



*STANDARDS COMMITTEE*

*ANNUAL REPORT*

*2011/12*



*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](http://www.devon.gov.uk/index/councildemocracy/decision_making/full_council/standards.htm)*

## *Foreword by the Chairman, Professor Bill Forsythe*

As an Independent Member and Chairman of Devon County Council's Standards Committee since 2003 I am grateful, once again, to have this opportunity to record how the Committee has fulfilled its role in serving the people of Devon.

The five independent members on the Committee work with the Council to promote the importance of high standards of behaviour and systems of governance and to create a climate where complaints or problems rarely arise. I have been very ably supported by a number of County Councillors appointed to the Committee by the Council and would like to thank all of my fellow members for their dedication and hard work.

I firmly believe the Committee has again successfully undertaken its tasks during the previous 12 months and this has again been reflected in the low level of complaints made about members' conduct since the Committee was first established.

The 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 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 we need to go on improving our systems for monitoring our standards critically 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.

I believe this latter point is particularly pertinent now and in the coming years with Local Government continuing to face an uncertain future with the effects of the recession and public sector spending cuts when, arguably, the issues of ethical governance will be even more to the fore.

On a personal note it is not without a good deal of sadness that I will cease my work as Chairman of this Committee as the current standards regime for England comes to an end this summer. I have enjoyed my 9 years on the Committee and am immensely grateful for the support and assistance of my fellow members of the Committee and of all those Officers of the Council who have enabled me to carry out my responsibilities over that time. I have felt deeply honoured by this opportunity to serve the people of Devon.

Having regard to the future, I have no doubt that high ethical standards are evident from top to bottom in the work of Devon County Council and that under the new arrangements that will come into play in July 2012 the councillors and officers of the Council will continue to apply consistently the same integrity in their work.

## Background

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*) 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 subsequently 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.

However, change is definitely in the offing. Whilst the Coalition Government’s Programme for Government of 20 May 2010 originally contained a commitment to abolish the Standards Board regime the subsequent Localism Act 2011 resulted in a position closer to that which currently exists and which will see

- all Councils having to appoint a Standards Committee;
- all Councils being required to have a Code of Conduct established in line with the Nolan Principles ;
- a requirement for members to register and disclose pecuniary and non pecuniary interests;

- Councils having to put in place a system to deal with allegations that members had breached the Code; and
- Councils having to appoint an independent person through a transparent process who must be consulted before reaching a decision regarding any allegation.

Implementation of the new standards arrangements was originally expected to take place on 1 April 2012 but this was subsequently delayed until 1 July 2012; the Department for Communities and Local Government having recognised that such a timetable would be more appropriate given the timing of councils' elections and annual meetings. As ever the devil will be in the detail which has yet to be published by Government.

This Standards Committee – and the County Council itself - have always recognised the importance of retaining a structure which will 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.

Against that background this, the third, annual report provides an update into the work of the County Council's Standards Committee covering the period 1 April 2011 to 31 March 2012 and the way forward.

## *Membership of the Standards Committee*

A Standards Committee must comprise at least three persons, at least two of whom must be elected members and the other must be a person who is independent of local government.

Where a Standards Committee exceeds three people, Independent Members must comprise at least 25% of the membership. The Chairman of the Standards Committee must, by law, be one of those Independent Members.

Devon County Council has long recognised the added value brought by Independent Members and the importance of having a balance between elected and independent members. There are currently a total of twelve persons serving on the committee of whom five are independent persons who are neither employed by nor elected members of the County Council. The other seven members are councillors (but not Cabinet Members) representative of the membership of the County Council as a whole.

To be eligible to become an independent member of the Standards Committee a 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 (who is also the Vice-Chairman of the Standards Committee) and nominees from each of the main political groups on the Council. The political balance rules do not apply. Independent members are entitled to vote at meetings.

Meetings of the Committee cannot proceed unless at least one Independent Member is present.

The membership of the Committee in 2011/12 was:-

Independent Members:	Professor Bill Forsythe (Chairman)
	Alderman Ken Turner
	Mike Bull
	Anne Mayes
	Ruth Saltmarsh

County Councillors:	Jeremy Yabsley (Vice-Chairman)
	Polly Colthorpe
	Sir Simon Day
	Anne Fry
	Gordon Hook
	Jill Owen
	Barry Parsons



## *Officer Support*

The County Council's Monitoring Officer has overall responsibility for ensuring that there is due regard 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 do not act oppressively, unjustly or corruptly.

The Monitoring Officer, Jan Shadbolt, continues to support the Committee with energy 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. Her skill and efficacy in resolving disputes has again, in at least one case, prevented a formal complaint being made.

The Deputy Monitoring Officer, Tony Sweeney, also has a role in investigating and advising Assessment and Review Sub-Committees on any formal complaints about County Councillors' conduct and it is pleasing to note that the County Council's expertise in this field generally has also been recognised through his being appointed to act as Monitoring Officer for the Exmoor National Park Authority.

The Standards Committee and its Assessment and Review Sub-Committees are serviced and supported by the County Council's Democratic Services & Scrutiny Secretariat.



## *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 revision of the Members' Code of Conduct;
- monitoring the operation of the Members' Code of Conduct;
- granting 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;
- considering complaints that a councillor may have breached the Code of Conduct for Members, in line with guidance from Standards for England (formerly the Standards Board for England) (i.e. local determination of complaints).
- dealing with any reports from the Standards for England and any report from the Monitoring Officer on any matter.

In addition to the statutory functions described above, the County Council 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 Standards Committee about a 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](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*

Until 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 were 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.

However, the Localism Act 2011 provided that the Standards Board (Standards for England) would be abolished from 31 March 2012. Transitional arrangements were put in place to deal with any 'live' cases up to that time and/or received after 31 January 2012. There were no such cases for Devon.

It is a truism that the impact of these arrangements have not, by and large, been as keenly felt by the County Council as elsewhere. There was only one formal complaint made in 2011/12 (none in 2010/11 and one in 2009/10) which required either an Assessment and/or a Review Sub-Committee being convened.

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 12 years of having no findings against members for breaches of the code since the establishment of the Standards Board for England.

It is important however, that the Council continues to publicise how complaints may be made and are dealt with. 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](http://www.devon.gov.uk/index/your_council/county_councillors.htm)

or

[http://www.devon.gov.uk/index/councildemocracy/county\\_councillors/councillorcomplaints.htm](http://www.devon.gov.uk/index/councildemocracy/county_councillors/councillorcomplaints.htm)

## *The Work of the Standards Committee in 2011/12*

The Standards Committee met only twice in 2011/12 and there was one meeting of an Assessment Sub- Committee which did not lead to a formal investigation.

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](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 Directorates on the operation of the County Council's formal complaints procedures. While the general trend for the number of complaints to increase continues, the Committee remains of the view that this is as much a reflection of the general societal trend 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 Standards Committee examined the Ombudsman's Review for the year ending 31 March 2011. None of the complaints received had resulted in any finding of maladministration against the County Council nor did the Ombudsman raise any significant areas of concern in relation to the handling of cases by the Council. The Ombudsman did comment on the demands being placed upon her office due to the increased time taken to respond to her enquiries. The Standards Committee welcomed the fact that action would be taken to reverse that where possible, but also acknowledged that the Ombudsman had also been reminded, robustly, that the ever increasing complexity of cases referred by her and the number of agencies involved in those predominantly social care cases did not make meeting the current tight deadlines easily achievable .

The Committee welcomed the 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.

The Standards Committee had previously introduced arrangements for Independent 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 new 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](http://www.devon.gov.uk/index/councildemocracy/decision_making/cma/index_std.htm)).

While a number of detailed practical issues were raised by Independent 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.

Also pleasing to note is that there was no significant difference of opinion or divergence of view as to general conduct observed at a range of meetings by different Independent Members, demonstrating a degree of consistency of conduct by Members and Officers alike. The audibility of speakers at meetings was a recurring issue raised by Independent Members and the feasibility of replacing the system was being explored although Members themselves could on occasion use the existing system more effectively. 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.

The Chairman of the Standards Committee met regularly with the Monitoring Officer over the period of this Report to discuss relevant issues.

It must of course be recognised that for much of the year the Standards Committee was anticipating its own demise, while attempting to better understand the shifting sands of Government's intentions - which only became clear in the later part of the year - and how it might influence the County Council in what might replace it.

The Committee was reassured throughout that period by the County Council's previously stated support for the need for the County Council to have a voluntary, independent, Standards Committee.

## *Work Programme for 2012/13*

There is still uncertainty over the exact nature of the arrangements that the County Council will be required to make for the discharge of the functions of a Standards Committee both in light of the changes to be introduced by Government and the future of those current, discretionary, functions such as monitoring of the Council's complaints procedures and monitoring by Independent Members of the Council's Standards Committee.

The Committee therefore acknowledges and welcomes the fact that a comprehensive briefing session will be held prior to the next Annual Meeting of the Council, in May 2012, to deal with all the issues raised by the Localism Act including the new standards arrangements, code of conduct and member interests and the issue of pre-determination and pre-disposition particularly, but not exclusively, in relation to the consideration of planning matters, to assist Members in their understanding of the new legislation

Whatever the future holds, the present Standards Committee believes it will be necessary to:

- explore the need for and desirability of undertaking a second ethical governance audit and self assessment survey - by both members and senior officers - with a view to determining, 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 and provide 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 2011 endorsed the Governance Statement for 2010/11.

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.

## *Independent Member Ethical Governance Framework Monitoring Protocol*

### **Purpose:**

To provide feedback to the Standards Committee annually (in November of each year) 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 Independent 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 Independent 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 an Independent 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*

To undertake such other functions as the Secretary of State may by regulation confer upon a Local Authority Standards Committee.

To exercise all the functions of a Standards Committee under the Ethical Framework established by the Local Government Act 2000, as amended and all Statutory Instruments and Regulations made by the Secretary of State thereunder.

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

To implement the Code 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 receive reports from the Standards Board or ethical standards officers following investigations and to advise the Council on the implications of any disciplinary sanctions imposed by the Board or condign action within the Council's own competence.

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.

*Professor Bill Forsythe*  
*March 2012*

*Jan Shadbolt*



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