emails or taking action on concerns, intimidating and bullying behaviour, an allegation of harassment and failure to declare relevant interests.

In the majority of cases and following an initial assessment and consultation with an Independent Person it was agreed that no further action should be taken on the basis that either there had been no material breach of the code or that the allegations would not be a breach of the Code of Conduct and, accordingly, could not therefore be investigated. In one case, the Member was not a Councillor at the time of the alleged incident.

In two cases, no breach of the code had been established but, in one case, an apology was given for overlooking an email and in, a second case, the Chief Officer for the service area had been asked to look at the matter further. In another case, a swift and public apology was made on the same day as the incident therefore the matter did not progress any further.

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There was one case where a formal investigation was required. The findings were presented to Committee where it was determined (in relation to a sponsorship issue) there had been no breach of the Code. In relation to a retweet, the Committee RESOLVED there had been a breach of the Code of Conduct and subsequently asked the Monitoring Officer to provide guidance relating to the use of social media and retweeting messages which could cause offence.

There are two current 'live' cases, one requiring further investigation which is currently ongoing and the other waiting for feedback from the complainant and affected party.

Dispensations

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

Looking Ahead

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

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

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

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

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

ETHICAL GOVERNANCE FRAMEWORK MONITORING

Report of the 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 virtually and their views/feedback are summarised below. With the current process of limiting numbers in the Committee rooms, the attendance rota for co-opted Members will be revisited in due course.

Meeting	Date	Co-opted Member/Observer
Health and Wellbeing Board	13 January 2022	Mrs Mayes
Audit Committee	24 February 2022	Mr Hipkin
Public Rights of Way	10 March 2022	Mrs Mayes

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

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

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Clear identification and declaration of interests <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.
- The usual hiccups with the technology but on the whole it worked well;
 - Some of the papers shared online would have been difficult to read if you were a member of the public without a hard backup.
 - The meeting was very well chaired and agenda items were led by various people, after which there were insightful questions and discussion.
 - Given these meetings are broadcast it would be helpful if all participants could introduce themselves – name and post. list of participants was confusing (e.g a Councillor was visible but didn't seem to appear in the participant list).
 - The audio broke up several times.
 - There was an issue whether an email received concerning one agenda item the night before and not read by the majority of Members could be discussed at the meeting.
5. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements relating to the conduct of meetings, to safeguard the Council's position.

ANDREW YENDOLE

[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		