



**STANDARDS COMMITTEE
ANNUAL REPORT**

2013/14



Introduction

This is the fifth Annual Report of Devon's Standards Committee. It covers the period 1 April 2013 to 31 March 2014, which was not only the first full year of operation of the new standards arrangements introduced in July 2012 but saw their introduction and application to a new cohort of Members following the County Council quadrennial elections in May 2013.

It is pleasing to note that despite those potentially unsettling elements, Councillors – new and old - and Officers of the Council have continued to apply the same high levels of integrity and commitment to their work as before.

The decision of the Council, as recommended by this Committee, that the new Code should resemble as closely as possible – despite the exhortations of others - the former Code has proved beneficial in members' understanding of and compliance with the new requirements. Similarly the adoption, by and large, of a 'common' Code throughout Devon has, it is believed, been helpful to Members and public alike - through not having radically different Codes for Members to follow if they serve on more than one Council. It is probably fair to say though that the new regime is still a work in progress.

Nonetheless, and against that background, the Committee has not only successfully undertaken its tasks during the previous 12 months but the general direction it offers continues to shape the culture and ethos of the organisation.

The Standards Committee, as before, takes 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. For that reason alone, it is essential to guard against complacency in defending the high reputation for integrity that Devon County Council justly enjoys and it should maintain its commitment to continuous improvement and monitoring of standards to ensure robustness for the future. The election of a new Council has afforded the opportunity to reinforce those messages. While the Committee is responsible for the examination of any complaints made against elected members its most important task, arguably, remains that of working with them to ensure standards are maintained at the highest possible level and to avoid such complaints being generated in the first place.

Finally, this Report would be incomplete without paying tribute to the work of Tony Sweeney, the Deputy Monitoring Officer who unfortunately left the Council's employ in December 2013 due to ill-health. His support to the Monitoring Officer and to this Committee has been invaluable and it is therefore only right and proper that those sentiments should be formally recorded in this Annual Report.

Background

Historically, the need for a consistent legal framework governing standards of behaviour in local government was prompted by the work of the first Committee on Standards in Public Life, chaired by Lord Nolan.

The Nolan Report (*Third Report of the Committee on Standards in Public Life – Standards of Conduct in Local Government – Cm3702-1*) subsequently recommended that local authorities should set up Standards Committees which would draw up codes of conduct for councillors and take action over any breaches of the code. The Government in the White Paper "*Modern Local Government – In Touch with the People*" (July 1998) took forward the Nolan Committee's recommendations and proposed that Standards Committees should include independent persons as full members.

Under the Local Government Act 2000 local authorities were then required to establish Standards Committees with the duty to:

- advise the Council on the adoption of a local code of conduct for elected members;
- monitor the effectiveness of the code;
- provide training for members on the code;
- promote and maintain high standards of conduct for members;
- help members follow the code of conduct; and
- consider and determine allegations against members in respect of misconduct or potential breach of the Code of Conduct

Devon County Council's Standards Committee was established in 1999 for the purposes originally identified by Nolan but the County Council subsequently asked the Committee to take on the wider roles of securing and maintaining high standards of conduct among members and officers throughout the organisation. Those wider responsibilities reflected the guidance issued by the then Standards Board for England (subsequently Standards for England) and the need for a Standards Committee to involve itself in promoting robust arrangements for governance within the County Council.

The Localism Act 2011 required the introduction in 2012 of new Standards arrangements which required Councils:

- to appoint a Standards Committee;
- to have a Code of Conduct established in line with the Nolan Principles ;
- require members to register and disclose pecuniary and non pecuniary interests;
- put in place a system to deal with allegations that members had breached the Code; and
- appoint one or more Independent Persons through a transparent process who must be consulted by Councils before reaching a decision regarding any allegation.

On the advice of the Standards Committee the County Council adopted the 'Devonwide' Code of Conduct and detailed arrangements setting out how any allegation of a breach of the approved Code of Conduct would be assessed and investigated and how decisions on any such allegations would be taken. These arrangements are published on the County Council's website at:

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

At the same time the Council agreed to re-appoint a separate Standards Committee with the same wider role of securing and maintaining high standards of conduct among members and officers throughout the organisation and adopted appropriate procedures for seeking and recording Members' Interests and granting dispensations where appropriate. The County Council also appointed 2 persons to act as the newly created 'Independent Person' who have to be consulted on all complaints in line the Localism Act and the above arrangements.

Devon County Council has always recognised the importance of retaining 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 both in the new arrangements referred to above and the decision of the newly elected Council in May 2013 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 2013/14 was:-

Prior to elections in May 2013

County Councillors:	Jerry Brook (Chairman) Polly Colthorpe Sir Simon Day Anne Fry Gordon Hook Jill Owen Barry Parsons
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Co-opted Members:	Alderman Ken Turner Mike Bull Anne Mayes Ruth Saltmarsh
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Following elections in May 2013

County Councillors:	Bernard Hughes (Chairman) Eve Barisic Caroline Chugg Polly Colthorpe Alan Connett Roy Hill Andrew Moulding
Co-opted Members:	Alderman Ken Turner Mike Bull 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 their 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 him/her to seek to achieve a local settlement between the complainant and person complained off without recourse to the full process.

The County Council's Monitoring Officer, Jan Shadbolt, continues to support the Committee, robustly and fairly, without fear or favour, protective of the good name of the Council, ensuring the continuing delivery of the high standards of ethical governance that prevail in the County Council.

The Deputy Monitoring Officer also has a role in investigating and advising on any formal complaints about County Councillors' conduct. As indicated above, Tony Sweeney fulfilled that role until December 2013. His successor is Rob Hooper, the Council's Democratic Services & Scrutiny Manager.

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 Councils published arrangements; and
- dealing with any reports on the operation of the Councils' 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, set out in the Council's Constitution, are reproduced later in this Report for ease.

Local Determination of Complaints

Prior to May 2008, complaints relating to members' conduct, where an alleged breach of the Code of Conduct may have occurred, were made direct to the then Standards Board for England, although the Standards Board could refer the complaint to the relevant council for investigation. The Council's Standards Committee would then have had the responsibility for the determination of complaints during a formal hearing.

After May 2008, and in line with the Local Government & Public Involvement in Health Act 2007, responsibility for considering complaints that a councillor may have breached the Members' Code of Conduct was transferred from Standards for England to Standards Committees of individual local authorities. The then Standards for England would then only investigate complaints in rare circumstances where, for instance, there may be a conflict of interest.

Subsequently, the Localism Act 2011 introduced new arrangements for dealing with complaints against Members, effective from July 2012. As explained in our last Annual Report, Councils had to put in place a revised system to deal with allegations that members may have breached the Code and appoint an 'Independent Person', who had to be consulted on and whose views had to be 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, four complaints of alleged breaches were received, two of which arose specifically from consideration of the Council's budget and related service reviews where comments or views expressed by Members were complained of.

Following an initial assessment of each complaint by the Monitoring Officer, and consultations with an Independent Person appointed by the Council, no further action was taken on any of the complaints on the basis that all were relatively straightforward issues and did not warrant recourse to the full process and/or a formal investigation. In all the cases referred to it was felt that each could easily be remedied by way of a local settlement; one through an amendment to a members General Declaration of Interests and three through an appropriate retraction/apology. In no case was there any question of wrongdoing or probity. Were there to have been a breach of the Code it would reasonably be no more than a minor technical breach that could most appropriately be remedied as suggested above. None of the complainants expressed any dissatisfaction with those findings and the proposed remedy and retraction/apology offered.

Overall, this again reflects well, both on the Standards Committee and upon the Members of the County Council and maintains the Council's previously unblemished record over the preceding 14 years of having no findings against members for breaches of the code in its various guises.

The Committee recognise nonetheless that the Council should not be complacent and should continue to publicise how complaints may be made and are dealt with both generally and in relation to elected members. The Council has published 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 2013/14

The Standards Committee met only once in 2013/14 due in part to the timing of the County Council elections. The Agenda, Minutes and Reports of the Standards Committee 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 continues to receive reports on compliments, representations and complaints received under the revised corporate feedback system which reflects the significant organisational changes made since 2011, and on the operation of the County Council's formal complaints procedures generally.

While the Committee accepts there is always room for continuous improvement, the highly satisfactory results of that monitoring – against the background of structural and organisational change – showing high levels of response rates to complaints was praiseworthy. The revised arrangements for the handling of feedback across all of the Council's services appeared to be working well.

While the general trend for the number of general complaints appears to be inexorably upwards, the Committee nonetheless remains of the view that 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 may also be – at least in part - attributable to improved understanding of, access to and responsiveness of the customer service process.

The increase in the number of compliments received across most service areas – whilst similarly due in part to improved mechanisms for capturing such comments – is nonetheless very welcome.

The Committee applaud the comprehensive induction process and briefings provided following the elections in May 2013 – identified as an objective in last years Annual Report - to ensure that all Members were fully aware of the provisions of the Code of Conduct and the requirements of the current standards regime, the principles of public life and the Council's own ethical governance framework. That induction process covered a wide range of relevant matters including ethical governance, public sector equality duty, the new standards arrangements, the code of conduct, the difference between Disclosable Personal Interests, Personal Interests and conflicts of interest generally, the relevance of pre-determination and pre-disposition (particularly in planning matters) and the availability of dispensations to enable members to speak and/or vote on certain matters despite having an interest in a particular matter.

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. The Committee also received the Ombudsman's 'Annual Review Letter' setting out her observations on her dealings with the County Council over the year but was disappointed that the Ombudsman had not been able to give her usual commentary on the Council's performance in 2012/13 – or provide any useful information or indicators for comparative purposes - citing other priorities and lack of resource. While it was understood the Ombudsman was challenging her own organisation's structure and processes following a negative report about its practice by the Communities and Local Government Select Committee it was to be hoped more detailed information and observations about the Council's performance would be available in next year's letter. The Ombudsman had at least confirmed there were no issues she would wish to raise in respect of the complaints received in that year.

Nonetheless, the Council's record speaks for itself and it is pleasing to see that once again, none of the complaints received had resulted in any finding of maladministration against the County Council nor had there been any question of probity raised by a complainant which again reflected well on the way in which the Council works generally and deals with complaints in particular.

The Standards Committee had previously introduced 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 there were no indications of any significant actions or behaviours 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 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 degree of consistency of conduct by Members and Officers alike.

A new audio/amplification system was purchased and installed during the year which appears to be successfully addressed issues around the audibility of speakers at meetings and, at meetings of the County Council itself, has also greatly assisted in the identification of Members; a facility that will, it is understood, be rolled-out for use in other meetings in due course.

Finally it should be acknowledged that one of the Committee Members – Alderman Turner – has been unable to fully participate in the Committee's activities for part of the year due to ill-health and the Committee would wish him a speedy and full recovery.

Work Programme for 2014/15

In part, necessarily, the work of the Committee is demand led. Nonetheless and reassured by the Council's declared support for a separate Standards committee with a degree of 'independence', the Committee will:

- pursue, in this the second year of the Council, a second ethical governance audit and self assessment survey - to be undertaken by both members and senior officers - with a view to assessing, inter alia, how the County Council meets the ethical agenda, how it and members and officers conform to the Council's ethical standards and whether or not any improvements might be needed;
- continue monitoring elected members performance at meetings of the Council, Cabinet and its Committees and adherence to the Council's ethical governance framework;
- 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.

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 2013 endorsed the Governance Statement for 2012/13.

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:

http://www.devon.gov.uk/index/councildemocracy/decision_making/full_council/standards.htm



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31 March 2014