



*STANDARDS COMMITTEE
ANNUAL REPORT*

2012/13



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

Introduction

This is the fourth Annual Report of Devon's Standards Committee but the first prepared since the introduction of the much trailed new standards arrangements that came into effect in July 2012.

At the outset it is important to acknowledge that, notwithstanding the changes introduced part way through the year, Councillors and Officers of the Council have continued to apply the same high levels of integrity and commitment to their work as before.

2012/13 was in some respects a tumultuous year as a result not only of the changes introduced under the Localism Act 2011 but more particularly because of the unusually tight timescales and repeated delays in implementation of its provisions - with severely restricted or non-existent transitional arrangements - and, in the eyes of many experienced practitioners, with a surprising lack of clarity around the exact nature of some of the requirements. Given that these changes were first announced and outlined by Government in 2010 it is perhaps unfortunate that the long gestation period had not resulted in a more fully rounded and finely crafted outcome! Having said that and as ever, Local Government coped, and it is pleasing to note that the County Council was instrumental in developing a Devonwide Code of Conduct which was subsequently adopted by the County Council and by a majority of District Councils in Devon and by a number of other statutory public bodies such as the Somerset & Devon Fire Authority and National Park Authorities.

Further, while the new arrangements in Devon were introduced without any great drama or disruption and Members have by and large understood the changes it is probably fair to say that the new regime is still, to a degree, a work in progress. The future will no doubt bring more interpretation and advice as to how the new arrangements should be applied - both nationally and locally. Government, Ministers and former Ministers continued throughout the year to provide advice and guidance on the intention of the legislation and the reasons for the new standards regime and Counsel and Lawyers equally opined on the interpretation of the law and the likely views that a Court may take if called upon so to do. A feast for lawyers everywhere!

Nonetheless, and against that background, the Committee has again successfully undertaken its tasks during the previous 12 months which continues to shape the culture and ethos of the organisation which, in turn, is reflected in the low level of complaints made about members' conduct since the Committee was first established.

The Standards Committee has always been of the view that attainment of high ethical standards must continue to be 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. 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 and recording the deeply felt gratitude of both the current Standards Committee and of the County Council for the contribution of Professor Bill Forsythe, the former Chairman of the Council's Standards Committee, who stood down from the Committee in July 2012 after 9 years service to the Council and the people of Devon. The County Council has itself publicly acknowledged and paid tribute to Professor Forsythe's contribution and commitment to ensuring the Council maintained the highest possible standards of conduct and it is 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.

Turning back to the present, the Localism Act 2011 required the introduction (from July 2012) of new Standards arrangements which ultimately, and following protracted deliberations in Parliament, required all 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 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 must 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 was reflected in the new arrangements referred to above.

Against that background this, the fourth, annual report provides an update into the work of the County Council's Standards Committee covering the period 1 April 2012 to 31 March 2013 and the way forward.

Membership of the Standards Committee

The introduction midway through the year of the new Standards arrangements referred to above inevitably meant also that the membership and make up of any Standards Committee would change in-year. Under the 2011 Localism Act there was no longer any statutory requirement to include any independent or co-opted members on the Council's Standards Committee nor could the Chairman now be an independent members.

Nonetheless, and in valuing the contribution that persons other than County Councillors could make in this particular field and recognising the experience gained by those individuals who had previously serviced on the (pre-July) Standards Committee in the wider area of ethical governance and members development generally, the County Council therefore agreed to reappoint a separate Standards Committee with those former independent members continuing to serve as co-opted members.

For the early part of the year there were twelve persons serving on the committee of whom five were independent persons (who were neither employed by nor elected members of the County Council) and seven councillors (but not Cabinet Members) representative of the membership of the County Council as a whole.

Following the departure of Professor Forsythe and the introduction of the new arrangements referred to above the Committee comprised from July, eleven persons, four of whom were co-opted and the remainder seven being councillors.

Further, the County Council agreed that the position of Chairman of the Standards post-July should be taken by the Chairman of the County Council recognising the impartiality of that role, as the most suitably qualified Member of the Council to take on that role.

The former Independent (and subsequently Co-opted) Members on the Committee work with Councillors to promote the importance of high standards of behaviour and systems of governance and to create a climate where complaints or problems rarely arise.

As before, 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 councillors on the Standards Committee comprise the Chairman of the County Council and nominees from each of the main political groups on the Council.

The membership of the Committee in 2012/13 was:-

Co-opted Members:	Professor Forsythe (Chairman)(until July 2012) Alderman Ken Turner Mike Bull Anne Mayes Ruth Saltmarsh
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County Councillors:	Jerry Brook (Chairman) (post July 2012) Polly Colthorpe Sir Simon Day Anne Fry Gordon Hook Jill Owen Barry Parsons
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Officer Support

The County Council's Monitoring Officer has overall responsibility for ensuring that due 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 and 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 it 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 with drive and rigour, fiercely 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, Tony Sweeney, also has a role in investigating and advising on any formal complaints about County Councillors' conduct and continues to act as Monitoring Officer for the Exmoor National Park Authority.

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 to the then Standards Board for England, although at any point in an investigation the Standards Board could refer the complaint to the relevant council for investigation. The Council's Standards Committee would then have the responsibility for the determination of complaints during a formal hearing.

After May 2008 however, 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. Standards for England would then only investigate complaints in rare circumstances where, for instance, there may be a conflict of interest.

As indicated elsewhere in this Annual Report, and during the course of 2012/13, the way in which complaints that a councillor may have breached the Code of Conduct were to be dealt with changed again in line with the provisions of the Localism Act 2011. Standards for England was abolished at the end of March 2012 and, from July 2012, Councils had to put in place a revised system to deal with allegations that members had breached the Code and appoint an 'Independent Person', who must be consulted on and whose views must be taken into account before reaching a decision about any allegation. The Council has put in place appropriate mechanisms and processes which can be seen on its website at:

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

During the course of the year three complaints of alleged breaches were received.

One complaint was received prior to the new arrangements being introduced which, following consideration by an Assessment Committee, did not lead to a formal investigation.

The other two complaints were received and dealt with under the new (post July) arrangements. Following an initial assessment of each complaint by the Monitoring Officer and consultation with an Independent Person appointed by the Council no further action taken was on either case on the basis that the allegations would not have been be a breach of the Code of Conduct and, accordingly, could not therefore be investigated.

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 13 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 2011/12

The Standards Committee met four times in 2012/13 - once in its 'old' format and three times under the new arrangements described elsewhere in this Report. There was also one meeting of an Assessment Committee under the pre-July arrangements.

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 continued to receive regular reports on compliments, representations and complaints received by Services on the operation of the County Council's formal complaints procedures. The Committee endorsed the changes in arrangements for the handling of feedback across all of the Council's services, including children's and adult social care services, together with the revised corporate feedback system which reflected the significant organisational changes within the Council effected in 2011 and consequential proposed changes to future reporting mechanisms.

While the general trend for the number of complaints appeared upward, the Committee remains of the view that this is as much a reflection of general societal mores and the positive work being undertaken by the Council to encourage feedback from members of the public; it does not necessarily follow that any increase is actually an increase in wrongdoing, rather it may be attributable to improved understanding of and access to and responsiveness of the customer service process.

The Committee welcomed the comprehensive briefing provided prior to the Annual Meeting of the Council in May 2012 to outline for Members of the Council the issues raised by the Localism Act (including the new standards arrangements, code of conduct and member interests) and the specific issues of pre-determination and pre-disposition particularly, but not exclusively, in relation to the consideration of planning matters. The subsequent detailed training session held for Members of the Council in July 2012 to explain the new Code and Standards arrangements was also well attended.

The Standards Committee examined the Ombudsman's Review for the year ending 31 March 2012. 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. The Ombudsman had not raised any significant areas of concern in relation to the handling of cases or response times by the Council and the Committee had welcomed the general comments of the Ombudsman in praising the County Council on the way it dealt with complaints generally and its hard work in this area of activity.

While acknowledging that the Council's performance measured in this way remained at the highest levels, Members also acknowledged the further benefit that might accrue for the Council of improved communication and a wider understanding of the restrictions and

pressures placed on the delivery of services in the current economic climate; that were the difficulties faced by Councils in providing services better understood by the public at large that could potentially, reduce the overall number of complaints.

The Standards Committee had previously introduced and reaffirmed arrangements for Independent/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 received regular reports on this process - copies of which can 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 Independent/Co-opted Members through this process there were, pleasingly, no indications of any significant actions or behaviour 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.

However, it is perhaps worth noting that following attention drawn through this process to weaknesses in the arrangements for appellants' attendance and representation at a quasi-judicial hearings of a Committee, the documentation and protocols had subsequently been clarified and reinforced to ensure compliance with correct procedures and ensure the involvement of all relevant persons and avoid a recurrence of problems observed previously.

Also pleasing to note is that there was again no significant difference of opinion or divergence of view as to general conduct observed at a range of meetings by different Independent/co-opted Members, demonstrating a degree of consistency of conduct by Members and Officers alike.

Finally, and as consistently recognised by Members, the audibility of speakers at meetings continued to be an issue and it was gratifying to learn that the Council had agreed to a new microphone/amplification system being purchased which should be operating in the coming year. Similarly action had also been taken to improve the ability of others to follow proceedings more effectively through ensuring name plates were provided for members and improving the numbering and cross-referencing of papers considered at meetings to aid the public's understanding of the issues being discussed.

Work Programme for 2013/14

Whatever the future holds, and notwithstanding the outcome of the 2013 quadrennial elections and any resulting changes in the democratic structures that might be put in place by an incoming administration, the Standards Committee is reassured by the County Council's previous expressions of support for a separate Standards committee with a degree of 'independence'.

Whilst the current Standards Committee cannot bind its successor, there are a number of areas or specific pieces of work that it believes would be worthy of pursuing such as:

- ensuring, as part of the induction process, that all new and returning Members are fully aware of the provision 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, no later than the second year of the new administration, a further ethical governance audit and self assessment survey 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 to and 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, highlighting, in particular, the need to take into account relevant considerations such as equality issues and risk assessments before coming to any decisions.

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. 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 2012 endorsed the Governance Statement for 2011/12.

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.*



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