

# Agenda for Standards Committee

## Tuesday, 23 January 2018; 10.00am



### [Members of the Committee](#)

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

[View directions](#)

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- 1 [Public speaking](#)
- 2 Minutes for 17 October 2017 (page 3 - 6)
- 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 **Councillor Gifts and Hospitality** (pages 7-10)  
Strategic Lead – Governance and Licensing & Monitoring Officer
- 8 **Code Complaints update (May 2017 – date (October 2017))** (pages 11-17)  
Strategic Lead – Governance & Licensing & Monitoring Officer
- 9 **Forward Plan** (page 18)

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# EAST DEVON DISTRICT COUNCIL

Minutes of a meeting of the Standards Committee held at Knowle, Sidmouth on Tuesday, 17 October 2017

## **Attendance list at the end of the document**

The meeting started at 10.00am and ended at 11.20am

- \*8 Public speaking  
There were no questions asked.
- \*9 Minutes  
The minutes of the meeting of the Standards Committee held on 25 July 2017, were confirmed and signed as a true record.
- \*10 Declarations of interest  
There were none.
- \*11 Councillor Interests and Code of Conduct training  
The Committee considered the report of the Monitoring Officer, which considered the nature of interests that Councillors were required to declare, the extent to which land ownership should be identified when Register of Interests forms were completed and whether there should be a mandatory requirement for Members to receive Code of Conduct training.

Discussion included the following points:

- Declaration of a prejudicial interest could be seen as protecting the Council and its reputation;
- Need to strike a balance between the need to declare an interest and the democratic process;
- Bias and predetermination were a separate matter from declarations of interest and difficult to prove;
- Trust was a big part of the Councillor role and the ballot box was the ultimate sanction for Councillors;
- The recommendation presented to the Committee got the balance right between allowing members to take decisions and not introducing additional bureaucracy;
- Possibility of adding on the Declaration of Interest item on the front page of agendas the following wording: (please note it is criminal offence not to declare a personal or prejudicial interest);
- Guidance within South Somerset District Council's code of conduct regarding bias and predetermination should be included for guidance in EDDC's Member code of conduct;
- Need to improve the Declarations of Interest link on the front page of agendas to include more relevant information;
- Councillors needed to be honest and reasonable when declaring an interest;
- Councillors should be subject to the requirement that they could not sit on committees if they did not attend mandatory training on the Code of Conduct after the elections in May 2019;
- Notify town/parish councils that changes are going to be made to Code of conduct and it's their responsibility if they wished to adopt them;

- Ensure that declarations of interest were clear as to the reason why a declaration was made;
- A map was not necessary in terms of the Register of Interests but there was the need to make sure that a Councillors land interests could be clearly identified;
- The Monitoring Officer acknowledged the need to be rigorous in identifying where Register of Interests had not been correctly completed by councillors.

The Chairman thanked the Monitoring Officer for his report.

**RESOLVED:**

that the Standards Committee:

1. Agrees that there should be no change to the nature of interests that should be disclosed and noted that the scope of personal interests will be revised to be clearer as detailed in the report and also that guidance similar to that of South Somerset District Council's Code of Conduct on bias and predetermination should be added to EDDC's Member's Code of Conduct. Additionally, on the front page of agendas the Declaration of Interest item shall be revised to ensure improved guidance on the declaration of interests and participation at meetings.
2. Agrees that it is not necessary to require a map to identify a Councillor's property interests, but that the Register of Interests form be revised to advise Councillors that a map could be provided if it would be helpful in clearly identifying the location of land interests.
3. Councillors should be required to have mandatory training on the Code of Conduct and that this be introduced as a requirement for after the district council elections in May 2019; and there be a requirement for Councillors to be precluded from sitting on Committees where they have not attended the mandatory training. It was agreed that be two or more training sessions should be arranged.
4. Agree that any of the above changes which require amendment to the Constitution will be incorporated into the Monitoring Officer's changes to be presented to Annual Council for approval in May.

\*12 Code Complaints 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 2017.

Discussion included the following points:

- The Monitoring Officer would provide more information on Code of Conduct complaints for the report for the next meeting.

- Dealing with the Code of Conduct complaints could be quite a drawn out process.
- A sanction available against Councillors if found to be in breach of the code of conduct was to remove a Councillor's Committee membership.

**RESOLVED:** that the report be noted.

\*13 Forward Plan

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

Discussion included the following points:

- A report be prepared on Councillors, Gifts and Hospitality to be discussed at a future meeting, including benchmarking against other authorities' schemes.
- Whether employees were subject to appropriate declarations, in relation to which the Monitoring Officer advised that there was a recent requirement for all staff to fill in a Register of Interests form and all new starters had to fill out a form upon joining. Annual reminders were sent regarding updating forms and there was a forthcoming amendment to the Employee Code of Conduct in respect of acting in accordance with the Nolan Principles and strengthening the section dealing with declarations of gifts and hospitality.

**RESOLVED:** that the following report from Henry Gordon Lennox, Monitoring Officer and Strategic Lead - Governance and Licensing would be included for consideration at the next meeting covering the following issues:

- The Councillors, Gifts and Hospitality Scheme, including benchmarking against other authorities schemes.

**Attendance list**

**Present:**

Councillors:

Andrew Moulding (Chairman)

Graham Godbeer

Douglas Hull

Dawn Manley

**Co-opted non-voting members:**

Martin Goscomb, Co-opted Independent member

Jessica Bailey, Co-opted Parish/Town Council member

Tim Swarbrick, Co-opted Independent member

Frances Newth, Co-opted Parish/Town Council member

**Also present:**

Alison Willan, Independent Person

**Councillors:**

Susie Bond – substitute Committee member

Roger Giles

Geoff Jung

**Officers:**

Henry Gordon Lennox, Monitoring Officer and Strategic Lead – Governance & Licensing  
Chris Lane, Democratic Services Officer

**Apologies:**

Alan Dent – substitute Committee member  
Stuart Hughes

Chairman ..... Date .....

**Report to:** **Standards Committee**

**Date of Meeting:** 23 January 2018

**Public Document:** Yes

**Exemption:** None

**Review date for release** None

**Agenda item:** 7

**Subject:** **Councillor Gifts and Hospitality**

**Purpose of report:** To consider the Council's approach to Councillor gifts and hospitality and declarations in that regard. The Standards Committee has requested a report be brought before it for consideration.

**Recommendation:** **That the Standards Committee;**

- 1. Notes the content of the report.**
- 2. Agrees that the Member's Code of Conduct and Register of Interests are amended in accordance with the details set out in the report as part of the changes to the Constitution to be presented to Annual Council.**
- 3. Agree to the Monitoring Officer reviewing the approach to the online Register of Gifts and Hospitality with a view to finding a workable solution.**

**Reason for recommendation:** Having considered the issues surrounding gifts and hospitality it is considered that the Code of Conduct ought to be revised to create a specific requirement in terms of disclosing gifts and hospitality and declaring this at relevant meetings but that this should not be a personal interest.

**Officer:** Henry Gordon Lennox, Strategic Lead for Governance and Licensing and Monitoring Officer - [hgordonlennox@eastdevon.gov.uk](mailto:hgordonlennox@eastdevon.gov.uk) & 01395 517540

**Financial implications:** There are no financial implications arising.

**Legal implications:** There are no direct legal implications arising from the content of 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:** [Member's Code of Conduct](#)



**Report in full**

Background

1. The Members Code of Conduct specifies that ‘*any gifts or hospitality worth more than an estimated value of £25 which you have received by virtue of your office*’ is a personal interest. It is a requirement of the Code that such interests are registered.
2. While the Member’s Register of Interests form contains a section on gifts and hospitality, this is only relevant at the point of completion. It is for this reason presumably that Gifts and Hospitality Register is also in existence to enable Members to enter any gifts and hospitality over £25. This is a physical register maintained by Democratic Services. There was a ‘virtual’ register created a few years ago with the intent of enabling Councillors to go online and enter any gifts and hospitality themselves. However this became an issue when the Councillors moved away from the underlying operating system and effectively became redundant. Recently Democratic Services have taken to uploading the entries from the physical register for Councillors and the virtual register now mirrors the physical register. It should be noted that the online register is not perfect because it doesn’t allow historic entries to be made, i.e. it captures the date of entry as the ‘date of disclosure’ and it doesn’t allow the person entering it to override it. In this sense it looks like the disclose has been made sometime after the gift / hospitality has been received but in practice that is not the case. In addition the online register did allow for an entry to confirm where a gift or hospitality was offered but not accepted. The physical register is not used in this way.
3. The requirement is to disclose gifts and hospitality worth more than estimated £25. On the whole it will be self evident if the value might exceed £25 but in general terms there will at times be a degree of subjectivity as to whether it is necessary to declare. Generally speaking it is expected that Members would err on the side of caution if there was any doubt.
4. As far as officers are concerned, Members are complying with the requirements to disclose gifts and hospitality. I am not aware of any situations where a Member has received a gift or hospitality that has not been registered.

Benchmarking

5. The table below identifies what the other District Councils, the Unitary Authorities and the County Council do in respect of gifts and hospitality.

<b>Authority</b>	<b>Value (£)</b>	<b>Details</b>
<b>Districts</b>		
Mid Devon	25 +	Declare to the appropriate senior officer
West Devon	25 +	Personal interest but not clear whether a specific requirement to declare / register – at best it is a requirement to be included on their Register of Interests.
Torridge	25+	Registerable interest and extends to the Members partner not just the Member.
North Devon	25	Personal interest to be included on a Members Register of Interests.
Teignbridge	50+	Personal interest to be included on a Members Register of Interests.
Exeter	N/A	N/A



South Hams	100+	Personal interest to be included on a Members Register of Interests.
<b>Unitary</b>		
Plymouth	25+	Notify the Monitoring Officer for inclusion in the Register of Gifts & Hospitality. Not a personal interest.
Torbay	25+	Notify the Monitoring Officer. Detailed Local Protocol governing arrangements. Not a personal interest.
<b>County</b>		
Devon	N/A	Guidance on acceptance of gifts / hospitality and Members required to notify Monitoring Officer. Not a personal interest.

6. Only one authority has no rules around declarations of gifts and hospitality. Some, I think it is fair to say, are confusing as to how they apply, although I am sure there is a good understanding in the relevant authorities. The majority of authorities approach it in the same way, which is that there is a relatively low limit (£25 is the favoured limit) and Members are under an obligation to declare it. This in some cases is through their Member's Code of Conduct (as ours) while others are through other governance documents but generally all form part of the Council's Constitution.

### **Approach at East Devon**

7. East Devon sits with the majority in terms of the approach across Devon. This is to say that any gift or hospitality over £25 is a personal interest and Members are required to declare this, under the Member's Code of Conduct. In addition the requirement to declare the personal interest applies at meetings and applies irrespective of the gift or hospitality being on the relevant register or on a Member's Register of Interests.
8. It is self evident that the responsibility is on the Member to declare any gift or hospitality. However it does appear that the Register of Gifts and Hospitality is working at East Devon, in that Members are able to, and are declaring in accordance with the rules and a physical register is maintained. While open to inspection, such information being available on line is clearly preferable. While there is an online register, the current position is not ideal in that it was intended that Members would be self declaring but it has ended up with officers updating the online version following receipt of a declaration, due to the facility not being available for Members.
9. Until recently the Member's Register of Interest form has included a section detailing gifts / hospitality. As I say above, this is only relevant at the time of signing and technically a new Register of Interest would be required every time any gift or hospitality over £25 is received. In my view this is an overly beaurocratic approach to gifts and hospitality.
10. I think a preferable approach would for the Member's Code of Conduct to be revised so as to remove reference to gifts and hospitality being a personal interest, however the Code would be amended to make it an express requirement for Members to notify the Monitoring Officer of any gifts and hospitality received with a value over £25 for inclusion on the Register of Gifts of Hospitality. It would be further amended to make it a requirement for Members to declare the receipt of any relevant gift or hospitality at a relevant meeting.
11. The above changes would mean that the section on gifts and hospitality on the Member's Register of Interests can be removed (given the practical difficulties identified above) without detracting from the overriding desire for a declaration to be made both for inclusion on a register and at a meeting.

12. Whatever view is arrived at, the Committee may wish to consider increasing the limit from £25 to a higher limit.
13. Whatever the decision in terms of amendments to the Code of Conduct, it seems prudent to revisit the issue of the online Register with a view to seeing whether there is a better solution to the issue of Member's notifying Democratic Services, Democratic Services updating the physical register and then having to also update the online version. Reverting to a Member led process would make sense if a suitable system could be found.

Standards Committee, 23 January 2018

Item \*8\* - Code of Conduct complaints update

This paper provides an update for the Committee on Code related cases since the 1<sup>st</sup> May 2017 to date:

\* indicates cases where there has been an update since the last meeting

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct and outcome following consultation with Independent Person	Detail of complaint
2017-C12	Town Councillor	Complaint regarding the lack of respect shown at a town council finance 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. <b>No findings of breach. Case closed.</b>	Acted in a bullying and disrespectful manner by shouting abuse at the complainant and making incorrect allegations.
2017-C13	Town Councillor	Complaint regarding the lack of respect shown at a town council finance 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. <b>No findings of breach. Case closed.</b>	Acted in a bullying and disrespectful manner by shouting abuse at the complainant and making incorrect allegations.

2017-C14	Town Councillor	<p>Complaint regarding the lack of respect shown at a town council finance meeting</p> <p>Relevant paragraphs of the code;</p> <p>4a - you must treat others with courtesy and respect</p> <p>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.</p> <p><b>No findings of breach. Case closed.</b></p>	<p>Acted in a bullying and disrespectful manner by shouting abuse at the complainant and making incorrect allegations.</p>
2017-C15	Town Councillor	<p>Complaint regarding the lack of courtesy and respect shown to others.</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p><b>Resignation received. Case closed.</b></p>	<p>Made a disrespectful remark that was inappropriate and unacceptable and failed to treat others with courtesy and respect and acted in a rude and belittling manner.</p>
2017-C16	Town Councillor	<p>Complaint regarding the lack of respect shown at a town council finance meeting.</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p>5c – you must not bully any person</p> <p>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.</p> <p><b>No findings of breach. Case closed.</b></p>	<p>Acted in a bullying and disrespectful manner by criticising the complainant’s actions and supported a motion believing there were conflicts of interest but did not explain what the conflicts were.</p>
2017-C17	Town Councillor	<p>Complaint regarding the lack of respect shown at a town council finance meeting.</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p>5c – you must not bully any person</p> <p>5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person</p>	<p>Acted in a bullying and disrespectful manner by providing incorrect and misleading information and supported a motion believing there were conflicts of interest but did not explain what the conflicts were.</p>

		<p>the impression that you have brought your office into disrepute.</p> <p><b>No findings of breach. Case closed.</b></p>	
2017-C18	Town Councillor	<p>Complaint regarding the lack of respect shown at a town council finance meeting.</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p>5c – you must not bully any person</p> <p>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.</p> <p><b>No findings of breach. Case closed.</b></p>	<p>Acted in a bullying and disrespectful manner by lacking objectivity and by misleading and failing to declare an interest.</p>
2017-C19	Town Councillor	<p>Complaint regarding the lack of respect shown at a town council finance meeting.</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p>5c – you must not bully any person</p> <p>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.</p> <p><b>No findings of breach. Case closed.</b></p>	<p>Acted in a bullying and disrespectful manner by making untrue and misleading comments and supported a motion believing there were conflicts of interest but did not explain what the conflicts were.</p>
2017-C20	Town Councillor	<p>Complaint regarding the lack of respect shown at a town council finance meeting.</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p>5c – you must not bully any person</p> <p>5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person</p>	<p>Acted in a bullying and disrespectful manner by suggesting the complainant did not act in the best interests of the council and supported a motion believing there were conflicts of interest but did not explain what the conflicts were.</p>

		<p>the impression that you have brought your office into disrepute.</p> <p><b>No findings of breach. Case closed.</b></p>	
2107-C21	Town Councillor	<p>Complaint regarding the lack of respect shown at a town council finance meeting.</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p>5c – you must not bully any person</p> <p>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.</p> <p><b>No findings of breach. Case closed.</b></p>	<p>Acted in a bullying and disrespectful manner by supporting a motion believing there were conflicts of interest but did not explain what the conflicts were.</p>
2017-C22	Town Councillor	<p>Complaint that has brought office into disrepute</p> <p>Relevant paragraph of the code;</p> <p>4a – you must treat others with courtesy and respect.</p> <p>5c – you must not bully any person</p> <p>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.</p> <p><b>No findings of breach. Case closed.</b></p>	<p>Failed to provide correct official contact details.</p> <p>Failed to respond to communications and visited the complainant at home and acted in a bullying manner towards the complainant.</p>
2017-C23	EDDC Councillor	<p>Complaint regarding the lack of courtesy and respect shown to others.</p> <p><b>Complaint withdrawn. Case closed.</b></p>	<p>Made a disrespectful remark to a member of the public in an exchange of words.</p>
2017-C24*	EDDC Councillor	<p>Complaint regarding the lack of courtesy and respect shown to others.</p> <p><b>Complaint withdrawn. Case closed.</b></p>	<p>Acted in a disrespectful and inappropriate manner during a distressing situation involving a council tenant who was receiving emergency medical treatment.</p>

2017-C25*	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. Relevant paragraph 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. <b>Breach for failing to treat complainant with courtesy and respect. Proposed informal resolution – public apology.</b>	Failed to treat the complainant with courtesy and respect by making an inappropriate analogy in a widely disseminated email. Made unfounded suggestions in response to the complainant's comments at a council meeting.
2017-C26*	Parish Councillor	Complaint regarding the lack of courtesy and respect shown to others. <b>No supporting evidence provided. Case closed.</b>	Acting in a bullying and disrespectful manner by harassing a neighbour about an ongoing private dispute.
2017-C27*	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. <b>Complaint withdrawn. Case closed.</b>	Acted in a bullying and disrespectful manner by ostracising the complainant at a meeting and caused anxiety and distress by undermining the complainant's role and responsibilities.
2017-C28*	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. <b>Complaint withdrawn. Case closed.</b>	Acting in a bullying and disrespectful manner by ostracising the complainant at a meeting.
2017-C29*	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. <b>Complaint withdrawn. Case closed.</b>	Acted in a bullying and disrespectful manner by ostracising the complainant at a meeting and undermining the complainant's capabilities.
2017-C30*	EDDC Councillor	Complaint regarding the lack of courtesy and respect shown to others. Relevant paragraph 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.	Failed to treat the complainant with courtesy and respect by raising inappropriate questions on a sensitive matter discussed at Full Council and to the excess of emails sent on the subject to Full Council Members.

		<b>No findings of breach. Case closed.</b>	
2017-C31	Parish Councillor	Complaint regarding the failure to disclose a personal interest or disclosable pecuniary interest. <b>Passed to MO for assessment</b>	Failed to declare a personal interest at a parish council meeting when the draft Villages DPD was considered.
2017-C32	EDDC Councillor	Complaint regarding a lack of courtesy and respect. Relevant paragraph 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. <b>No findings of breach. Case closed.</b>	Failed to treat the complainant with courtesy and respect by painting an intentionally unfavourable image of the complainant.

Complainants who have made more than 2 complaints

2017-C27/28/29

One complainant has made two sets of complaints arising out of two separate incidents against multiple councillors;

Incident One – Complaints 2017-C12/13/14

Incident Two – Complaints 2017-C16/17/18/19/20/21

Subject Members who are subject to more than 2 complaints

None



<b>Case #</b>	<b>TC/PC or EDDC member</b>	<b>Details of non-code complaint</b>	<b>Outcome</b>
2017-NC1	EDDC Councillor	Complaint regarding a councillor not using a microphone	The complainant was advised their complaint did not fall within the remit of the Code of Conduct.
2017-NC2	EDDC Councillor	Complaint regarding a councillors actions and comments on their twitter account	The subject member had acted as an individual and not in their councillor capacity.
2017-NC3	Parish Council	Complaint regarding a Parish Council not displaying their members Code of Conduct	The Parish Council was contacted and advised to update their website.
2017-NC4	Parish Councillor	Complaint regarding a councillor not responding to messages. The councillor had apologised to the complainant but the complainant still wanted to pursue the complaint	The subject member had been written to reminding them of their duties as a councillor.
2017-NC5	Parish Councillor	Complaint regarding a Parish Chairman also being Chairman for a CLT	The complainant was advised there was no issue for an elected member to carry out a number of different roles providing they had declared the appropriate interests.
2017-NC6	Parish Council	Complaint regarding the wording of a letter being sent by the Parish Council to the complainant about a overgrown hedge	The complainant was advised to take their complaint up with the Parish Council.
2017-NC7	Town Councillor	The Clerk refused to take out the complainants name and son's name from a police report that was intended for press	The complainant was advised the town council was a sovereign body and their actions could only be challenged in a court. The actions of the clerk did not fall under the MO jurisdiction.

Agenda Item 9



Standards Committee

23 January 2018

Standards Committee

Forward Plan 2017/18

24 April 2018

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