



***STANDARDS COMMITTEE
ANNUAL REPORT***

2014/15



Background

This is the sixth Annual Report of Devon's Standards Committee covering the period 1 April 2014 to 31 March 2015.

The Standards Committee has consistently held the view that attainment of high ethical standards is an essential element of the work of any public body and the transparent robust application of these in public services is particularly important. This Report shows not only how the Committee has successfully undertaken its tasks during the previous 12 months but how it continues to contribute to and offer the necessary direction to shape the governance culture and ethos of the organisation.

Historically, the need for a consistent legal framework governing standards of behaviour in local government was initially prompted by the work of the first Committee on Standards in Public Life, chaired by Lord Nolan. Devon County Council has always recognised the importance of having a structure which would not only uphold public confidence and contribute to the maintenance of high standards but also protect members themselves by providing an authoritative means of testing allegations made against them. This continuing commitment is reflected in the decision of the Council in May 2014 to re-appoint a separate Standards Committee.

Membership of the Standards Committee

The County Council's Standards Committee comprises eleven persons, four of whom are co-opted (who are neither employed by nor elected members of the County Council) with the other seven members being Councillors (but not Cabinet Members) representative of the membership of the County Council as a whole. Members of this Committee work together to promote the importance of high standards of behaviour and systems of governance and to create a climate where complaints or problems rarely arise.

The Chairmanship of this Committee is held automatically by the Chairman of the County Council recognising the traditional impartiality of that role.

Devon County Council has long recognised the added value brought by an independent voice on its Standards Committee, utilising the experience of persons in the wider area of ethical governance and members development generally. The guiding principles for any person to serve as a co-opted member of the Standards Committee are that any person must:

- be of good character;
- bring qualities of impartiality and independence to the committee's proceedings;
- possess sound judgement, together with an ability to form a view on complex questions relating to the conduct of councils and their councillors;
- possess skills and experiences which sustain and broaden the expertise available to the County Council;
- possess good communication skills together with a willingness to listen to other views;
- be able to demonstrate the ability to challenge accepted views in a constructive way;
- be able to represent the standards required in public life and apply them in a practical way to the decisions to be made;
- live, work or have a close connection with the County of Devon;
- be over the age of 21;
- not have any close links with councillors or officers which might lead people to question their independence;
- not be a member of the County Council or any other relevant Council or have been a County Councillor or have been employed by the County Council in the last 5 years
- not be actively engaged in local party politics;
- not have personal, legal or contractual links with the council;
- not have any current criminal convictions.

The membership of the Committee in 2014/15 was:-

County Councillors:	George Gribble (Chairman) Eve Barisic Caroline Chugg Polly Colthorpe Alan Connett Roy Hill Andrew Moulding
Co-opted Members:	Alderman Ken Turner Mike Bull (part year) Anne Mayes Ruth Saltmarsh

Officer Support

The County Council's Monitoring Officer has overall responsibility for ensuring that proper regard is given to the law and high standards of probity within the Council and advises the Standards Committee, ensuring it exercises its responsibilities firmly and fairly and that public servants exercise their responsibilities properly, within accepted mores of behaviour and the Nolan principles of public life; that they do not act oppressively, unjustly or corruptly.

This basic, essential, role has not changed with the introduction of the revised standards arrangements brought in by the Localism Act. If anything that Act has given greater emphasis to the role of a Monitoring Officer through more overtly recognising her being the first point of contact and in giving early advice to both the Standards Committee and the Independent Person in relation to complaints received and in the application and interpretation of the Council's Code of Conduct and also in enabling her to seek to achieve a local settlement between the complainant and Member complained of, without recourse to the full process.

The Role of the Standards Committee

The main role of the Standards Committee is to act as champion and guardian of the County Council's ethical standards and to be responsible for promoting and maintaining high standards of conduct by elected members and co-opted members of the Council. Its main roles and functions may best be summarised as:

- promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- assisting through advice and training councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- advising the Council on the Members' Code of Conduct;
- monitoring the operation of the Members' Code of Conduct;
- overseeing the arrangements for granting of dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- where appropriate, considering complaints that a Councillor may have breached the Code of Conduct for Members, in line with the Council's published arrangements; and
- dealing with any reports on the operation of the Council's complaints processes and from the Local Government Ombudsman on the handling of complaints investigated by that office.

In addition to the statutory functions described above, the County Council has consistently empowered this Committee to exercise a wider role in relation to the governance of the Council and in ensuring standards are as high as possible.

In outlining what the people of Devon may expect from the County Council, Article 3 of the Council's 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. The Code of Conduct is set out in Part 6 of the County Council's Constitution and is available on the County Council's website at:

http://www.devon.gov.uk/index/your_council/decision_making/constitution.htm

The Committee's full terms of reference, also set out in the Council's Constitution, are reproduced later in this Report for ease.

Local Determination of Complaints

In accordance with the requirements of the Localism Act 2011 the Council has put in place arrangements for dealing with complaints against Members and to deal with any allegations that members may have breached the Code. The Council has also appointed 'Independent Persons' one of whom who has to be consulted upon and their views taken into account before reaching a decision about any allegation. The Council's mechanisms and processes are available on its website at:

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

During the course of the year, seven complaints of alleged breaches were received, the majority of which arose specifically from the responses given by or communications with individual members during earlier extensive public consultations on the future organisation of youth and adult services.

Following an initial assessment of each complaint by the Monitoring Officer, and consultation with an Independent Person appointed by the Council, it was agreed that no further action should be taken on any of the complaints on the basis that none of the allegations had actually resulted in a breach of the Code of Conduct and, accordingly, could not therefore be investigated. A number of complainants had in effect felt members had not been as responsive or as helpful as they would have liked which, while possibly unsatisfactory, would not have been a breach. Additionally, and in a number of cases, complaints could not have been pursued as they were also outside the scope of the Members' complaints process and/or there were more appropriate avenues to follow – because they related to the way in which the Council had or had not done something - a matter of process rather than the actions or conduct of an individual member.

The Committee did, however, have to formally investigate one complaint received against a County Councillor about an alleged breach of the Members' Code of Conduct. Given the nature of the complaint the option of a local settlement would not have been applicable and following consultation with the Independent Person a formal investigation was undertaken which was publicly reported in line with the Committee's procedures. The complaint alleged that a member had knowingly claimed from both a District Council and the County Council for mileage and expenses for a number of specific identified civic duties undertaken on behalf of the District Council; seeking an investigation into all claims made by the subject member and the reimbursement of any duplicate or incorrect payments. In line with the Council's procedures it was felt that there was, prima facie, a case to answer and that the matter therefore merited formal investigation and a formal hearing. Moreover, given the nature of the allegations the matter was also referred to the Police, at the Council's instigation, to be investigated in parallel with the Council's own investigations. The Police investigated the matter but decided to take no further action being of the view that any duplicate claims were accidental and due to an oversight on the part of the member which could not be disproved to the required threshold of 'beyond reasonable doubt'

required to pursue a prosecution or infer criminal intent. In their view, any other conclusion would have been disproportionate and not in the public interest.

The Council's investigation recognised that the issues raised by the complainant were serious and had warranted investigation but acknowledged that not only had the Council and the subject member acted promptly and appropriately once the matters had been drawn to their attention to remedy the problems identified but it had ultimately concluded that there was no evidence to suggest that the member had deliberately sought to deceive or make fraudulent claims, rather that the erroneous claims appeared to be have been a result of carelessness and poor record keeping. Taking all of the factors into account the Standards Committee had found that the allegations were not proven nor had there been any breach of the Code of Conduct; the complaint was not therefore upheld.

Nonetheless the Council were urged by the Standards Committee to take action to bring greater transparency to the submission of members' claims and monitoring thereof to avoid any recurrence of such a situation. The Committee would also wish to place on record its appreciation for the thoroughness of the Investigation by the Council, the Police and others which not only reflected well on the ethos and culture within the organisation but has helped to maintain the Council's record over the preceding 16 years of having no findings against members for breaches of the code in its various guises.

The Council continues to have and publish appropriate guidance for those wishing to make a complaint about the conduct of a Devon County Councillor or if it is felt that they may have breached the Code of Conduct for Members. This guidance is available from the County Council's Democratic Services & Scrutiny Secretariat and is also available on the Council's website at:

http://www.devon.gov.uk/index/your_council/county_councillors.htm

or

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

The Work of the Standards Committee in 2014/15

The Standards Committee only had occasion to meet twice in 2014/15 and there was one meeting of a Hearing Sub-Committee; as usual copies of Agenda, Minutes and Reports may be accessed on the County Council's website at:

http://www.devon.gov.uk/index/your_council/decision_making/committee_minutes.htm

The Committee continued to receive reports on compliments, representations and complaints received under the revised corporate feedback system. While the Committee accepts there is always room for continuous improvement, the highly satisfactory results of that monitoring and the operation of the Council's feedback systems was again commendable. The Committee also remains of the view that while the general trend for the number of complaints appears to be inexorably upwards, this is as much a reflection of general societal attitude and expectations and the positive work being undertaken by the Council to encourage feedback from members of the public; rather than necessarily any actual increase in wrongdoing.

It is gratifying also to see the number of compliments received across most service areas - even if that is due in part to improved mechanisms for capturing such comments. It is nonetheless very welcome and those taking the time so to do should be applauded. It is both important and rewarding for staff to be aware that their efforts do not always go unnoticed.

As previously indicated the Committee undertook its second ethical governance audit and self-assessment survey of County Councillors and Officers during this year, the results of which can be found at:

http://www.devon.gov.uk/index/councildemocracy/decision_making/cma/cma_report.htm?cmadoc=report_cs1437.html

The assessment was undertaken to help the Standards Committee understand, inter alia, how the Council met the ethical agenda, what it meant to the way in which the Council worked, how the Council complied with ethical standards generally and - to advise the County Council thereafter - whether or not any improvements might be needed. The overall response rate to the survey was 63% which while lower than might have been hoped nonetheless compared favourably with the response rate of 47% in 2009.

The Survey had provided a valuable snapshot of respondents' understanding of the ethical or corporate governance framework of the County Council and raised a number of questions which might help improve them. In and of itself, the Survey may also be seen as a visible means of raising awareness among Members – and the public – to the importance the Council attributes to this area of its business.

In reviewing the outcomes of the survey the Standards Committee recommended that the Monitoring Officer continue to provide regular refresher briefings on the Council's Ethical Governance Framework generally and address those specific issues identified in the survey (e.g. the use of inappropriate language or language that crossed the "boundaries of appropriateness", the continuing need for vigilance by members and officers of appropriate behaviours, the sanctions available to the Council and available in law for breaches of the code and the giving of examples of good and bad practice concerning ethical governance and members conduct. A Session for all Members of the Council was held in October 2014 when the opportunity had been taken to reflect upon those issues. In addition the Committee requested that future Annual Reports should also contain information on any whistle-blowing investigations relating to the County Council's activities and any action taken arising therefrom and that a further self-assessment survey be undertaken by Members, external co-opted Members, the Corporate Leadership Team and the Heads of Service in 2018 after the Council's next quadrennial elections. The Committee looks forward to seeing the results of those recommendations.

As in previous years, the Standards Committee also received a report from the Council's Officers on its performance with regard to complaints to the Ombudsman and received the Ombudsman's 'Annual Review Letter' setting out her observations on her dealings with the County Council over the previous year. It was noted however that the Ombudsman had, as part of revised ways of working, revised the definition of 'local settlement' and was now more frequently using the terms 'injustice' and 'maladministration' and a new term 'at fault' even where action recommended had been taken. Accurate comparisons between this and previous years' were not therefore possible due to this change in practice. Whilst the Council had been found 'at fault' on 10 occasions during the year, the County Council's Ombudsman Link Officer was of the view that at least 7 of those would previously have been regarded simply as a local settlement rather than failure. Accordingly revised arrangements had been put in place to ensure all Members of the Standards Committee and County Councillors are made aware of any formal findings of maladministration or failure by the Ombudsman given the new interpretation.

Most important however is that for the year in question there were no issues raised by the Ombudsman about complaints handling and none of those complaints had resulted in any question of probity by elected members or officers.

The Committee also noted that the Ombudsman had during 2014/15 also published a review of adult social care complaints across the Country outlining the challenges faced by Council's and other providers in delivering accessible, effective and accountable services. This Report included reference to all adult social care complaints, including Blue Badge applications and, in comparison with other local authorities, Devon was below the average 'dissatisfaction' rating produced by the Ombudsman.

The Standards Committee has continued with its arrangements for co-opted members to 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 protocol set out below. The Committee continues to receive reports on this process, copies of which may be accessed from the County Council's website at: http://www.devon.gov.uk/index/councildemocracy/decision_making/cma/index_std.htm).

While a number of detailed practical issues were raised by co-opted members around participation and speaking at meetings, use of audio visual aids and the timing and length of Agenda/meetings there were no indications of any significant actions or behaviors that might be felt to have resulted in a potential breach of the Code or that might have warranted action by the Council's Monitoring Officer. Equally important was that monitoring continues to show there was no obvious difference of opinion or divergence of view as to general conduct observed at a range of meetings by co-opted members, demonstrating a welcome and satisfying degree of consistency of conduct by Members and Officers alike.

As indicated above the Committee indicated that future Annual Reports should also contain – for the purposes of greater transparency - information about any whistle-blowing investigations undertaken in the year in question and any action taken as a result. For 2014/15 - given that the proposed reporting change arose late in the year - appropriate records were understandably not available to provide any detailed information but the Committee was nonetheless assured that while a number of 'whistleblowing' type claims had been made in this period those all arose from and were being investigated properly as part of formal disciplinary proceedings, in line within the Council's scheme (<https://new.devon.gov.uk/democracy/guide/constitution-part-5/part-5-a-whistleblowing-policy/>). There were no instances of employees identifying irregularities or 'blowing the whistle' about wrongdoing or failures in the work of the Council separate from the Council's disciplinary proceedings but reporting arrangements will be revised to ensure availability of appropriate information in future.

Finally, this Report would be incomplete without paying tribute to the contribution of Mr Mike Bull who stood down from the Committee in August 2014 after 5 years service to the Standards Committee, and an even longer and illustrious career in the public sector, helping to maintain the highest possible standards of conduct in public life. In addition, Alderman Turner was unable to fully participate in the Committee's activities due to ill-health. Replacements are being sought but they will both be hard acts to follow.

Work Programme for 2015/16

In part, necessarily, the work of the Committee is demand led, but it will also specifically:

- continue to monitor elected members performance at meetings of the Council, Cabinet and its Committees and adherence to the Council's ethical governance framework;
- monitor and receive reports on compliments, representations and complaints received under the corporate feedback system;
- monitor and receive reports on complaints to the Ombudsman and any issues raised by her about complaints handling and any question of probity by elected members or officers;
- support provision of regular training and refresher events for elected members of the Council on the importance of the Code of Conduct and high standards of ethics and probity, including the use of social media.

Appendices

Devon County Council's Governance Framework

Devon County Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards.

In discharging this overall responsibility, the Council is responsible for putting in place arrangements for the governance of its affairs so as to facilitate the effective exercise of its functions and manage risk. The County Council has approved and adopted a code of corporate governance which is consistent with the principles of the CIPFA/SOLACE Framework *Delivering Good Governance in Local Government*. The governance framework comprises the systems and processes and culture and values by which the Council is directed and controlled.

The County Council's Constitution is the Council's Code of Corporate Governance. It is fundamental to the working of the County Council and transcends the core principles of corporate governance in the CIPFA/SOLACE framework. The Constitution was framed in accordance with statute and Government guidance and has evolved in the light of experience and subsequent legislation. The Constitution is the guarantor of the continuing openness, accountability and integrity of the Council's decision-making processes and sets a series of exacting standards against which the Council's actions – and those of individual members and officers - can be judged and, if necessary, challenged.

In addition, the County Council, through its Audit Committee, also reviews that governance framework annually, including the system of internal controls and reports on this through the Annual Governance Statement. The Audit Committee also ensures that the Council has robust risk management processes which are embedded in all its operations. The Audit Committee works as an effective audit committee and the County Council's internal audit service provides robust internal audit challenge. The County Council's Audit Committee in June 2014 endorsed the Governance Statement for 2013/14.

As illustrated elsewhere in this Report, the Standards Committee is responsible for the oversight of professional standards and requires probity and propriety in the conduct of its business, ensures appropriate codes of business practice are in place and that the council, its members, officers and agents exhibit high standards of personal conduct at all times.

Ethical Governance Framework - Monitoring Protocol

Purpose:

To provide feedback to the Standards Committee annually and identify any issues that may need to be addressed by the Council in its ethical governance framework or through Member training and development or by the Standards Committee in its Annual Report.

Process:

The Chairman of the Council/Cabinet/Committee will, at the beginning of the relevant meeting, formally acknowledge the presence of the co-opted Member attending that meeting; indicating that he/she is there to observe and monitor compliance with the Council's ethical governance framework.

The attendance of the co-opted Member will be recorded in the minutes of that meeting as a visible means of demonstrating the Council's commitment to improving the public's perception of compliance with its governance arrangements.

All observations made by a co-opted Member will, normally, be non-attributable and anonymised and remain confidential until considered by the Standards Committee.

Unless a potential breach of the Code or other event has occurred that may warrant immediate action and/or need to be brought to the attention of the Council's Monitoring Officer, all feedback will be considered annually by the Standards Committee.

The Standards Committee's Terms of Reference

The role of the Council's Standards Committee referred to at Article 9* is further defined as follows:

To advise the County Council on the adoption of a local Members' Code of Conduct with any appropriate local provisions and on its subsequent monitoring and updating.

To implement a local Code of Conduct and promote and maintain highest standards of conduct including the training of members and officers.

To advise members as to the declaration of interests and the grant of dispensations where appropriate to allow members to participate in matters in which they have interests.

To supervise the Registers of Members' and Officers' Interests and of politically restricted officers.

To oversee the Council's policy on the Proper Conduct of Business.

To keep up to date the Council's Code of Practice on relations between members and officers.

To be responsible for the Council's procedures for investigating and responding to complaints.

To adopt contract conditions to apply the Council's complaints procedure to contractors.

To approve a Local Planning Code.

To consider Findings of Maladministration by the Local Government Ombudsman.

To undertake such other functions as may be determined by the County Council

[NB: Article 9 of the County Council's Constitution states:

9.1 *Standards Committee*

The Council will establish a Standards Committee.

9.2 *Composition*

The Standards Committee must be composed of at least three people and may include at least one co-opted member.

9.3 *Role and Function*

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;*
- (b) assisting through advice and training councillors and co-opted members to observe the Members' Code of Conduct;*
- (c) advising the Council on the revision of the Members' Code of Conduct;*
- (d) monitoring the operation of the Members' Code of Conduct;*
- (e) considering complaints, in consultation with an Independent Person appointed under the provisions of the Localism 2011, which allege breaches of the Code of Conduct by Members of the Council.]*

Prepared by Devon County Council's Monitoring Officer

Copies of this Report may be obtained from the Democratic Services & Scrutiny Secretariat at County Hall, Topsham Road, Exeter, Devon, EX2 4QD or by ringing 0845 155 1015 and is also available on the County Council's website at:

<https://new.devon.gov.uk/democracy/councillor/committee/standards/>



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