

Agenda for Standards Committee

Thursday, 27 October 2016; 10.00am



[Members of the Committee](#)

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: [Chris Lane](#), 01395 517544 (or group number 01395 517546): Issued 18 October 2016

East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Fax: 01395 517507

www.eastdevon.gov.uk

- 1 [Public speaking](#)
- 2 Minutes for 19 July 2016 (page 3 - 5)
- 3 Apologies
- 4 [Declarations of interest](#)
- 5 [Matters of urgency](#) – none identified
- 6 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Part A Matters for Decision

- 7 **Review of Members' Code of Conduct** (pages 6 - 7)
Strategic Lead - Legal, Licensing & Democratic Services & Monitoring Officer
- 8 **Assessment of the naming of complainants and subject members in the complaint process and complain reporting** (pages 8-10)
Strategic Lead - Legal, Licensing & Democratic Services & Monitoring Officer
- 9 **Complaints update (May 2015 – date)** (pages 11)
Strategic Lead - Legal, Licensing & Democratic Services & Monitoring Officer
- 10 **Forward Plan** (page 12))

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[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of a meeting of the Standards Committee held at Knowle, Sidmouth on Tuesday, 19 July 2016

Attendance list at the end of the document

The meeting started at 10.00am and ended at 10.45am

- *1 Public speaking
There were no questions asked.
- *2 Minutes
The minutes of the meeting of the Standards Committee held on 19 April 2016, were confirmed and signed as a true record.
- *3 Declarations of interest
There were none.
- *4 Welcome to New Members of the committee
The Chairman welcomed two of the three new co-opted non-voting members, Councillor Frances Newth and Martin Goscomb. Councillor Jessica Bailey had sent her apologies.
- *5 Annual Report
Members considered the review of the work of the Standards Committee during 2015/16, which outlined:
 - the key areas of work for committee members
 - local review of our processes since the Localism Act 2011 changes
 - analysis of Code of Conduct complaints.

In response to a question from a member, the Monitoring Officer confirmed that training for Development Management Committee members would happen at the September meeting. Councillor Alan Dent also reported on the issue of lobbying of Development Management Committee members and that there needed to be training on this and the correct declarations of interests. Councillor Susie Bond also raised the issue of the list of gifts and hospitalities on the Council's website.

The Chairman thanked the Monitoring Officer for his report.

RESOLVED: that the review of the 2015/16 year be noted.

- *6 Complaint update
The Committee considered and noted the report of the Monitoring Officer, which provided an update for the Committee on new Code related cases received since 1 May 2016.

Following discussion on some of the complaints received in 2015.-2016, a request was made that the Monitoring Officer prepare a report to the next meeting on options on the assessment of the naming of complainants and subject members in the complaint process and complain reporting. The Monitoring Officer reported that decision notices could be published on the website, although routinely this was not

done but the Subject Member could request that their decision notice was published if they wished, but in such case the complainant may not be identified if they have requested that their identity was kept confidential.

Members raised the issue of the link to the complaints procedure which is listed below:

<http://eastdevon.gov.uk/media/1795790/Councillor-Complaint-procedures-Feb-14.pdf>

RESOLVED:

1. that the report be noted;
2. that the Monitoring Officer bring a report to the next meeting on the assessment of the naming of complainants and subject members in the complaint process and complaint reporting.

*7 Forward Plan

The Committee noted the contents of the forward plan and future meeting dates.

The following items would be included for consideration at the September meeting:

- Review of Members' Code of Conduct
- Assessment of the naming of complainants and subject members in the complaint process and complain reporting
- Forward Plan.

Attendance list

Present:

Councillors:

Stuart Hughes (Chairman)

Douglas Hull

Dawn Manley

Pauline Stott

Co-opted non-voting members:

Martin Goscomb, Co-opted Independent member

Frances Newth, Co-opted Parish/Town Council member

Tim Swarbrick, Co-opted Independent member

Also present:

Alison Willan, Independent Person

Councillors:

Susie Bond – substitute Committee member

Alan Dent – substitute Committee member

Officers:

Henry Gordon Lennox, Monitoring Officer and Strategic Lead - Legal, Licensing & Democratic Services

Chris Lane, Democratic Services Officer

Apologies:

Councillor Graham Godbeer
Jessica Bailey

Chairman Date

Report to: **Standards Committee**

Date of Meeting: 27 October 2016

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: 7

Subject: **Review of the Members Code of Conduct**

Purpose of report: The Member's Code of Conduct requires reviewing.

Recommendation: **That the Committee agree that the Member's Code of Conduct (found at Part 5.1 of the Council's Constitution) is fit for purpose and that there is no need to make any amendments**

Reason for recommendation: Under S.27 of the Localism Act 2011 it is a requirement for a Council to have adopted a code of conduct which deals with the conduct that is expected of members and co-opted members of the Council when acting in their official capacity.

This Council's Member Code of Conduct is contained within Part 5 of the Council's Constitution. Any complaint that a Member has failed to comply with the Council's Code of Conduct is considered in accordance with our adopted Complaint's procedure. The current procedure was adopted by this Committee following a review of the process at the January meeting.

The Committee receives regular updates on complaints throughout the year as a separate item on each agenda.

There is no doubt that the current conduct regime (when compared to the previous regime) has less teeth in terms of formal sanctions that can be applied where a breach of the Code of Conduct is found to have occurred. However, this is not a reflection on the suitability of the Code of Conduct itself. The nature of the complaints usually fall within one or two areas ('treat others with courtesy and respect' and 'not bring office into disrepute' being the two main ones) but others are necessary to ensure that the wide range of circumstances in which an issue could arise are covered (such as preclusion on bullying or intimidating behaviour for example). As far as I am aware, there has not been a circumstance where a complaint has been raised about behaviour that ought to be covered by the Code of Conduct, but which is not satisfactorily covered, meaning a complaint could not be progressed.

It is my view that the Code of Conduct remains up to date with legal requirements and is fit for purpose. To reiterate, the suitability / effectiveness of sanctions is not related to the content of the Code of Conduct itself. For the above reasons the recommendation is that no amendments are required to the Code of Conduct.

Officer: Henry Gordon Lennox, Strategic Lead Legal, Licensing, Democratic Services & Monitoring Officer hgordonlennox@eastdevon.gov.uk 01395 517401

Financial implications:

There are no direct financial implications.

Legal implications:

The legal implications, such as there are any arising, are set out in the report.

Equalities impact:

Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form if necessary.

Risk:

Low Risk

Click here to enter text on risk considerations relating to your report.

Links to background information:

[Council's Constitution](#)

Link to Council Plan:

Encouraging communities to be outstanding and Continuously improving to be an outstanding council

Report to: **Standards Committee**

Date of Meeting: 27 October 2016

Public Document: Yes

Exemption: None

Review date for release: None



Agenda item: **8**

Subject: **Assessment of the naming of complainants and subject members in the complaint process and complain reporting**

Purpose of report: To inform the Committee on the process for naming, or not, complainant and subject members as part of the complaints process.

Recommendation: **That the Committee agree that the current process for dealing with the naming of complainants and subject members is satisfactory.**

Reason for recommendation: The Committee receives regular updates on complaints throughout the year as a separate item on each agenda as well as an annual report. These updates do not specify individual councillors, rather they simply specify whether the complaint is against a town / parish or district councillor. With the additional detail that is now included following the request of the Committee, it is fair to say that in certain circumstances it may be relatively clear who the subject member actually is, or at least it narrows down the possibility of who it may be.

The Council's revised procedure for dealing with complaints against Member's conduct was adopted by this Committee at its January meeting. The background section provides a link to the section of the Council's website which deals with making a complaint.

The second page of that section states the following;

2. Complainant confidentiality

When we receive a complaint, the councillor who is being complained about will, in normal circumstances, be told who has complained about them.

If you ask for your identity to be kept confidential, the monitoring officer will consider your request before telling the councillor that a complaint has been made.

If the monitoring officer doesn't think it is appropriate to grant a request for confidentiality you will be offered the opportunity to withdraw the complaint rather than proceed with it.'

The normal presumption therefore would be that the subject member will be made aware of who has made the complaint against them. In certain circumstances, such as if there is an allegation of bullying or intimidating behaviour, it can be seen that there could be a real need to withhold the details of the person making the complaint. Where the complainant does

not wish to be named then the Monitoring Officer assesses the claim for anonymity. If the Monitoring Officer does not accept that there should be anonymity then the complainant is offered the opportunity to withdraw their complaint, but if they don't withdraw it then they will be named when the subject member is informed of the complaint. It is envisaged that the circumstances when the need for anonymity may occur are relatively rare and therefore in the majority of cases the complainant's name will be revealed. Indeed, in the vast majority of cases the complaint is happy that they are openly named.

Following consideration of the complaint a number of outcomes can arise, which are set out below, and against each these the circumstances for further publication that can occur detailed;

No further action – subject member can have the details of the complaint and outcome published, although if they don't wish to then the details will remain confidential.

Informal resolution – outcome is only published where the subject member agrees, otherwise it remains confidential.

Other action (which is not an informal resolution) – outcome is only published where the subject member agrees, otherwise it remains confidential.

Following investigation and no finding of breach – outcome is only published where the subject member agrees, otherwise it remains confidential.

Following investigation and finding of breach but resolution occurs – outcome is only published where the subject member agrees, otherwise it remains confidential.

Following investigation where there is a finding of breach but no resolution then matter referred to the Standards Committee – the presumption is that this process is held in public and that the agenda and paperwork will be publicly available. Even if there are grounds for the hearing to be in private, the outcomes of the hearing, including the decision notice, will be available to the public through the Council's website. There is no opportunity for a subject member to control publication of this information.

The fact that, in the vast majority of cases, a subject member can choose to publish the outcome or keep it confidential ensures that the subject member has complete discretion as to how to deal with any particular circumstance. Crucially though, it ensures that where the subject member wants it kept private they can choose to do so, or alternatively where they want it to be known that there was a complaint and a particular outcome was concluded, then this too is open to them. Other than noting the flexibility which is afforded, it is not appropriate to second guess the circumstances that may lead a subject member to any particular course of action.

In summary, the Committee have asked for more detail on complaint cases. In certain circumstances this may reveal or give a good clue as to who the subject member is. The process for dealing with complaints provides sufficient opportunity for the subject member to be able to ensure, where there is no fault, that any such finding is published so they can be exonerated. Equally though there are circumstances where a

subject member may not wish to have any details of the fact that a complaint that has been made to be known. It is difficult, and I would say inappropriate, to have a set of rules requiring open publication of both subject member and complainant in all circumstances. There are justifiable reasons why this would be inappropriate from the perspective of both complainant and subject member. With that in mind there are sufficient safeguards built in to the system to afford protection from publicity where it is needed (for both complainant and subject member) and also so that an aggrieved subject member can demonstrate to the public / their electorate that they have not done anything wrong. In that latter scenario, the vast majority of cases will mean that both the complainant and the subject member are identified. If Member's are concerned about being compelled to publish outcomes to overcome the fact that more detail is being reported in the complaint updates, then you may wish to consider the amount of information that is provided as part of the complaints update, rather than looking at the complaints process itself.

It is my view that the current arrangements in respect of confidentiality (or not) for both the complainant and subject member are acceptable and apply the right balance between protecting individuals and balancing the ability for the public to be made aware of complaints (and who is making them) against councillors and the outcomes. For the above reasons the recommendation is that no changes need to be made to the current procedures or processes.

Officer: Henry Gordon Lennox, Strategic Lead Legal, Licensing, Democratic Services & Monitoring Officer hgordonlennox@eastdevon.gov.uk 01395 517401

Financial implications: There are no direct financial implications.

Legal implications: The legal implications, such as there are any arising, are set out in the report.

Equalities impact: Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form if necessary.

Risk: Low Risk

Click here to enter text on risk considerations relating to your report.

Links to background information: ['How to complain about a Councillor' section of EDDC's website](#)

Link to Council Plan: Encouraging communities to be outstanding and Continuously improving to be an outstanding council

Standards Committee, 27 October 2016

Item 9 - Code of Conduct complaints update

This paper provides an update for the Committee on Code related cases since the 1st May 2016 to date:

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct and outcome following consultation with Independent Person	Detail of complaint
2016-C01	Parish Councillor	Complaint regarding the lack of respect shown at a parish council meeting. Relevant paragraphs of the code; 4a - you must treat others with courtesy and respect 5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office into disrepute. Informal Resolution Agreed	Acted in a rude, aggressive and disrespectful manner towards an EDDC officer and others during a meeting held at a parish council.
2016 –C02	Town Councillor	Complaint regarding the lack of respect shown at a parish council meeting. Passed to MO for assessment – awaiting further information.	Acted in a bullying and disrespectful manner during a town council meeting.

Agenda Item 10

Standards Committee

27 October 2016



Standards Committee

Forward Plan 2016/17

24 January 2017

Committee members to advise of any items for the Forward Plan.