

# Agenda for Standards Committee Friday, 23rd April, 2021, 10.00 am

## Members of Standards Committee



East Devon District Council  
Blackdown House  
Border Road  
Heathpark Industrial Estate  
Honiton  
EX14 1EJ  
DX 48808 HONITON  
Tel: 01404 515616

**Venue:** Online via the zoom app

**Contact:** Debbie Meakin 01395 517540; email:  
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(or group number 01395 517546)

Issued: Thursday, 15 April 2021

**www.eastdevon.gov.uk**

**Important - this meeting will be conducted online and recorded by Zoom only.**

**Please do not attend Blackdown House.**

**Members are asked to follow the [Protocol for Remote Meetings](#)**

This meeting is being recorded by EDDC for subsequent publication on the Council's website and will be streamed live to the Council's Youtube Channel at

<https://www.youtube.com/channel/UCmNHQruge3LVI4hcgRnbwBw>

Public speakers are now required to register to speak – for more information please use the following link: <https://eastdevon.gov.uk/council-and-democracy/have-your-say-at-meetings/all-other-virtual-public-meetings/#article-content>

1 Public speaking

Information on [public speaking](#) is available online

2 Minutes of the previous meeting held on 19 January 2021 (Pages 3 - 6)

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the Press) have been excluded. There are no items which officers recommend should be dealt with in this way.

7 **East Devon District Council Standards Regime update** (Pages 7 - 34)

- 8 **Code of Conduct Complaints update 1 January 2020 - 31 December 2020**  
(Pages 35 - 60)
- 9 **Code of Conduct Complaints update 1 January 2021 - 31 March 2021**  
(Pages 61 - 67)

[Decision making and equalities](#)

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## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Standards Committee held Online via the Zoom app on 19 January 2021**

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

The meeting started at 10.00 am and ended at 12.37 pm

#### **27 Public speaking**

There were no members of the public registered to speak.

#### **28 Minutes of the previous meeting**

The Monitoring Officer advised that the Chair was present at the last meeting but not recorded as being so at the time. It was noted that Mr Martin Goscomb, Cllr Bob Nelson and Cllr Pauline Stott had also been present, but had not been recorded.

Subject to the above corrections to the attendance list, the minutes of the meeting held on 13 October 2020 were agreed as a correct record.

#### **29 Declarations of interest**

Minute 32. East Devon Standards Regime.

Councillor Paul Millar, Personal, Councillor was the subject member of a Sub-Committee hearing.

#### **30 Matters of urgency**

There were no matters of urgency.

#### **31 Confidential/exempt item(s)**

There were no confidential / exempt items.

#### **32 East Devon Standards Regime**

Members considered the report of the Monitoring Officer regarding the approach which members would like to adopt in relation to East Devon's Code of Conduct in light of the recent LGA Model Code of Conduct. The report also addressed what members should be including on their register of interests, declarations at meetings and the practicalities around the potential introduction of a Standards Assessment Sub Committee, including possible stakeholder engagement on any proposed changes. The report also considered the voting rights of co-opted members following a question from one of the Town / Parish Council representatives.

Discussion included the following points:

- That decisions made at the last meeting should stand and the agreed changes to the Register of Interest forms to distinguish member interests from relevant person interests should proceed

- Regarding acceptance of gifts and hospitality, the LGA Model Code was weaker than the current EDDC Code of Conduct as there was the potential for multiple donations from a single donor which were each under the limit, but which cumulatively could amount to a gift or hospitality far exceeding the limit above which they must be declared
- Consideration as to whether all gifts and hospitality should be declined, although it was recognised that there could be occasions when it would be appropriate for members to accept
- Guidance on the Code could include organisations, the membership of which could potentially result in a conflict of interest for councillors. Membership of those organisations could be included on Register of Interest forms
- Consideration of whether a working group or sub-committee would be the best method of reviewing the EDDC Code of Conduct or whether to request the Portfolio Holder for Democracy & Transparency to convene her portfolio team
- A review of the Code of Conduct could include stakeholders, specifically town and parish councils as many adopt all or parts of the EDDC Code
- The Monitoring Officer advised that recommendations would need to be agreed at the April meeting of the Standards Committee in order to meet the deadline of the Annual Council meeting in May 2021
- Consideration of the practicalities and various approaches taken by other councils with regard to a Standards Assessment Sub-Committee, examples discussed included arrangements at East Riding of Yorkshire and Wiltshire Councils
- It was noted that the introduction of a Standards Assessment Sub-Committee could protect the Monitoring Officer from partiality when deciding which complaints should be progressed
- It was also noted that the introduction of a Standards Assessment Sub-Committee would require additional staffing resource if members approve a revised complaints process
- A Standards Assessment Sub-Committee could be difficult to administer as the membership of the Council changed over time whereas the current Monitoring Officer was a legally trained paid professional. Other authorities in the South West relied on the post of Monitoring Officer to undertake this work, rather than on members
- The Monitoring Officer advised that the critical question to consider in any of the approaches taken was at what point the decision is made as to whether a breach of the Code of Conduct has occurred
- There was discussion on the use of training as a sanction when a breach of the Code had been determined and whether training should be viewed as punitive or as an opportunity to increase a member's effectiveness, or both. It was noted that the different views taken had implications as to who should meet the cost of the training
- It was noted that training as a sanction may not result in the desired outcome and further noted that training for members following the May 2019 election had not been well attended
- Where training was imposed as a sanction, the training need should be clearly identified and completion of training should be reported back to the Committee
- Regarding co-opted members of the Committee, it was agreed that their contribution was much valued and that a minor adjustment to procedures could allow for an informal vote to obtain their views before any formal decision was taken by voting members

**RESOLVED:**

1. That the Committee noted the content of the Monitoring Officer's report in relation to the LGA's Model Code of Conduct and East Devon's Members' Code of Conduct and agreed that there should be a further review of the content of the Members' Code of Conduct with a view to possible adoption of a new or revised Code at the Annual Council Meeting in May 2021.
2. That a working group be established comprising ten members, politically balanced, and that delegated authority be given to the Monitoring Officer in consultation with Group Leaders to agree the membership, for the purpose of progressing a further review of the Members' Code of Conduct and that stakeholder engagement should be included both during the review and as part of the final review of any proposals.
3. That the Monitoring Officer would bring a report to the next Committee meeting detailing possible arrangements for the introduction of a Standards Assessment Sub-Committee to carry out an initial decision of complaints that should progress to investigation and decision by the Monitoring Officer in accordance with the existing procedure.
4. That the Committee noted that introducing a different system could result in an increased workload with implications for extra staff resources and that this would be addressed in the Monitoring Officer's report.
5. That where a training requirement is imposed as a sanction that the training requirement is to be specified and that the Committee will monitor compliance with sanctions through the complaint updates presented to the Committee.
6. That consideration of who should pay the cost of any training imposed by way of sanction be deferred to the next Committee meeting in April.
7. That, as co-opted members of the Standards Committee are precluded from voting on the committee or any sub-committee, an informal vote be introduced to obtain their views prior to the formal decision being taken.

**33 Code of Conduct complaint update**

The Committee considered and noted the report of the Monitoring Officer, which provided an update for the Committee on Code related cases received from 1<sup>st</sup> January 2020 to 31<sup>st</sup> December 2020.

It was noted that complaint C21 had been closed with a finding of no breach since the report was published.

The Monitoring Officer advised that the reporting of complaints does not distinguish whether the complainant is a Councillor or an Officer. Complainants could also be members of the public.

It was agreed that future reports could include the number of complaints by category of complainant whether District Council Member / Officer; Parish Council Member / Officer; member of the public.

**RESOLVED** that the report be noted.

34 **Forward Plan**

Members did not have any items to add to the Forward Plan.

**Attendance List**

**Councillors present:**

C Gardner (Chair)

D Barrow

E Rylance

S Bond

**Co-opted members present:**

M Goscomb

Cllr B Nelson

Cllr P Stott

A Willan

**Councillors also present (for some or all the meeting)**

A Moulding

P Arnott

D Bickley

P Faithfull

P Hayward

D Ledger

T McCollum

K McLauchlan

P Millar

**Officers in attendance:**

Henry Gordon Lennox, Strategic Lead Governance and Licensing

Susan Howl, Democratic Services Manager

Sarah Jenkins, Democratic Services Officer

Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

**Councillor apologies:**

P Twiss

Chair .....

Date: .....

Report to: Standards Committee

Date of Meeting 13<sup>th</sup> April 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## East Devon District Council Standards Regime update

### Report summary:

To update members on current actions in relation to standards matters and to obtain the Committee's view on whether it wishes to recommend to Council to revise the makeup and Terms of Reference of the Standards Committee and adopt a new complaint procedure for dealing with complaints that members have breached the Code of Conduct. To note that the Independent Person's tenure is coming to an end and that there is a recruitment process currently underway to secure replacements together with a new Independent Representative co-optee.

### Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

### Recommendation:

That the Standards Committee;

- (1) Consider the content of the report and proposed revised procedure for handling Code of Conduct complaints (Annex 1) and determine whether to recommend to Council to make the necessary Constitutional amendments to implement it and adopt the revised procedure with effect from Annual Council.
- (2) Recommends to Council its support for the recommendation of Cabinet of the 17<sup>th</sup> March to recruit an additional lawyer to support the work of the Monitoring Officer (Cabinet Minute 354 refers).
- (3) Consider whose responsibility it is to pay for any training imposed by way of sanction and incorporate this into the revised complaint procedure.
- (4) Thanks Alison Willan for her service to the Council during her 9 year period as the Independent Person.

### Reason for recommendation:

To ensure an appropriate standards complaint process is in place and to thank the Independent Person for her service.

Officer: Henry Gordon Lennox, Monitoring Officer

Portfolio(s) (check which apply):

☐ Climate Action and Emergencies

- ☐ Coast, Country and Environment
- ☐ Council and Corporate Co-ordination
- ☐ Culture, Tourism, Leisure and Sport
- ☒ Democracy and Transparency
- ☐ Economy and Assets
- ☐ Finance
- ☐ Strategic Planning
- ☐ Sustainable Homes and Communities

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

### **Links to background information**

[Standards Committee – 13<sup>th</sup> October 2020](#)

[Standards Committee – 19<sup>th</sup> January 2021](#)

[EDDC's current complaint procedure](#)

[Minutes from Cabinet 17<sup>th</sup> March 2021](#)

### **Link to Council Plan:**

Priorities (check which apply)

- ☐ Outstanding Place and Environment
- ☐ Outstanding Homes and Communities
- ☐ Outstanding Economic Growth, Productivity, and Prosperity
- ☒ Outstanding Council and Council Services

### **Report in full**

1. The Committee has previously considered reports from the Monitoring Officer in relation to the Council's standards regime (October 2020 and January 2021). The minutes of those meetings detail the various resolutions. This report provides an update on various matters but particularly looks in more detail at the possible introduction of an initial committee based assessment of complaints.

#### Possible Arrangements for introduction of Standards Assessment Sub-Committee.

2. At the January meeting Members resolved that a further report be brought detailing *'possible arrangements for the introduction of a Standards Assessment Sub-Committee to carry out an initial decision of complaints that should progress to investigation and decision by the Monitoring Officer in accordance with the existing procedure'*.
3. The existing procedure can be found through the background links in this report. In short the Monitoring Officer carries out a preliminary review to make sure the matter should be considered (i.e. it relates to the conduct of an East Devon District Councillor or town or parish councillor, that capacity is engaged etc) and if it passes this then it goes forward on the basis of a number of options – no further action, Monitoring Officer investigation, other action, referral to Police or referral to Independent Investigation. What these mean and how the matter progresses through, and then after, these stages is detailed in the procedure.
4. The Committee have discussed introducing an early member assessment of the complaint. The approach that seemed to be advocated was that the Monitoring Officer would carry out



an initial assessment to ensure that the complaint was valid, which would be against a set of 'basic criteria'. Once determined as valid, the complaint would be presented to an assessment sub-committee to determine how it should progress, with discussion about how this be decided. If it progresses then the decision on breach effectively remains with the Monitoring Officer and the remainder of the process continues in accordance with our current procedure.

5. The current procedure has been reviewed and a new composite procedure (which includes the hearing procedure which currently sits separately) has been produced. The draft procedure document is annexed to this report (Annex 1). It also provides extra general information that currently isn't detailed or which sits separately from the published procedure.
6. In summary the suggested new procedure is very similar to our current arrangements but with the following changes;
  - a. At Stage 1 the Monitoring Officer receives the complaint and reviews it against 'the Basic Criteria'. These are listed in Appendix 2 of the procedure, but cover the technicalities such as the subject member being a member of the district or town / parish council at the time of the complaint and that they remain a councillor, there is a code of conduct in force, the code is engaged, it is timely and it is not a repeat complaint. All of the criteria must be satisfied but discretion is reserved for the Monitoring Officer to refer complaints in certain circumstances which may not otherwise comply but which are considered to be in the public interest to pursue.
  - b. Once satisfied that there is a valid complaint, the Monitoring Officer has the option to seek informal resolution (such as an apology for example) with a view to concluding the matter.
  - c. Any complaint that passes the Basic Criteria sift and which isn't informally resolved is passed to Stage 2 which is to the Assessment Sub-Committee for a decision on how it should proceed (this decision currently rests with the Monitoring Officer). The same options apply as currently, namely - no further action, Monitoring Officer investigation, other action, referral to the Police or referral to Independent Investigation. The Assessment Sub-Committee (comprising three district councillors) will be presented with a report from the Monitoring Officer and hear his views and those of the Independent Person and Independent Representative and Town / Parish Representative before taking a decision on how the complaint progresses having regard to the 'Local Assessment Criteria'. The Local Assessment Criteria are contained in Appendix 2 of the procedure and cover whether there is sufficient evidence of a potential breach, outcomes, seriousness of the complaint, public interest, length of time elapse since the breach and anonymity.
  - d. The procedure to be followed by the Sub-Committee is contained at Appendix 3 of the procedure. It will receive a normal agenda but the complaint will be anonymised and provided confidentially. The decision will be formally minuted.
  - e. Decisions that result in no further action, other action or referral to the Police will be dealt with and progressed by the Monitoring Officer. In relation to other action, if the Sub-Committee clearly expect an outcome and this is not achieved then the matter will be referred back to the Sub-Committee for further decision. Referrals for Monitoring Officer Investigation or Independent Investigation are dealt with as Stages 3 & 4 respectively and hereafter the complaint progresses in the same way as the current procedure.

7. This procedure takes on board the Best Practice Recommendations from the Committee for Standards in Public Life Report relating to (i) publishing a clear and straightforward public interest test against which allegations are filtered, (ii) consulting the Independent Person on whether to undertake a formal investigation and giving them an option to comment on allegations which are intended to be dismissed as being without merit, vexatious or trivial, (iii) publishing a decision notice on the website, (iv) straightforward and accessible guidance on how to make a complaint, the process to be followed and estimated timescales for the various stages and (v) having procedures in places for addressing conflicts of interest including asking Monitoring Officers from other authorities to undertake investigations.
8. If the Committee agree to recommend the revised procedure to Council, this will also necessitate Constitutional changes as follows;
  - a. The specific arrangements for the Standards Committee (Article 9 and its Terms of Reference (Section 2 of Part 3 of the Constitution)) will need revision to incorporate reference to the Standards Assessment Sub Committee and to give more detail on its role. It is recommended that the Sub-Committee comprises a three member panel drawn from the membership of the Standards Committee with one Independent Representative and one Town / Parish Representative plus one of the Independent Persons. The Chair and membership to be rotated and it can be called on an ad hoc basis.
  - b. It is recommended that Hearings Sub-Committee Terms of Reference are revised to say that membership shall be drawn from the Standards Committee but shall not include any member who sat on the Assessment Sub-Committee that considered the complaint at the earlier stage, save where to do so would mean that the Hearing Sub-Committee is incapable of being constituted.
  - c. In light of the foregoing, the recommendation is to increase the size of the Standards Committee to 7 District Council members (from 5), 3 Independent Representatives (from 2) and 3 Town / Parish Representatives (from 2).
9. Should it be agreed to progress the above changes, it is recommended that the Committee recommend to April's Council meeting that the changes are adopted with effect from the Annual Council meeting. This will permit the Council to express its agreement to the changes and to allow the changes to the Constitution and related change to the number of committee seats to be factored into the preparation work for Annual Council.
10. Members will recall that the previous reports have raised the issue that extra resource was likely to be necessary to support such revisions. The Monitoring Officer remains of the view that this revised process will necessitate additional work. However, Member's attention is drawn to the Cabinet meeting of 17<sup>th</sup> March 2021 and the report of the Monitoring Officer considered at that meeting. Minute 354 makes a recommendation to Council to recruit an additional lawyer to support the work of the Monitoring Officer. Accordingly there is no specific requirement for an additional recommendation from this Committee for extra resource but the Committee is asked to support the recommendation from Cabinet.

#### Review of Code of Conduct

11. At the January 2021 meeting, Members resolved as follows;

*(1) That the Committee noted the content of the Monitoring Officer's report in relation to the LGA's Model Code of Conduct and East Devon's Members' Code of Conduct and agreed that there*

*should be a further review of the content of the Members' Code of Conduct with a view to possible adoption of a new or revised Code at the Annual Council Meeting in May 2021.*

*(2) That a working group be established comprising ten members, politically balanced, and that delegated authority be given to the Monitoring Officer in consultation with Group Leaders to agree the membership, for the purpose of progressing a further review of the Members' Code of Conduct and that stakeholder engagement should be included both during the review and as part of the final review of any proposals.*

12. The Monitoring Officer sought nominations from the Political Groups on 16<sup>th</sup> March for nominations to establish the Working Group. At the time of writing nominations were still awaited from two of the Groups.
13. At this stage it seems unlikely that the review will happen in time for any changes to be adopted at the Annual Meeting. However, once the Group is established, the work will commence and it may be possible, with the Chair's consent, for an extraordinary meeting of the Standards Committee to discuss possible changes and / or adoption of a revised Code with a view to recommending this to Council at the (now delayed) Annual Council meeting.

#### Deferral of training costs decision

14. At the meeting on 19<sup>th</sup> January 2021, the issue of who was to pay for any training recommendation was discussed. The Monitoring Officer's report (this can be accessed from the background links – see paragraphs 18 - 20) details the background. The resolution of the Committee was;

*'6. That consideration of who should pay the cost of any training imposed by way of sanction be deferred to the next Committee meeting in April.'*

15. The Committee is asked to determine the approach it wishes to recommend to Council. The procedure that is appended to this report includes wording to confirm that the responsibility rests with the Subject Member to fund (see paragraph 8.7.5) as advocated in the recommendations previously. If the Committee are minded to take a different approach then the procedure will need revision to reflect this.

#### Recruitment of various positions

16. The Committee has previously been advised of the intention to recruit to the vacancy of co-opted Independent Representative of the Standards Committee. This process is underway with adverts in the local press and on the Council's website.
17. Should the Committee recommend that the revised procedure and Constitutional amendments are adopted by Council then this will necessitate further recruitment to the two representative positions and this will be progressed following any decision by Council.
18. At the last Annual Meeting, the tenure of Alison Willan as the Independent Person was extended for an additional 1 year due to COVID. The Committee has agreed to appoint two Independent Persons (in accordance with the Best Practice Recommendations from the Committee for Standards in Public Life Report) and the adverts for these positions are also in the local press and on the Council's website and being promoted through social media.
19. The interviews are intended to take place mid-April with appointments to be confirmed at the Annual Council meeting. As previously agreed, members of the Standards Committee will be involved in the interview process.

20. Subject to the need for any extraordinary meeting (as mentioned above) this is Alison Willan's last Standards Committee meeting. From the Monitoring Officer's perspective, I would like to take this opportunity to place on record my thanks to Alison for her unerring dedication and commitment to this role. I have very much valued her input and assistance in dealing with complaints. It is also considered appropriate for the Committee, on behalf of the Council, to thank Alison for the role she has performed over the last 9 years.

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**Financial implications:**

There are no direct financial implications from the recommendations.

**Legal implications:**

It is for Council to adopt any revised Standards procedure and to make Constitutional amendments. Otherwise there are no other specific legal implications requiring comment.



## STANDARDS PROCESS

FOR DEALING WITH COMPLAINTS THAT  
MEMBERS HAVE BREACHED THE CODE OF  
CONDUCT

Adopted by Council April / May 2021

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1. Introduction
2. Making a complaint
3. Initial Assessment (Stage 1)
4. Standards Assessment Sub-Committee (Stage 2)
5. Monitoring Officer Investigation (Stage 3)
6. Independent Investigation (Stage 4)
7. Standards Hearing Sub-Committee (Stage 5)
8. General matters

Appendix 1:	Complaint Flow Chart
Appendix 2:	Basic and Local Assessment Criteria
Appendix 3:	Standards Assessment Sub-Committee Procedure
Appendix 4:	Standards Hearing Sub-Committee Procedure

## Definitions used in this document:

<b>Code of Conduct</b>	means the Code of Conduct for Members which the Council and town or parishes are required to adopt under Section 27 of the Localism Act 2011
<b>Complainant</b>	means the individual who has submitted a complaint.
<b>Council</b>	means East Devon District Council
<b>Member</b>	means a member or co-opted member of East Devon District Council, or of a parish or town council within its area
<b>Monitoring Officer</b>	means the senior officer of the Council who has the statutory responsibility for maintaining the register of Member's interests and who is responsible for administering the arrangements for dealing with complaints of Member misconduct. It includes any officer nominated by the Monitoring Officer to act on his or her behalf in that capacity.
<b>Independent Person</b>	means a person appointed under Section 28(7) of the Localism Act 2011;  (i) whose views must be sought and taken into account before a decision is made on an allegation of member misconduct under these arrangements.  (ii) who may be consulted by the Subject Member about the complaint.
<b>Subject Member</b>	means a Member against whom a complaint has been made that they have not complied with the Code of Conduct.

## **1. Introduction**

- 1.1 The Localism Act 2011 abolished the previous Standards Board regime for dealing with complaints in relation to Member conduct.
- 1.2 Section 27 of the Localism Act 2011 requires a local authority to adopt a code of conduct to govern the conduct that is expected of its Members (and co-opted members) when acting in their official capacity and which must, when taken as a whole, be compliant with the Nolan principles. A town or parish council may adopt its own code or that of its principal authority (in East Devon that is the District Council).
- 1.3 Each year, at the Annual Council meeting in May, the Council agrees the Member's Code of Conduct as part of the adoption of the Constitution.
- 1.4 Section 28 of the Localism Act 2011 requires the Council to have in place arrangements through which allegations that a Member's conduct has breached the Code of Conduct can be investigated and decided upon. This process must involve an Independent Person, who is independent of the Council and who is an important safeguard in the process. There are certain restrictions on who this person can be.
- 1.5 This document sets out the local procedure for dealing with complaints that a Member has failed to comply with the Code of Conduct. It has been adopted by the Council for this purpose. A flow chart of the process is contained at Appendix 1.
- 1.6 Both the Member's Code of Conduct and this standards procedure will be subject to regular review.

## **2. Making a complaint**

- 2.1 The expectation is that all complaints must be lodged using the official form in order for us to progress it any further. Further details and an online form can be found on our [How to Complain about a Councillor](#) pages of our website.
- 2.2 Reasonable adjustments can be made to assist anyone who has a disability that prevents a complaint being made online. Please contact the Monitoring Officer on 01395 517535 to obtain further assistance or via email [monitoringofficer@eastdevon.gov.uk](mailto:monitoringofficer@eastdevon.gov.uk).
- 2.3 It is very important that anyone completing the form gives as much detail as possible as insufficient information may result in the complaint not progressing (see Section 3). The name of the Member and the relevant paragraphs of the Code of Conduct that it is felt they have breached should be included together with a description of the event/actions that led to the breach. Relevant evidence (such as email exchanges, witness accounts or recordings) to support the alleged breach should be referenced / provided.
- 2.4 Potential Complainants are encouraged to explore whether the matter can be resolved without the need to submit a formal complaint under this process.
- 2.5 Complainants are also encouraged to think about the outcomes and / or remedy they are seeking. A list of possible outcomes is set out in Section 8.7.
- 2.6 Complaints submitted online will be acknowledged immediately. If submitted by any other means, we will acknowledge your complaint within five working days.
- 2.7 Relevant Codes of Conduct for each of the Parish or Town Councils can be found on their websites, the home page for them can be found on our webpage using the link above.

### **2.8 Complainant confidentiality**

When we receive a complaint, the Member who is being complained about will, in normal circumstances, be told who has complained about them. Confidentiality may be permitted where the Monitoring Officer is satisfied that there are very good grounds for withholding the Complainant's identity. Anonymous complaints will not therefore be accepted for consideration unless they are exceptionally serious or significant - Section 8.3 provides further detail.

Where a Complainant asks for their identity to be kept confidential, the Monitoring Officer will consider the request before informing the Member that a complaint has been made. If the Monitoring Officer doesn't think it is appropriate to grant a request for confidentiality the Complainant will be offered the opportunity to withdraw the complaint rather than proceed with it. In a case where confidentiality is granted, the Monitoring Officer will decide how the complaint should be taken forward.

### **2.9 Complaints by District Councillors**

Under the Council's Constitution East Devon District Councillors should consult with the Monitoring Officer before making any complaint against another District or Town / Parish Councillor.



### **3. Initial Assessment (Stage 1)**

- 3.1 The Monitoring Officer will first assess the complaint against the Basic Criteria to ensure that it is a valid complaint. The Basic Criteria are contained at Appendix 2.
- 3.2 The outcome of the initial assessment will usually be confirmed to the Complainant by the Monitoring Officer within four weeks of the complaint being lodged.
- 3.3 Where a complaint is valid, the Monitoring Officer may then seek further clarification or relevant information from the Complainant. It is essential that the Complainant provide sufficient information to enable the Subject Member and those responsible for assessing the complaint to understand the substance of the complaint. If the Complainant is unable or unwilling to provide any further information, the Monitoring Officer will determine whether it is appropriate to proceed with consideration of the complaint. The Monitoring Officer may decide not to progress a complaint or it may be referred to the Standards Assessment Sub Committee for consideration. It is ultimately the responsibility of the Complainant to provide the supporting evidence for their complaint to justify a the complaint progressing.
- 3.4 Once the Monitoring Officer is satisfied that sufficient information has been provided, the Subject Member will be notified of the complaint and given the opportunity to respond. The Subject Member will normally be given a reasonable period of time to respond (usually two weeks).
- 3.5 Once the Subject Member has provided comments the Monitoring Officer may consider whether there is scope for informal resolution (see Section 4.5 'Other action' for more detail) which, if successful, may resolve the complaint. If successful the matter is concluded.
- 3.6 Once the Subject Member's views have been provided or the deadline has passed and no comments have been received and / or any attempts at informal resolution have been unsuccessful, the complaint will then be placed before the next available Standards Assessment Sub-Committee for a decision on how the complaint is to progress.
- 3.7 A Complainant will be kept informed of how the complaint progresses and the date of the Standards Assessment Sub-Committee. It is expected that the Standards Assessment Sub-Committee will consider the matter within six weeks of the confirmation of the initial assessment referred to in Section 3.2 above.

#### **4. Standards Assessment Sub-Committee (Stage 2)**

- 4.1 Meetings of the Assessment Sub-Committee will generally be held in private given that the information to be discussed relates to individuals, is subject to confidentiality at this stage (see Section 8.3 below) and has not been subject to any formal findings and may therefore be potentially unfounded and damaging.
- 4.2 The Assessment Sub-Committee will be drawn from members of the Standards Committee as detailed in the Council's Constitution. The process to be followed at the Assessment Sub-Committee is detailed in Appendix 3.
- 4.3 The Standards Assessment Sub-Committee will receive reports from the Monitoring Officer to assess any valid complaint and determine the appropriate action to be taken. The Monitoring Officer's report will summarise the complaint, the Subject Member's views (if any) and will provide such documentation as is appropriate and will detail any attempts at informally resolving the complaint. The report will make a recommendation to the Assessment Sub-Committee but it will be for the Assessment Sub-Committee to consider and determine how the matter progresses. At this stage, the Assessment Sub-Committee will not normally consider any further representations or correspondence from either the Complainant or Subject Member.
- 4.4 The report of the Monitoring Officer will be written having regard to the 'Local Assessment Criteria' (Appendix 2).
- 4.5 The Assessment Sub-Committee will consider the Monitoring Officer's report and, having regard to the 'Local Assessment Criteria' and the views of the Independent Person, it will take a decision on how a complaint progresses, on the basis of one or more of the following options:

##### **(1) No further action**

Circumstances where 'no further action' may be appropriate:

- Behaviour not subject to the Code of Conduct.
- The complaint is the same or substantially the same as a complaint previously dealt with.
- The period since the alleged behaviour is so significant that it is considered to be inequitable, unreasonable or otherwise not in the public interest to pursue.
- The complaint discloses such a minor or technical breach of the Code of Conduct that it is not in the public interest to pursue.
- The complaint is or appears to be trivial, malicious, politically motivated, tit-for-tat or otherwise submitted with an improper motive and the complaint is not considered to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration.
- The complaint is covered by the Council's persistent and vexatious complaints policy and the complaint is not considered to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration.
- The Member has provided a satisfactory remedy to the complaint.

- The complaint is about a person who is no longer a Member of a relevant council.
- There is evidence to suggest a potential breach of the Code of Conduct but the circumstances do not warrant further action.

The case is closed and a letter will be sent to both the Complainant and Subject Member with an explanation as to why. The Subject Member has the option to request that details of the complaint and outcome be published on the Council's website. If not, details of the complaint remain confidential.

The Monitoring Officer will deal with actions arising from a decision of 'no further action'.

## **(2) Monitoring Officer Investigation**

The Assessment Sub-Committee decide that the complaint should be investigated. The Monitoring Officer carries out an appropriate investigation into the complaint under Stage 3.

## **(3) Other action**

Where a decision of 'other action' may be appropriate:

- Less serious complaints where the Member wishes to put their actions right or where it would be beneficial to remind a Member(s) of the requirements of the Code of Conduct, matters that should be included on their Register of Interests or declarations of interest at meetings.
- A general breakdown in relationships at the Council where other action such as mediation might help.
- Complaints where the public interest in conducting an investigation does not justify the costs of such an investigation.
- Where there is behaviour indicating a lack of experience or the Member(s) may benefit from additional training or mentoring.
- Where the issue appears to be in the political arena and therefore appropriate for referral to a leader(s) of a political group to deal with.
- Where it appears that the town/parish council would be best placed to resolve the issue.
- Where there is the same alleged breach of the Code of Conduct by many of the Council's Members, indicating a poor understanding of the Code of Conduct and / or authority's protocols and procedures.

'Other action' affords an opportunity for information resolution between the Complainant and the Subject Member – such as an apology, commitment to undertake training or mediation. It does not represent a finding of whether there has been a breach of the Code of Conduct.

Where 'other action' is decided a letter is sent to the Complainant and the Subject Member setting out the action taken with an explanation. The Subject Member has the option to request that details of the complaint and outcome be published on the Council's website. If not, details of the complaint remain confidential.

The Monitoring Officer will deal with actions arising from a decision of 'other action'. Where there is a clear expectation from the Assessment Sub-Committee of an informal resolution being achieved but the Monitoring Officer is unable to achieve this, the complaint will be referred back to the Assessment Sub-Committee for a further decision on the complaint under this stage. If there is no clear expectation of an outcome then the complaint will not be referred back.

#### **(4) Referral to Independent Investigation**

This is likely to be considered where the complaint has raised an issue which is serious enough to warrant a detailed investigation, there is a conflict of interest or it is otherwise appropriate in the circumstances.

If a matter is referred to independent investigation, the complaint progresses to Stage 4.

#### **(5) Refer to the Police**

Where the Complainant alleges criminal conduct (including failure to register or declare a Disclosable Pecuniary Interest, or voting at a council meeting where such an interest exists), this is a criminal offence as well as potentially being a breach of the Code of Conduct. It may be considered appropriate to refer the matter to the Police in isolation or for the matter to be considered as a breach of the Code of Conduct as well. If to be considered as a potential breach of the Code of Conduct, consideration will be given as to whether the matter is held pending any other investigations and their outcome being known.

*[NOTE: Complainants may refer criminal allegations directly to the Police]*

The Monitoring Officer will deal with actions arising from a decision of 'referral to the Police'.

## **5. Monitoring Officer Investigation (Stage 3)**

- 5.1 The Monitoring Officer, or a sufficiently experienced officer of the Council or an external investigator, will conduct an appropriate investigation into the complaint.
- 5.2 The investigation will be proportionate and will include interviews with everyone the investigating officer decides will help them assess the complaint and reach a conclusion on whether there has been a breach of the Code of Conduct.
- 5.3 The Independent Person is consulted on the complaint prior to a decision being reached. Their views will be recorded in the decision.
- 5.4 If no breach is found the case is closed and parties notified why. The Subject Member has the option to request that details of the complaint and outcome be published on the Council's website. If not, details of the complaint remain confidential.
- 5.5 If a breach is found then the Monitoring Officer seeks to agree an appropriate resolution and / or sanctions with the parties. Where this cannot be agreed, the Monitoring Officer will determine an appropriate resolution and / or sanctions and if the Subject Member accepts them then the matter is concluded. The decision, detailing the findings, paragraphs of the Code of Conduct breached, reasoning, views of the Independent Person and outcome / sanctions will be sent to the Complainant and the Subject Member. The decision will be published on the Council's website.
- 5.6 Where the Subject Member does not agree the resolution and / or sanctions, the Monitoring Officer refers the complaint for Independent Investigation (Stage 4).
- 5.7 Normally an outcome from the Monitoring Officer Investigation is likely to be obtained within two months of the referral by the Assessment Sub-Committee. More complex cases may well take longer.

## **6. Independent Investigation (Stage 4)**

- 6.1 The Monitoring Officer will instruct a suitable investigator who will be independent of the Council and the parties involved. The investigation will be proportionate and will include interviews with everyone the investigator decides will help them assess the complaint and reach a conclusion on whether there has been a breach of the Code of Conduct.
- 6.2 Where the complaint progresses straight from Stage 2 to this stage, the Independent Person will be consulted prior to a decision being reached. Their views will be incorporated into the decision.
- 6.3 Where the Independent Investigation finds that the Member hasn't breached the Code of Conduct then this is the end of the matter. The Monitoring Officer will write to the Subject Member and the Complainant to confirm the outcome. Where the decision follows referral from Stage 2 the Subject Member has the option to request that details of the complaint and outcome be published on the Council's website. If not, details of the complaint remain confidential. Where the decision follows referral from Stage 3 the decision (detailing the findings, paragraphs of the Code of Conduct breached, reasoning, views of the Independent Person and outcome / sanctions) will be published on the Council's website.
- 6.4 Where the Investigator concludes that there has been a breach of the Code, the Monitoring Officer will try to seek agreement with the Subject Member on resolution and / or sanction. Where agreement is reached the decision (detailing the findings, paragraphs of the Code of Conduct breached, reasoning, views of the Independent Person and outcome / sanctions), will be sent to the Complainant and the Subject Member. The decision will be published on the Council's website.
- 6.5 Where the Subject Member does not accept the outcome or it is not appropriate or possible to agree resolution and / or sanctions, the Monitoring Officer will arrange for a Standards Hearing Sub Committee under Stage 5.
- 6.6 Normally an outcome from Independent Investigation is likely to be obtained within two months of the referral by the Assessment Sub-Committee. More complex cases may well take longer.

## **7. Standards Hearing Sub-Committee (Stage 5)**

- 7.1 Meetings of the Hearing Sub-Committee will generally be held in public unless the Subject Member persuades the hearing that there are legitimate reasons for holding the Hearing in confidential session.
- 7.2 The Hearing Sub-Committee will be drawn from members of the Standards Committee as detailed in the Council's Constitution. There is a written procedure to be followed by the Hearing Sub-Committee which is contained at Appendix 4.
- 7.3 To seek to protect the principles of natural justice, no member may sit on a Hearing Sub-Committee if they sat on the Assessment Sub-Committee that considered the complaint initially, save where through conflicts of interest it is not otherwise possible to convene a panel of members to sit.
- 7.4 The Independent Investigator will present their report to the Hearing Sub-Committee and the Subject Member, the Complainant and Independent Person will be able to make representations to the Hearing Sub Committee members before the Sub-Committee decides whether there has been a breach of the Code of Conduct and what, if any, sanctions are appropriate.
- 7.5 Decision notices from hearings are published on the Council's website.
- 7.6 Normally a Standards Hearing Sub-Committee will be held within six weeks of the outcome from the preceding stage.

## **8. General matters**

### **8.1 *Multiple complaints***

- 8.1.1. A single event may give rise to similar complaints from a number of Complainants. This may relate to one Subject Member or multiple Subject Members. Complaints may relate to the same set of facts.
- 8.1.2 Where it is logical and appropriate to do so - e.g. multiple complaints relating to the same set of facts against one Subject Member - the complaints will be combined and dealt with as one.
- 8.1.3 Where possible complaints relating to a single event will be considered by the Assessment Sub-Committee / Hearing Sub-Committee at the same time. Where it isn't appropriate to combine complaints they will be considered by the Assessment Sub Committee / Hearing Sub-Committee separately.
- 8.1.4 If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other Complainants being treated as potential witnesses in that investigation.

### **8.2 *Withdrawing complaints***

- 8.2.1 A Complainant may ask to withdraw their complaint before it has been assessed or decided.
- 8.2.2 In deciding whether to agree to the request the Monitoring Officer will consider:
  - a) the Complainant's reasons for withdrawal (e.g. whether there has been undue pressure or an apology given);
  - b) whether the public interest in taking some action on the complaint outweighs the Complainant's wish to withdraw it;
  - c) whether action, such as an investigation, may be taken without the Complainant's participation.

### **8.3 *Confidentiality and anonymous complaints***

- 8.3.1 All information regarding the complaint will remain confidential to the parties involved unless the information is published in accordance with the process detailed in this procedure. The Complainant and Subject Member are expected not to disclose information about the complaint to anyone else unless such publication is in accordance with these rules.
- 8.3.2 Where the Monitoring Officer is of the opinion that there is very good reason to do so the identity of the Complainant may be kept confidential. Examples may include because there is a serious risk to the Complainant's personal safety, there are serious health conditions and there are medical risks associated with the identity being disclosed or fear for the consequences of their employment.
- 8.3.3 The Subject Member under investigation may not immediately be informed of who the Complainant is where it is considered that it may prejudice any investigation.



8.3.4 Save for the exceptionally serious or significant matters, anonymous complaints will not be accepted. An anonymous complaint that is considered to be exceptionally serious or significant will only be considered if it includes documentary or photographic evidence that supports the complaint.

#### 8.4 *Use of alternative Monitoring Officer*

8.4.1 The Monitoring Officer may, at his discretion, refer any complaint to a Monitoring Officer of another authority where it is necessary or expedient to do so. Such examples may include complaints against senior Members.

#### 8.5 *Independent Person*

8.5.1 The Council has two Independent Persons one of whom shall be consulted as part of the consideration of any complaint. Their involvement at the various stages is detailed in the steps outlined above.

8.5.2 Subject Members have the right to consult the Independent Person as part of the complaints process. They will be notified of this as part of the correspondence but can always ask the Monitoring Officer for the relevant contact details.

8.5.3 Where possible the Independent Person giving their views to the Monitoring Officer or Assessment / Hearing Sub-Committees will be different from the one giving views to the Subject Member, although it is acknowledged that this may not always be possible.

#### 8.6 *Complaints against town or parish councillors*

8.6.1 Where there is a complaint against a Member of a town or parish council which results in a finding that they have breached the Code of Conduct, the Clerk of the relevant town or parish council will be notified of the decision.

#### 8.7 *Potential outcomes*

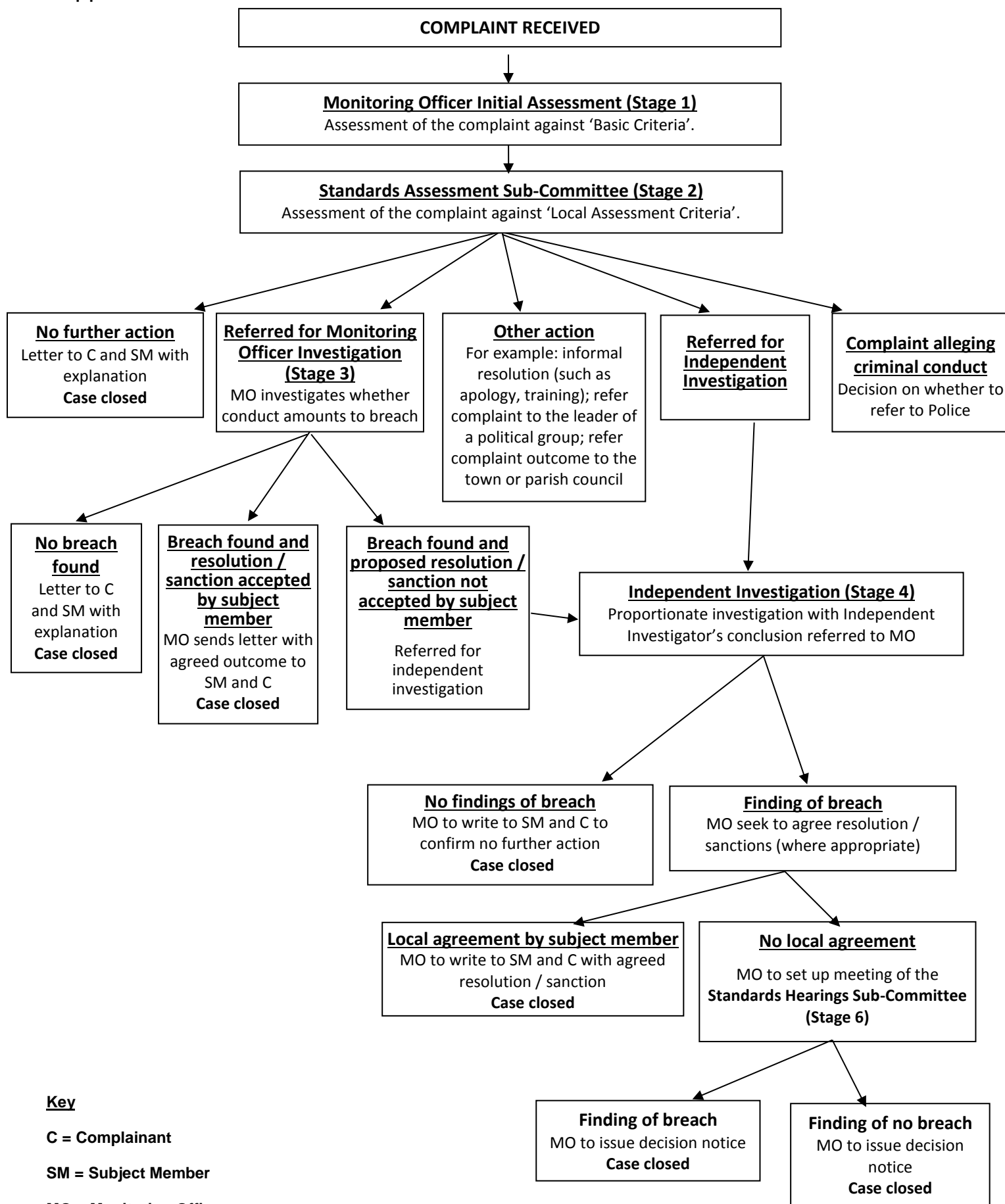
8.7.1 Neither the Monitoring Officer nor the Hearing Sub-Committee has powers to suspend or disqualify Members or to withdraw members' or special responsibility allowances.

8.7.2 Available sanctions include:

- a. Requiring an apology to be given.
- b. That training be undertaken.
- c. Censure or reprimand the Member.
- d. Publish its findings in respect of the Member's conduct.
- e. Report its findings to Council [or to the parish council] for information.
- f. Recommend to the Member's Group Leader (or in the case of un-grouped councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council.
- g. Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
- h. Recommend to Council that the Member be replaced as Executive Leader.

- i. Instruct the Monitoring Officer to [or recommend that the parish council] arrange training for the Member.
  - j. Remove [or recommend to the parish council that the Member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the parish council].
  - k. Withdraw [or recommend to the parish council that it withdraws] facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access.
  - l. Exclude [or recommend that the parish council exclude] the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.7.3 Certain of these sanctions are capable of being imposed by the Council, but in relation to complaints about parish and town Members certain of the sanctions can only be recommended to the relevant parish/town council
- 8.7.4 Neither the Hearings Sub-Committee or the Monitoring Officer have the power to enforce compliance. If a member fails to comply with any sanction, this may constitute a further breach of the Code of Conduct.
- 8.7.5 Any training requirement imposed is, save in exceptional circumstances, the responsibility of the Subject Member to fund.
- 8.8 *Departure*
- 8.8.1 While the Council has adopted this procedure, in so doing it is accepting that the Monitoring Officer, the Assessment Sub-Committee or Hearing Sub-Committee may depart from these arrangements where it is considered expedient to do so in order to secure the effective and fair consideration of any matter.
- 8.9 *Appeals*
- 8.9.1 There is no right of appeal for the Complainant or the Subject Member against a decision of the Assessment Sub-Committee or Hearings Sub-Committee. While the Subject Member can disagree with the Monitoring Officer's decision on breach and / or sanction and require a Standards Hearing Sub-Committee to be held, this is not available to Complainants.
- 8.10 *Updates*
- 8.10.1 The Standards Committee shall receive regular updates on complaints (level of complaint, brief detail of complaint, paragraph alleged to be breached, decision and sanctions) and it will also include details of the number that have not progressed as they did not meet the Basic Criteria.
- 8.11 *Data Protection and document retention*
- 8.11.1 Personal data will be treated in accordance with the requirements of the Data Protection Act 2018 and the relevant [privacy notice](#).
- 8.11.2 Documents will be retained in accordance with the requirements of the Local Government Act 1972 and the [Council's retention schedule](#).

## Appendix 1



### Key

**C** = Complainant

**SM** = Subject Member

**MO** = Monitoring Officer

## Appendix 2

### Basic and Local Assessment Criteria

The Basic Criteria are;

- (1) The complaint is about a member of East Devon District Council or of a town or parish council within the administrative area of East Devon and who was a Member at the time of the incident giving rise to the complaint;
- (2) That the Member remains a member of the relevant council at the time of assessment;  
*[NOTE: The Monitoring Officer retains the discretion to refer a complaint for assessment where, in his opinion, it is considered that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint despite the Member no longer being in office.]*
- (3) That a Code of Conduct for the relevant council is in force;
- (4) The complaint relates to Member conduct (rather than, for example, the lawful actions of a parish council or the District Council's service provision) such that, if proven, it would be capable of amounting to a breach of the Code of Conduct;
- (5) It can reasonably be said that the Member was acting so that the Code of Conduct was engaged;
- (6) A complaint must be made within 3 months from the date upon which the Complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint.  
*[NOTE: The Monitoring Officer retains the discretion to refer a complaint for assessment that would otherwise be out of time where, in his opinion, it is justified in the public interest to continue to consider the complaint.]*
- (7) The complaint has not already been considered by the Assessment Sub-Committee.

**All seven of the criteria must be satisfied to be valid.**

The Local Assessment Criteria are;

- (1) *Sufficient evidence of a potential breach*
  - Is there sufficient evidence of a potential breach of the Code of Conduct?
- (2) *Outcomes*
  - Is the matter something which it is possible to investigate?
  - Would an investigation serve a useful purpose or is the complaint related to a 'technical' breach of the Code? Has a remedy already been agreed/put in place or does understanding of the breach appear to have been demonstrated or would 'other action' be more appropriate?
  - Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct?
  - Has the complaint been the subject of, or is it subject to, an investigation by other regulatory authorities which may mean it is not necessary to progress or that the complaint should await the outcome of the other investigation? An example may be a Police investigation into a potential breach of the Disclosable Pecuniary Interest rules.

*(3) Seriousness of the Complaint*

- Does the complaint, on the available information, appear to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.
- Has the Subject Member offered an apology, a reasonable explanation of the issues, or can the complaint can reasonably be addressed by other means?
- Is the complaint part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business and there are no other avenues left to deal with it?

*(4) Public interest*

- Does the complaint have the potential to damage confidence in local democracy?
- Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not appropriate
- Whether the Subject Member is no longer a Member of a relevant council.

*(5) Length of Time Elapsed*

- Is the complaint about something that happened so long ago that there would be little benefit or it would not be in the interests of justice to in taking action now?
- Would an investigation be proportionate and in the public interest?

*(6) Anonymity*

- Where an anonymous complaint has been submitted, is there sufficient documentary evidence or photographic evidence, which indicates an exceptionally serious or significant matter, which merits progressing?

## Appendix 3

### **Standards Assessment Sub-Committee Procedure**

The Monitoring Officer will prepare a report which summarises the complaint and paragraphs of the Code of Conduct it is alleged have been breached, the Subject Member's views (if any) and will provide such documentation as is appropriate. It will also detail any attempts at informally resolving the complaint. The report will make a recommendation to the Sub-Committee as to how the matter should progress.

The report will be anonymised (referring to a Subject Member by a single letter of the alphabet different from their surname).

The report will be circulated to the Sub-Committee in confidence as part of a formal agenda.

The Sub-Committee will first ask the Monitoring Officer to speak to the report.

The Sub-Committee (or the Representatives or Independent Person) may ask questions of the Monitoring Officer.

The Sub-Committee will hear the views of the Independent Representative, Town / Parish Representative and the Independent Person before taking a decision.

The decision must have regard to the report and recommendations, the Local Assessment Criteria and views of the Independent Person.

The decision of the Sub-Committee will be formally recorded in the minutes which will be a public record.

The decision will be communicated separately to the Complainant and Subject Member.

## Appendix 4

### **Standards Hearing Sub-Committee Procedure**

#### **(a) General Principles**

1. The Standards Hearing Sub-Committee is a formal committee meeting of the Council. However it does act in a quasi-judicial manner in that it is obliged to objectively determine facts and draw conclusions from them so as to provide the basis, where justified, for official action, which may affect the legal rights, duties or privileges of the Subject Member whose actions led to the investigation.
2. Notwithstanding this, the Sub Committee is not a court of law and therefore the general principle (which is subject to the proviso in paragraph 9 below) is that the Sub-Committee will only hear representations directly from the relevant parties as further detailed in Section (c) below. While both the Subject Member and Complainant may have persons attending in support / representation, formal cross-examination of anyone making representations will not be permitted, any questions from the parties shall be directed through the Chairman of the Sub-Committee. The Chair may, at their absolute discretion, permit oral representations from other persons if it is considered necessary and appropriate to do so.
3. The Sub-Committee will comprise a Chair and two other voting members. It will also comprise two non-voting Members being one of the Independent Representatives and one of the Parish Council Representatives. The Committee will be advised by a Legal Officer and supported by a Democratic Services Officer ("the clerk"). The Monitoring Officer (or Deputy) and Investigator will also be in attendance. One of the Independent Persons may be in attendance but it is not essential that they are present for the Sub Committee to proceed.

#### **(b) Prior to the Hearing**

4. In advance of the Hearing the Monitoring Officer (or his Deputy) will write to the Subject Member and ask them to respond indicating the areas of the Investigator's report which they disagree with and to detail other information that they think is relevant to the Sub-Committee's deliberations on the matter ("the Subject Member's Response"). This will enable the Sub-Committee to focus on the relevant areas when the hearing is held.
5. Both the Subject Member and Complainant may provide supporting written statements (either their own or from others) to be provided to the Sub-Committee, although there is no obligation on either of the Subject Member or Complainant to provide their own representations in written form, if they are intending to make oral representations at the hearing.
6. The Monitoring Officer (or his Deputy), having received all the relevant paperwork, will prepare the Hearing Papers which will be presented to the Sub-Committee as part of a formal agenda with a covering committee report. The Hearing Papers comprise a Pre-Hearing Summary Report (providing detail in respect of the allegation including a summary of the allegation and events and also highlighting the areas of disagreement with the Investigator's report), the Investigator's report,

the Subject Member's Response, any written statements provided by the parties and a copy of this procedure.

7. The presumption will be that the hearing will normally be held in public unless the Sub-Committee exercises its discretion to exclude the public from all or part of the hearing in accordance with the Local Government Act 1972. Accordingly once the Hearing Papers have been compiled they will be provided to the Subject Member and Complainant who will have the opportunity to request that the hearing be held in private. If no such request is made, then the agenda, including the Hearing Papers, will be published and made available in the normal way. If such a request is made, then the Sub-Committee will hear representations on the day of the hearing and then determine whether the matter should be held in public or private. Where such a request is made the formal agenda will be published in the normal way but without the committee report / Hearing Papers available to the public. In the event the Sub-Committee determine that the meeting should be held in public then the Chairman will explain that the committee report / Hearing Papers will be published online after the hearing has taken place.

### **(c) Formalities at the hearing**

8. The Chair of the Sub-Committee will introduce the members of the Sub-Committee, the officers supporting them, the Subject Member, the Complainant, the Monitoring Officer (or Deputy) the Investigator and Independent Member (if present).
9. The Chair will explain the reason for the meeting and outline the procedure to be followed. The Chair may choose to vary this procedure in any particular instance where s/he is of the opinion that such a variation is necessary in the interests of fairness.
10. The Chair will then confirm that all those involved understand the procedure to be followed and ask if there are any preliminary procedural issues which anyone wishes to raise before the hearing begins. Should either the Complainant or Subject Member have sought to have the meeting held in private, the Sub-Committee will consider that at this stage.
11. If any procedural issues are raised, including whether the hearing should be held in private, the Sub-Committee will hear representations on them, before determining them.
12. If the Subject Member is not present at the start of the meeting, the Sub-Committee will consider any reasons given by them for his/her non-attendance. If the Sub-Committee is satisfied that there is good reason for their non-attendance, it may adjourn to another date, or proceed if it has been requested to do so by the Subject Member.
13. If the Sub-Committee is not satisfied that there is good reason for the Subject Member's non-attendance, or if the Subject Member failed to give any reason for his/her non-attendance, the Committee can decide:
  - whether to consider the matter and make a determination in the absence of the Subject Member, or
  - agree to adjourn the hearing to another date.



#### **(d) The Hearing**

14. The Committee will identify the areas of disagreement between the Investigator and the Subject Member on the Investigation report's facts or conclusions.
15. The Investigator will be invited to make representations in support of his/her report and on anything contained in the Subject Member's Response. The Subject Member shall have the chance to ask questions of the Investigator. The Sub-Committee and the Monitoring Officer (or Deputy) will have the opportunity to ask questions of the Investigator.
16. The Subject Member will then be invited to make representations in support of the fact(s) concerned and whether the evidence gives rise to a breach or breaches of the Code of Conduct. The Investigator shall have the chance to ask questions of the Subject Member. The Sub-Committee and the Monitoring Officer (or Deputy) will have the opportunity to ask questions of the Subject Member.
17. The Complainant will then be invited to comment on representations made by the Investigator and Subject Member.
18. The Sub-Committee has the discretion to question or permit questions of any of the parties at any point, as it sees fit. The Sub-Committee shall seek the views of the Independent Person before reaching any conclusion, although this shall not prevent the Sub-Committee from continuing with the hearing if the Independent Person is not in attendance.
19. The Sub-Committee will consider what it has heard in private accompanied only by its Clerk. The Sub-Committee may ask the Legal Officer to advise them when required.
20. The Chair will then announce to all present at the hearing the Sub-Committee's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, whilst setting out the facts upon which the conclusions have been reached.
21. If the Sub-Committee decides that the Subject Member has not failed to follow the Code of Conduct, the Committee will then consider whether it should make any recommendations to the Council.

#### **(e) Sanction**

22. If the Sub-Committee decides that the Subject Member has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the Investigator, the Monitoring Officer and the Subject Member as to:
  - a. whether or not the Sub-Committee should impose a sanction and/or recommend to Council that a sanction be imposed; and
  - b. what form of sanction(s) is/are appropriate.
  - c. Any mitigation the Subject Member wishes the Sub-Committee to take into account
23. The Sub-Committee will consider in private, accompanied only by its Clerk [and legal advisor if required] whether or not to impose/recommend the imposition of a sanction on the Subject Member and if so, what form.

24. The Sub-Committee will also consider whether or not it should make any recommendations with a view to promoting high standards of conduct among members of the relevant authority.

**(f) Issue of decision**

25. The Sub-Committee will announce its decision in public at the conclusion of the hearing.
26. The Sub-Committee will issue a full written decision including reasons within two weeks of the hearing.

## Standards Committee

### Item 8 - Code of Conduct complaints update 1<sup>st</sup> January 2020 to 31<sup>st</sup> December 2020.

\* indicates case which has been updated since the update presented to the January 2021 meeting.

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct it is alleged has been breached and nature of complaint	Monitoring Officer assessment and outcomes following consultation with Independent Person
2020/C01  12.2.2020	TC	<p>Alleged that subject member accused the complainant of personal agendas to undermine proper process and accusation of cover ups to protect staff.</p> <p>4. You must -</p> <p>(a) treat others with courtesy and respect including fellow council members, staff and members of the public.</p>	<p><b>Independently investigated.</b></p> <p><b>Complaint not upheld.</b></p> <p><b>Case closed.</b></p>
2020/C02*  28.2.2020	EDDC	<p>Alleged that the subject member has been disrespectful towards and about council officer showing a lack of courtesy and respect. Alleges that the Cllrs behaviour is insulting offensive and humiliating and brings the council into disrepute.</p> <p>Breach of the Code:</p> <p>4(a) You <u>must</u> - Treat others with respect and</p> <p>5(c) You <u>must not</u> – Bully any person</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a), 5(c) and 5(h).</b></p> <p><b>Not accepted and unable to resolve.</b></p> <p><b>Standards Hearing Sub-Committee concluded; Breach of paragraphs 4(a) (courtesy and respect) and 5(h) (bringing office into disrepute). No breach of paragraph 5(c) (bullying).</b></p> <p><b>Sanctions imposed;</b></p>

		5(h) You <u>must not</u> – conduct yourself in a manner to give the impression that the office or council has been brought into disrepute.	<p><b>Training in relation to member / officer relations including mentoring;</b>  <b>Given seriousness of breach a suitably worded apology to the Chief Executive with wording to be approved by the Chair of Standards Committee and the Monitoring Officer.</b></p> <p><b>Sanctions compliance</b>  <b>Apology given.</b>  <b>Mentoring being undertaken.</b></p>
2020/C03  28.2.2020	<b>EDDC</b>	<p>Alleged that the subject member sent an email to other Cllrs that described the complainant as being homophobic.</p> <p>Breach of Code:  1.2 - You should have regard to the Principles of Public Life.  4(a) You <u>must</u> - Treat others with respect and  5(c) You <u>must not</u> – Bully any person</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a) and 5(c).</b></p> <p><b>Subject member agreed to and gave formal apology.</b></p> <p><b>Case closed.</b></p>
2020/C04  2.3.2020	<b>EDDC</b>	<p>Alleged that the subject member openly accused the complainant in a public meeting that he had not declared an interest that he should have done. The subject member did not treat complainant with courtesy and respect and brought his integrity into dispute.</p> <p>Breach of Code:  4(a) You <u>must</u> - Treat others with respect and courtesy</p>	<b>Complaint withdrawn.</b>

2020/C05 3.3.2020	EDDC	<p>Alleged that the subject member was disrespectful when referring to the complainant in an email to other members.</p> <p>Breach of Code: 4(a) You <u>must</u> - Treat others with respect and courtesy 5(c) You <u>must not</u> – Bully any person</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Complaint not upheld.</b></p> <p><b>Case closed.</b></p>
2020/C06 6.3.2020	EDDC	<p>Alleges that the subject member distributed a personal and confidential document in an email to other Cllrs. The document was clearly marked private and confidential with the instruction that it should not be shown to anyone else.</p> <p>Breach of Code: 5(f) You <u>must not</u> - disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature.</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraph 5(f).</b></p> <p><b>Subject member agreed to and gave formal apology.</b></p> <p><b>Case closed.</b></p>
2020/C07 22.6.2020	EDDC	<p>Alleges that at a meeting of East Devon District Council the subject member failed to treat a fellow councillor with courtesy and respect.</p> <p>Breach of Code: 4(a) You <u>must</u> - Treat others with respect and courtesy</p>	<p><b>Complaint not upheld.</b></p> <p><b>Case closed.</b></p>

2020/C08 4.6.2020	<b>EDDC</b>	<p>Complaint that two subject members put pressure on the complainant to withdraw a complaint against another Cllr.</p> <p>Breach of Code 5(d)(i) You <u>Must not</u> intimidate or attempt to intimidate any person who is or is likely to be – (i) a complainant;</p> <p>in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct</p>	<p><b>Complainant has not engaged in the process after initial complaint made.</b></p> <p><b>Case closed.</b></p>
2020/C09 9.6.2020	<b>EDDC</b>	<p>Complaint that the subject member was disrespectful in an email chain that attacked another Councillor's character</p> <p>Breach of Code: 4(a) You <u>must</u> - Treat others with respect and courtesy</p>	<p><b>Complaint withdrawn in preference to an informal resolution.</b></p>
2020/C10* 11.6.2020	<b>TC</b>	<p>Complaint that the language used by the subject member in an email circulated to other members deliberately meant to criticise the competence of another Cllr.</p> <p>Breach of Code: 4(a) You <u>must</u> – treat others with courtesy and respect including fellow council members, staff and members of the public</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a).</b></p> <p><b>Not accepted and unable to resolve.</b></p> <p><b>This complaint is progressing to Standards Hearing (together with C11, C19)</b></p> <p><b>Standards Hearing (C10, C11 &amp; C19) found a breach of paragraph 4(a) (courtesy and respect) and 5(c) (bullying).</b></p> <p><b>Sanctions imposed;</b></p>

			<p>1. Censure</p> <p>2. Training organized by the Monitoring Officer in relation to the Code of Conduct and very specifically related to bullying and the impact of behaviour upon others and the relationships between officers and members.</p> <p>3. Following training a written apology to with the wording to be agreed with the Monitoring Officer.</p> <p><b>Sanctions compliance</b></p> <p>Censure issued</p>
2020/C11* 23.6.2020	TC	<p>Complaint that the subject member attempted to undermine the position and standing of an employee of the Town Council, in an email widely circulated to other members.</p> <p>Breach of Code: 1.2 <u>You should</u> have regard to the Principles of Public Life 4(a) <u>You should</u> treat others with courtesy and respect 5(c) You <u>must not</u> – Bully any person</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a) and 5(c).</b></p> <p><b>Not accepted and unable to resolve.</b></p> <p><b>This complaint is progressing to Standards Hearing (together with C10, C19)</b></p> <p><b>Standards Hearing (C10, C11 &amp; C19) found a breach of paragraph 4(a) (courtesy and respect) and 5(c) (bullying).</b></p> <p><b>Sanctions imposed;</b></p> <p>1. Censure</p> <p>2. Training organized by the Monitoring Officer in relation to the Code of Conduct and very specifically related to bullying and the impact of behaviour upon others and the relationships between officers and members.</p>

			<b>3. Following training a written apology to with the wording to be agreed with the Monitoring Officer.</b>  <b>Sanctions compliance</b> <b>Censure issued</b>
2020/C12  16.3.2020	TC (X2)	Complaint that during a public meeting the subject member made disparaging remarks during the meeting and showed a disrespect for other members and the public In the same meeting a second subject member also was witnessed making disparaging remarks and showed a lack of respect for other members and the public  <b>Breach of Code:</b> 4. You must - (a) treat others with courtesy and respect including fellow council members, staff and members of the public.	<b>Referred for independent investigation.</b>  <b>Complaint not upheld;</b>  <b>Case closed.</b>
2020/C13  17.6.2020	TC	Complaint received regarding repeated bullying behaviour towards the complainant	<b>Independent investigation underway (combined with C14, 15 &amp; 16).</b>
2020/C14  17.6.2020	TC	Complaint received regarding repeated bullying behaviour towards the complainant	<b>Independent investigation underway (combined with C13, 15 &amp; 16).</b>
2020/C15  17.6.2020	TC	Complaint received regarding repeated bullying behaviour towards the complainant	<b>Independent investigation underway (combined with C13, 14, &amp; 16).</b>



2020/C16 17.6.2020	TC	Complaint received regarding repeated bullying behaviour towards the complainant	<b>Independent investigation underway (combined with C13, 14, &amp; 15).</b>
2020/C17 21.6.2020	EDDC	<p>Complaint that the subject member used his Twitter account to make threatening tones about the complainant in the comments he has made.</p> <p><b>Breach of Code:</b>  4(a) You <u>must</u> - Treat others with respect and courtesy  5. You must not –  (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;  5(h) 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 or the Council into disrepute.</p>	<p><b>Breach found that subject member had failed to comply with paragraphs 4(a), 5(a) and 5(h).</b></p> <p><b>Subject member agreed to and gave formal apology</b></p> <p><b>Case closed.</b></p>
2020/C18* 2.7.2020	EDDC	<p>Complainant has received a series of emails over the course of a few months where the subject member has been bullying and intimidating. Subject member suggests complainant should not deal with the case.</p> <p><b>Breach of Code:</b>  4(a) You <u>must</u> - Treat others with respect and courtesy  5(a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage</p>	<p><b>Subject member has accepted a breach and is looking to informally resolve the matter.</b></p> <p><b>Matter incapable of informal resolution.</b></p> <p><b>Referred for independent investigation which is in progress.</b></p>

		5(c) You <u>must not</u> – Bully any person	
2020/C19*  19.07.2020	TC	<p>Complaint that subject member has bullied and harassed the complainant in various communications. The complainant believes the subject member has tried to undermine his position as an employee of the Town Council.</p> <p><b>Breach of Code:</b>  4(a) You <u>must</u> treat others with courtesy and respect including fellow council members, staff and members of the public   5(c) You <u>must not</u> – bully any person</p>	<p><b>Referred for independent investigation.</b></p> <p><b>Breach found that subject member had failed to comply with paragraphs 4(a) and 5(c).</b></p> <p><b>Not accepted and unable to resolve.</b></p> <p><b>This complaint is progressing to Standards Hearing (together with C10, C11)</b></p> <p><b>Standards Hearing (C10, C11 &amp; C19) found a breach of paragraph 4(a) (courtesy and respect) and 5(c) (bullying).</b></p> <p><b>Sanctions imposed;</b>  1. Censure  2. Training organized by the Monitoring Officer in relation to the Code of Conduct and very specifically related to bullying and the impact of behaviour upon others and the relationships between officers and members.  3. Following training a written apology to with the wording to be agreed with the Monitoring Officer.</p> <p><b>Sanctions compliance</b>  Censure issued</p>
2020/C20*  15.7.2020	TC	Allegation that 5 subject members shared a computer at a zoom meeting and brought the council into disrepute and that one member	<b>Complaint not upheld in relation to the five councillors sharing a computer at a Zoom meeting.</b>

		<p>voted on a motion where they didn't know what they were voting on.</p> <p>5. You <b><u>must not</u></b> –</p> <p>(h) conduct yourself in a manner <u>or</u> behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.</p>	<p><b>Complaint upheld where subject member had voted on a motion where they didn't know what they were voting for, breach of paragraph 5(h).</b></p> <p><b>Subject member required to formally apologise to Council.</b></p> <p><b>Case closed.</b></p> <p><b>Sanctions compliance</b> <b>Apology given.</b></p>
<p>2020/C21*</p> <p>22.08.2020</p>	TC	<p>Allegation that during the Planning Meeting via Zoom the subject member appeared to 'smirk' and laugh when an applicant tried to explain why they needed access. The complainant felt that the Subject Member had bullied the applicant.</p> <p>There is also an allegation that the applicant was coerced into sharing the information she had provided on screen at the zoom meeting, as it had not been circulated to the council members prior to the meeting commencing.</p> <p><b>Breach of Code:</b></p> <p>5. You <b><u>must not</u></b> -</p> <p>(c) Bully any person</p> <p>(f) Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –</p> <p>(i) you have the consent of a person authorised to give it;</p>	<p><b>With MO for assessment</b></p> <p><b>Complaint not upheld;</b></p> <p><b>Case closed.</b></p>

<p>2020/C22</p> <p>06.07.2020</p>	<p><b>EDDC</b></p>	<p>The allegation is that on the 2<sup>nd</sup> July 2020 the subject member used their East Devon District Council's email address to widely publish a media release and document from a political Group, and as such misused their position as an EDDC Councillor by conferring an advantage upon a political party in which they are a member.</p> <p><b>Breach of Code:</b>  1.3 When acting in your capacity as a Member or Co-opted Member of the Council –</p> <p>(a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate;</p> <p>(g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Council's reasonable requirements;</p> <p>(h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council;</p> <p>(j) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the</p>	<p><b>Complaint upheld.</b></p> <p><b>Breach of paragraph 5(a) found.</b></p> <p><b>Formal apology to Council required and given.</b></p> <p><b>Case closed.</b></p>
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		<p>above requirements, by leadership and example.</p> <p>5. You <b>must not</b> –</p> <p>(a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;</p> <p>(e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;</p> <p>(h) 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 or the Council into disrepute.</p>	
<p>2020/C23*</p> <p>5.8.2020</p>	TC	<p>The allegation is that the subject member, along with 4 other councillors shared a computer device during a zoom meeting of the council on. It is the belief of the complainant that this was inappropriate and that the meeting should have gone ahead with everyone in their own home.</p> <p>During this meeting the subject member also cast their vote on a motion and then openly admitted they did not know what they were voting for. The subject member tried to change their vote when questioned by Councillors in the same house who were heard saying 'that was not the right answer'.</p> <p><b>Breach of Code:</b></p>	<p><b>Complaint not upheld in relation to sharing the computer.</b></p> <p><b>Complaint upheld where subject member had voted on a motion where they didn't know what they were voting for, breach of paragraph 5(h).</b></p> <p><b>Subject member required to formally apologise to Council.</b></p> <p><b>Case closed.</b></p> <p><b>Sanctions compliance</b> <b>Apology given.</b></p>

		<p>5. You <b><u>must not</u></b> –</p> <p>(h) conduct yourself in a manner <u>or</u> behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.</p>	
<p>2020/C24</p> <p>5.8.2020</p>	TC	<p>The allegation is that the Subject Member, along with 4 other councillors shared a computer device during a zoom meeting of the council. It is the belief of the complainant that this was inappropriate and that the meeting should have gone ahead with everyone in their own home. As a result the complainant feels that the reputation of the council was put at stake.</p> <p><b>Breach of Code:</b></p> <p>5. You <b><u>must not</u></b> –</p> <p>(h) conduct yourself in a manner <u>or</u> behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.</p>	<p><b>Complaint not upheld.</b></p> <p><b>Case closed.</b></p>
<p>2020/C25*</p> <p>3.9.2020</p>	EDDC	<p>The allegation is that at a meeting the subject member failed to declare an interest with regards to a retrospective planning application. The subject member knew the owners of the land. The complainant felt that the subject member has compromised the position of the Planning Committee and the reputation of its Members by not declaring an interest.</p>	<p><b>With the MO for assessment</b></p> <p><b>Complaint not upheld.</b></p> <p><b>Case closed.</b></p>

		<p><b>Breach of Code:</b></p> <p>5. You must not –</p> <p>(h) 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 or the Council into disrepute.</p> <p>6.3 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Clerk of the interest within 28 days beginning with the date of disclosure.</p> <p>8.2 You also have a personal interest in any business of your Council where a reasonable person with knowledge of the relevant facts would regard the interest as greater than would affect the majority of residents or inhabitants in the affected area such that it is likely to prejudice your judgment of the public interest</p>	
<p>2020/C26*</p> <p>21.9.2020</p>	EDDC	<p>The allegation is that the subject member attempted to persuade the complainant given their position to defend the subject member against a complaint that they said had been made about them. The complainant felt intimidated and bullied by the subject member during the call which was overheard.</p> <p><b>Breach of Code:</b></p>	<p><b>With the MO for assessment</b></p> <p><b>Informally resolved with an apology given.</b></p> <p><b>Case closed.</b></p>

		<p>4. (a) You MUST treat others with courtesy and respect.</p> <p>5. You MUST NOT- (c) bully any person.</p>	
<p>2020/C27*</p> <p>3.9.2020</p>	EDDC	<p>The subject member made public criticisms about the capabilities of the complainant.</p> <p><b>Breach of Code:</b></p> <p>4. (a) You MUST treat others with courtesy and respect.</p> <p>5. You MUST NOT- (c) bully any person</p>	<p><b>With the MO for assessment.</b></p> <p><b>Breach found in relation to paragraph 4(a) (courtesy and respect) but not paragraph 5(c) (bullying)</b></p> <p><b>Public apology to be given.</b></p> <p><b>Case closed.</b></p> <p><b>Sanctions compliance TBC.</b></p>
<p>2020/C28*</p> <p>21.9.2020</p>	EDDC	<p>The allegation is that the Subject Member failed to disclose the property they reside at in their Register of Interests and his relationship with the person who submitted a planning application for the same address.</p> <p><b>Breach of Code:</b></p> <p>5. You MUST NOT-</p> <p>(h) 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; and</p>	<p><b>With MO for assessment.</b></p> <p><b>Investigation progressing.</b></p>



		7.1 (disclosable pecuniary interests) and 6.1 and / or 6.2 (registration of interests).	
2020/C29*  20.8.2020	TC	<p>Cllr attempted to stop complainant parking her car and was rude, verbally aggressive and intimidating.</p> <p><b>Breach of Code:</b></p> <p>5. You MUST NOT-</p> <p>(c) bully any person</p> <p>(h) 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 or the Council into disrepute.</p>	<p><b>With MO for assessment.</b></p> <p><b>Investigation progressing</b></p>
2020/C30*  19.11.2020	TC	<p>Cllr responded to a social media post in which he was disrespectful and bullying towards an individual.</p> <p>4. You <u>must</u> –</p> <p>(a) treat others with courtesy and respect including fellow council member, staff and members of the public.</p> <p>(e) All members are required to uphold all policies including the Media Communications Policy and be expected to attend all mandatory training.</p> <p>5. You <u>must not</u></p>	<p><b>With MO for assessment.</b></p> <p><b>Seeking informal resolution</b></p>

		(e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council; (h) 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 or the Council into disrepute.	
2020/C31*  19.11.2020	TC	Social media post breached Council's own policies and was inappropriate in content.  <b>Breach of Code</b> 4. You <u>must</u> – (e) All members are required to uphold all policies including the Media Communications Policy and be expected to attend all mandatory training.  5. You <u>must not</u> (h) 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 or the Council into disrepute.	<b>With the MO for assessment</b>  <b>Complaint not upheld.</b>  <b>Case closed.</b>
2020/C32*  27.11.2020	EDDC (x2)	Complaints about the way the councillors commented on the complainants planning application.  <b>Breach of Code</b> Not clearly specified	<b>With the MO for assessment</b>  <b>Complaint not upheld.</b>  <b>Case closed.</b>
2020/C33*	TC (x2)	Allegation that during the Planning Meeting via Zoom the subject member appeared to 'smirk' and laugh when an applicant tried to explain	<b>With the MO for assessment</b>  <b>Complaint not upheld.</b>

27.11.20		<p>why they needed access. The complainant felt that the Subject Member had bullied the applicant. The applicant was coerced into sharing the information she had provided on screen at the zoom meeting, as it had not been circulated to the council members prior to the meeting commencing.</p> <p>Councillor committed to supporting the application but then didn't attend the meeting. Alleged to be orchestrated.</p> <p><b>Breach of Code:</b>          You <u>must</u> –          4(a) treat others with courtesy and respect including fellow council member, staff and members of the public.</p> <p>5. You MUST NOT-          (c) bully any person</p>	<b>Case closed.</b>
2020/C34*  17.11.2020	<b>EDDC</b>	<p>Attending a parish council meeting and actively seeking to influence the vote / outcome which is inappropriate.</p> <p><b>Breach of code:</b>          To be confirmed</p>	<b>With MO for assessment</b>
2020/C35*  15.10.2020	<b>EDDC</b>	<p>Failure to declare an interest when involved in a planning application having declared an interest at a parish council meeting.</p> <p><b>Breach of code:</b></p>	<b>With MO for assessment</b>

		5(a) (using position to confer an advantage), 5(h) (bringing office into disrepute) and 7.4 & 8.2 (failure to declare an interest).	
2020/C36*  18/09/2020	TC	Complaint that Councillor trying to influence a vote.  <b>Breach of code</b> 5. You <u>must not</u> 5(a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage  (h) 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 or the Council into disrepute.	<b>With MO for initial assessment</b>

Complainants who have made more than 2 complaints

Complainant in relation to C13, C14, C15 & C16

Complainant in relation to C25, C26, C27 & C28

Subject Members who are subject to more than 2 complaints

Cllr in relation to C1, C14, C20 & C24

Cllr in relation to C2, C3, C5, C6, C9, C17 & C18

Cllr in relation to C10, C11 & C19

Cllr in relation to C12, C15, C20, C24 & C29

Cllr in relation to C16, C20 & C24

Cllr in relation to C25, C26, C27 & C28

Cllr in relation to C12, C13 & C30

An update for the Committee on Non-Code related / initial contact / pending cases since the 1<sup>st</sup> January 2020 to 31<sup>st</sup> December:

Case #	Details of non-code complaint	Outcome
12.02.2020	Alleges that at a council meeting Cllr'S behaviour was very vocal, disruptive, disrespectful and totally unacceptable. Alleges that Cllr's behaviour demonstrated total disregard towards members of the public who attended wishing to speak in support of grant funding applications  Cllr not content with disrupting Council Meeting has brought Council into disrepute with postings on Social Media	Completed complaint form not returned so closed.
12.02.2020	Alleged that two Cllrs never declared their interest before voting for co-optees. As well the rudeness and unbecoming behaviour of another Cllr at the meeting.	Completed complaint form not returned so closed.
11.2.2020	Unhappy with Town Council in general	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
12.2.2020	Unhappy with Town Council in general	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
12.2.2020	Unhappy with Town Council in general	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law /

		administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about the specific actions of a Cllr/s. No response.
12.2.2020	Unhappy with Town Council in general	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about the specific actions of a Cllr/s. No response.
12.2.2020	Unhappy with Town Council in general	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about the specific actions of a Cllr/s. No Response.
13.2.2020	Unhappy with new elected Town Cllr and Council in general	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No response.
14.2.2020	Alleges Cllr called her a name whilst she was walking past his house with her 7 year old son. This is a repeat complaint from the end of last year where there was a previous incident.	Not a matter that the Monitoring Officer can intervene in unless Cllr is acting in an official capacity. No Response.
15.2.2020	Alleges Cllr spoke disrespectfully towards him at a meeting; Alleges Cllr is changing the agenda so certain items won't be discussed and he is intimidating the clerk; Alleges Cllr held and unlawful meeting and is sending threatening emails to the clerk; Alleges that Cllr did not disclose an interest when her grandson was elected	Complaint has been withdrawn.

17.2.2020	Alleges Cllr has no control over meetings and should resign; is allowing and not challenging a bullying and intimidating environment; has been ineffectual at restoring confidence and shows a general lack of respect	Complaint has been withdrawn.
17.2.2020	Alleges Cllr is not fit to serve as he has been investigated for sexual offences in the past 12 years	Email response to advise that we are unable to take action as we are limited to only acting on councillor behaviour when they are acting as a councillor. It cannot address previous actions.
17.02.2020	Alleges Cllr is not fit to serve as he has been investigated for sexual offences	Email response to advise that we are unable to take action as we are limited to only acting on councillor behaviour when they are acting as a councillor. It cannot address previous actions
19.2.2020	Complaint against the Town Council and how it is being run	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
20.2.2020	Complaint that Cllr did not disclose information to the council that he was the complainant's brother and proposed the complainant for Co-option.	Cllr resigned and the complaint was withdrawn.
6.3.2020	Complaint the Council are not advertising 2 places on council.	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
12.3.2020	Complaint that Cllr was disrespectful	Form sent to complete if wishing to complain about actions of a Cllr. No response.

16.3.2020	Complaint about the actions of TC	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
16.3.2020	Complaint that Cllrs were disrespectful making disparaging remarks against other members and the public.	Complaint was withdrawn.
16.3.2020	Complaint about the actions of TC	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
16.3.2020	Complaint about the actions of TC	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
16.3.2020	Complaint about the actions of TC	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
16.3.2020	Complaint that Cllrs were disrespectful making disparaging remarks against other members and the public.	Form sent to complete if wishing to complain about actions of a Cllr. No Response.
16.3.2020	Complaint about the actions of TC	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is



		a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
16.3.2020	Complaint Cllr was disrespectful making disparaging remarks against other members and the public.	Form sent to complete if wishing to complain about actions of a Cllr. No Response.
4.6.2020	Complaint about systematic and institutionalised bullying that is part of TC	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
6.6.2020	Climate of belittlement, marginalisation and harassment which is endemic in TC	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
9.6.2020	Complaint received regarding comments made by Cllr about another Member	Resolved informally.
10.6.2020	Complaint about the general behaviour of the Cllrs bringing the council into disrepute	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
17.6.2020	Clear disrespect and lack of courtesy. There is an implication of personal interest where there is none. There is a clear attack about complainant's behaviour as a Christian which breaches equality legislation	Complaint was withdrawn.

15.6.2020	Alleges Cllr of bullying, intimidation, and treating complainant with disrespect in public	Resolved informally
25.6.2020*	Alleges that Cllr was disrespectful to individual when he visited his second home during lockdown.	No response.
29.6.2020	Alleges that Cllr is breaching Code by not responding to emails	Response sent advising this was not a breach.
29.6.2020	Complaint about TC steering people to vote on-line poll organised by Town Council.	Email response advising that the actions of the Council itself are not a matter that the MO can intervene in. It is a sovereign body subject to local government law / administrative law principles and much of what they do needs to be considered in that context. Form sent to complete if wishing to complain about actions of a Cllr. No Response.
14.7.2020	Complaint about the zoom meeting held where 5 Cllrs were sharing a computer. Cllr left the meeting without declaring and then voted on a motion without knowing what the vote was for and then asked to change her vote when another Cllr said she had made the wrong choice. This was heard in the zoom meeting.	Form sent to complete if wishing to complain about actions of a Cllr. No Response.
15.7.2020	Cllr made a statement in a tweet about the complainant stating "Are you still out on licence". Complainant believes this is a direct reference to being on release from prison which is not true and is libellous.	Form sent to complete if wishing to complain about actions of a Cllr. No Response.
16.7.2020	Complaint that in a recent SAR against Parish Council he has received in the response email communications (sender/recipient information redacted) that he feels have been negative and scathing about him and thus not upholding the Nolan principles.	Resolved informally
21.7.2020*	Complaint that Cllr has accessed the personal email accounts of previous employees of TC and held such data with no thought of GDPR and insinuates that he has and will use information he has collected to his advantage in his position as Cllr.	No response.

21.7.2020*	Complaint that Cllr has accused the complainant of being under the influence of alcohol at virtual meeting. He also suggests that complaints have been made by the public following this meeting about the complainant's behaviour. The complainant denies she had been drinking and that complaints had been made about her behaviour. The complainant claims that this is part of a consistent approach by Cllr to undermine her position and is bullying and intimidating.	No response.
15.7.2020	Complaint about zoom meeting and that 5 Cllrs were sharing the same laptop	No formal complaint form received.
9.08.2020	Social media post	Closed at initial review as post was made from a personal email account
9.8.2020	Unhappy with Cllr's behaviour at a recent meeting.	No formal complaint form received.
10.08.2020	Cllr made a comment that has been construed as racist. However the comment was made in a personal capacity and not in an official capacity as Cllr	Closed at initial review
11.08.2020	Complaint about Council zoom meeting and Cllr's disruptive behaviour towards Cllr.	Complaint withdrawn as Cllr has resigned.
17.08.2020	Complaint that a Parish Councillor failed to declare a register of interests that could have affected the decision of the council in relation to a planning matter	Form sent to complete if wishing to complain about actions of a Cllr. No Response.
19.08.2020	Cllr visited an elderly residents' home and was photographed shaking the hand of an elderly resident without wearing a face mask. This is in clear violation of government advice and brings his office into disrepute.	Form sent to complete if wishing to complain about actions of a Cllr. No Response.
19.09.2020*	Complaint that neither of two Cllrs stated that they were members of the Neighbourhood Planning steering committee at the agenda item for declarations of interest, and they failed to subsequently mention it despite it being prejudicial to the NP discussion.	No formal complaint form received.
1.10.2020*	Complaint that a Parish Councillor continues to participate in Parish Council decision-making when the relationship with the developer clearly suggests that there is a conflict of interest.	Closed after initial review

19.10.2020*	Cllr X accused Cllr Y of being subject to the code of conduct in relation to his actions when he made a complaint about Cllr X. Cllr X also implied that Cllr Y is being manipulative by virtue of his councillor role.	Closed after initial review.
2.11.2020*	Complaint of councillor holding an unlawful meeting and bullying and inappropriate comment.	No formal complaint form received.
16.11.2020*	Complaint that Councillor not acting appropriately when dealing with legal claim.	With the Independent Person to confirm no further action.

## Standards Committee

### Item 9 - Code of Conduct complaints update 1<sup>st</sup> January 2021 to 31<sup>st</sup> March 2021.

\* indicates case which has been updated since the update presented to the last meeting.

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct it is alleged has been breached and nature of complaint	Monitoring Officer assessment and outcomes following consultation with Independent Person
2021/C01  12.2.2021 (revised)	EDDC	Detail to be provided once Subject Member notified	With MO for assessment
2021/C02  12.2.2021 (revised)	EDDC	Detail to be provided once Subject Member notified	With MO for assessment
2021/C03  12.2.2021 (revised)	EDDC	Detail to be provided once Subject Member notified	With MO for assessment
2021/C04  13.1.21	EDDC	Comments in the press and public meetings have called into question the integrity of EDDC officers.	With MO for assessment. Investigation in progress.

		<b>Breach of the Code:</b> 4(a) You <u>must</u> - Treat others with respect and 5(c) You <u>must not</u> – Bully any person	
2021/C05  1.3.2021	EDDC	Detail to be provided once Subject Member notified	With MO for assessment
2021/C06  1.3.2021	EDDC	Detail to be provided once Subject Member notified	With MO for assessment
2021/C07  1.3.2021	EDDC	Email communication which is attacking and is said to contain defamatory allegations.  <b>Breach of Code:</b> 4. (a) You MUST treat others with courtesy and respect.  5. You MUST NOT-  (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;  (b) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 33 of the Equality Act 2010);	With MO for assessment  Investigation proceeding.

		<p>(c) bully or harass any person;</p> <p>(d) intimidate or attempt to intimidate any person who is or is likely to be –</p> <ul style="list-style-type: none"> <li>(i) a complainant,</li> <li>(ii) a witness, or</li> <li>(iii) involved in the administration of any investigation or proceedings,</li> </ul> <p>in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct;</p> <p>(e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;</p> <p>(h) 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 or the Council into disrepute</p>	
2021/C08  15.3.2021	<b>EDDC</b>	<p>Comments in a public meeting which calls into question the integrity of EDDC officers.</p> <p>Breach of Code:  <b>Breach of the Code:</b>  4(a) You <u>must</u> - Treat others with respect and  5(c) You <u>must not</u> – Bully any person</p>	<b>With MO for assessment</b>

2021/C09  27.1.20201	<b>EDDC</b>	<p>The allegation is that a Cllr used their position to incite a protest against trees being cut down on private land and took steps to prevent works to the tree.</p> <p><b>Breach of Code:</b></p> <p>5. You MUST NOT-</p> <p>a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage</p> <p>c) bully any person;</p> <p>h) 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 or the Council into disrepute.</p>	<b>With MO for assessment</b>
2021/C10  14/01/2021	<b>PC</b>	<p>Alleges that Cllr failed to disclose his personal and prejudicial interest in respect of a planning application.</p> <p><b>Breach of Code:</b></p> <p>To be confirmed – wrong code of conduct quoted.</p>	<b>With MO for assessment</b>



2021/C11  24/03/21	PC	<p>Alleges that in a council meeting a Cllr's comments and attitude were deeply offensive to certain individuals.</p> <p><b>Breach of Code:</b> 5. You MUST NOT-</p> <p>h) 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 or the Council into disrepute.</p>	<b>With MO for assessment</b>
2021/C12  24/03/21	PC	<p>Alleges that in a council meeting a Cllr's comments and attitude were deeply offensive to certain individuals.</p> <p><b>Breach of Code:</b> 5. You MUST NOT-</p> <p>h) 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 or the Council into disrepute.</p>	<b>With MO for assessment</b>
2021/C13  4/2/2021	TC	Detail to be provided once Subject Member notified	<b>With MO for assessment</b>
2021/C14  4/2/2021	TC	Detail to be provided once Subject Member notified	<b>With MO for assessment</b>

2021/C15  3/2/2021	TC	Detail to be provided once Subject Member notified	With MO for assessment
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Complainants who have made more than 2 complaints

Subject Members who are subject to more than 2 complaints

An update for the Committee on Non-Code related / initial contact / pending cases since the 1<sup>st</sup> January 2021 to 31<sup>st</sup> March 2021:

Case #	Details of non-code complaint	Outcome
16/01/2021	Alleges that a Cllr did not declare an interest in respect of a property that had a planning application submitted against it by the current owners.	Capacity not engaged – case closed at initial stage
12/01/2021	Alleges that a Cllr began shouting very aggressively during a council meeting where he was witnessed shouting at the Chair for not letting him speak.	Withdrawn by complainant following informal resolution.
21/01/2021	Complaint about the behaviour of two Cllrs against the complainant at a parish council meeting.	Seeking informal resolution
12/02/2020	Alleges that at a council meeting Cllr's behaviour was very vocal, disruptive, disrespectful and totally unacceptable. Alleges that Cllr's behaviour demonstrated total disregard towards members of the public who attended wishing to speak in support of grant funding applications  Cllr not content with disrupting Council Meeting has brought Council into disrepute with postings on Social Media	Completed complaint form not returned so closed.

19/02/2021	Complaint about HTC and Facebook page	Non Code – Closed at enquiry
16/02/2021	Complaint that a member of the public continues to correspond directly with the council using unacceptable behaviour towards the Council and also individual Councillors	Non Code – Closed at enquiry
12/03/2021	Unhappy that names are published and details are put on EDDC website if elected for council.	Non Code – Closed at enquiry
06/03/2021	Alleges Cllr was accused of lying in emails	Awaiting further information