

Date: 6 March 2009
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To: Members of the Standards Committee
(Cllr P Bowden, Mr E Butt, Cllr G P Chamberlain, Mr R Davison,
Cllr P Diviani, Cllr Mrs A E Liverton, Cllr S Pollentine, Cllr C Richards,
Cllr Mrs K Tomkins, Ms A Willan)

Other Members of the Council for information
Chief Executive – for information
Monitoring Officer
Corporate Directors – for information
Head of Legal, Licensing and Democratic Services

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Dear Sir/Madam

Standards Committee
Tuesday 17 March 2009 – 9.30 am

The above Committee meeting will be held in the Room 1, Knowle, Sidmouth, to consider the matters detailed on the agenda below. **Please note that the meeting will be starting at the slightly earlier time of 9.30 am.**

Please bring your diaries to the meeting – we are trying to sort out suitable times for a training session with Graham Rowe specific to the Standards Committee. Subjects covered will include the Code of Conduct and conducting Hearings.

Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.

Yours faithfully

MARK WILLIAMS

Chief Executive

AGENDA

Part A

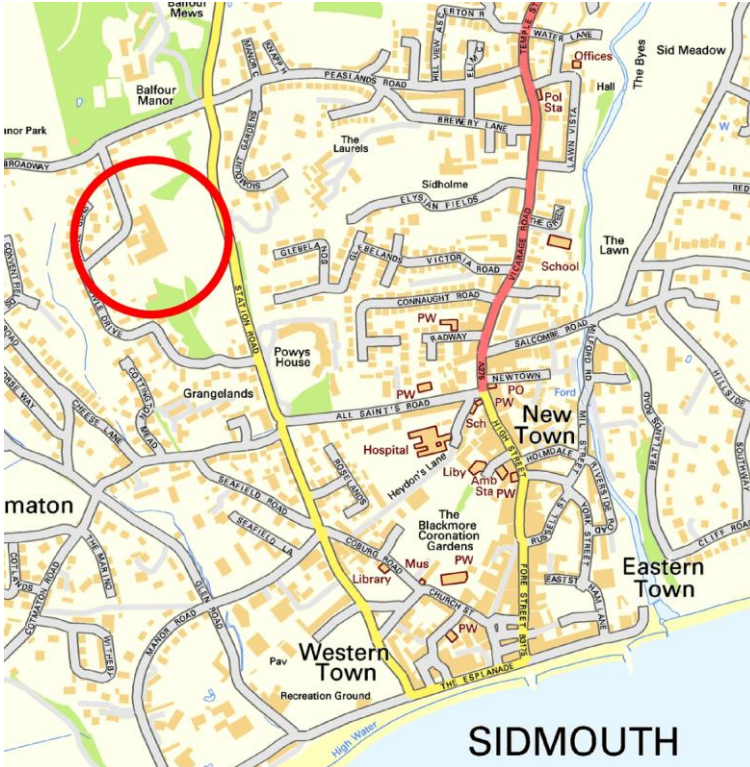
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|--|---------------|
| 1 To receive any apologies for absence | |
| 2 To confirm the minutes of the meeting held on 20 October 2008 | 4-5 |
| 3 To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which Officers recommend should be dealt with in this way. | |

- 4 To consider any items which in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be identified in the minutes. If you wish to raise a matter under this item, please do so in advance of the meeting by notifying the Chief Executive who will then consult with the Chairman).
- 5 Code of Conduct complaints in 2008 6-29
- Appendix 1 Code of Conduct complaints in 2008 (and 2007 data included for comparison) 8-10
- Appendix 2 Minutes of the Standards Committee, 18 March 2008, item 14, Local Assessment 11-14
- Local Assessment, agenda item, Standards Committee, 18 March 08 15-20
- Local Assessment procedures, report to Standards Committee, 20 October 08 21-24
- Appendix 3 Standards Board's May 2008 to December 2008 published statistics 25-29
- 6 Devon County Council community fund. Attached are:
- a) East Devon District Council letter to Devon County Council Chairman of Standards Committee 30
- b) Devon County Council Procedure Committee minute 31
- c) Devon County Council Solicitor advice to all Devon County Council members 32
- 7 'Conducting a Hearing' training – please bring diaries so that a suitable date can be agreed. Verbal
- (In addition, general Code of Conduct training has been arranged for either Friday 13 March 2009 at 6.30pm or Wednesday 22 April at 2.30pm in the Council Chamber).
- 8 Any other business
- 9 Date of Next meeting – currently programmed for Tuesday, 13 October 2009

Members remember!

- ❑ You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- ❑ Make sure you say the reason for your interest as this has to be included in the minutes.
- ❑ If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- ❑ You also need to declare when you are subject to the party whip before the matter is discussed.

Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following **bus service** stops outside the Council Offices on Station Road:
From Exmouth, Budleigh, Otterton and Newton Poppleford – 157

The following buses all terminate at the Triangle in Sidmouth, From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).
From Exeter – 52A, 52B
From Honiton – 340 (Railway Station), 387 (Town Centre)
From Seaton – 52A, 899
From Ottery St Mary – 382, 387

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Standards Committee held at Knowle, Sidmouth on 20 October 2008

Present:	Cllr P Bowden	EDDC Councillor
	Cllr G P Chamberlain	EDDC Councillor
	Mr R Davison	Independent member
	Cllr P Diviani	EDDC Councillor
	Cllr Mrs A E Liverton	EDDC Councillor
	Cllr S P Pollentine	Parish representative
	Cllr C Richards	Parish representative
	Cllr Mrs K Tomkins	Parish representative
	Ms A Willan	Independent member
Officers:	Christopher Holland	Democratic Services Officer
	Denise Lyon	Monitoring Officer
	Andrew Seddon	Senior Solicitor
Apology:	Mr E Butt	Independent member

The meeting started at 9.30 am and ended at 11.39 am

***1 Election of Chairman**

RESOLVED In his absence, Mr E Butt was elected as Chairman of the Committee for the next civic year.

***2 Chairman for the meeting**

RESOLVED Mr R Davison was elected as Chairman for the meeting in the absence of the Chairman.

***3 Minutes**

The minutes of the meeting of the Standards Committee held on 18 March 2008, were confirmed and signed as a true record.

Members raised the issue of shared resources and using members of neighbouring Councils on Local Assessment and Hearings Sub Committees, particularly when investigating a member of the District Council. Using an outside member could, in some cases prove beneficial to assist impartiality. It was suggested however, that such practice should only be employed when there was not a suitable Member of the Standards Committee to sit on the Sub Committee.

RESOLVED that the Monitoring Office/her Deputy to meet and consult neighbouring Monitoring Officers to discuss the possibility of sharing Standards Committee Members when time and workload permits

***4 Local Assessment Criteria and Procedure**

Members noted that from the 8 May 2008 the Standards Committee (England) Regulations 2008 gave Standards Committees responsibility for the initial assessment of Code of Conduct allegations. It was noted that the Local Assessment Framework had already been agreed. The report brought before Members was the draft of a Local Assessment procedure.

*4 **Local Assessment Criteria and Procedure (cont'd)**

It was noted that the document would be flexible and need to incorporate amendments as national policies may dictate from time to time.

Members felt that the adoption of the new criteria and procedure would be an appropriate moment to increase public awareness about the work of the Committee highlighting probity and transparency in local government.

- RESOLVED**
- 1) that the Local Assessment Procedure be approved
 - 2) that the Monitoring Officer and Deputy Monitoring Officer be given delegated authority to make the final minor textual alterations as suggested by the Committee and any amendments which may be necessary from time to time
 - 3) that the Monitoring Officer and Deputy Monitoring Officer be given delegated authority to make consequential amendments to the related Investigation and Hearing Procedures.
 - 4) that the Communications Officer be instructed to submit a press release highlighting the adoption of the new Local Assessment Criteria and Procedure and to increase public awareness about the work of the Committee highlighting probity and transparency in local government.

That the Monitoring Officer consider how to publicise the role of the Standards Committee more widely, such as in Citizens' Advice Bureaux and in libraries.

*5 **Invitation to join Association of Independent Members of Standards Committees in England (AIMSce)**

Members considered a matter referred to the Committee by Mr Butt concerning an invitation to join the Association of Independent Members of Standards Committees in England (AIMSce). It was noted that the association was a body organised to support Independent Members and held various training, support and general meetings to assist them.

The Committee acknowledged that it was up to each individual independent member whether to join or not. The Chairman suggested that it was his opinion that this was not necessary as the Committee received sufficient support from the Council. If additional resources and/or training was required, members were confident the Council would arrange for this when needed.

*6 **Extra Item: Devon County Council Community Fund**

The Committee considered a further matter raised by Councillor Ann Liverton regarding the distribution of County Councillor Community Fund monies. Councillor Liverton stated that she believed the distribution of Community Fund money by County Councillors in an election year could give that Councillor an unfair advantage going into an election. She believed that there was a public impression that Councillors might be 'buying votes' ahead of such a poll. It was suggested that the issue be made aware to the County Council Standards Committee with a recommendation to consider a freeze on distribution of Community Fund money for 12 months before any County Council Elections.

RESOLVED: that the Monitoring Officer in consultation with the Chairman, send a letter to DCC Standards Committee chairman highlighting the concerns of the Committee about public perception of the distribution of Community Fund money by County Councillors in an election year

Chairman Date.....

Agenda Item 5

Standards Committee

17 March 2009

MO/DL



Code of Conduct complaints in 2008

Summary

This report gives members summary information about all the Code of Conduct complaints dealt with in 2008 in East Devon. These include complaints initially sifted by the Standards Board (pre May 2008) as well as the one case handled in its entirety by this Council (post May 2008).

Recommendation

That the Standards Committee discuss the information in this report.

a) **Reasons for Recommendation**

Members of the Committee can be aware of complaints against councillors in the District, Towns and Parish Councils of East Devon and discuss how these are being handled.

b) **Alternative Options**

Not applicable.

c) **Risk Considerations**

Not understanding Code of Conduct issues in the District could limit the effectiveness of the Standards Committee.

d) **Policy and Budgetary Considerations**

Currently in budget.

e) **Date for Review of Decision**

This information is reported annually to the Standards Committee.

Main Body of the Report

1. **Background**

The complete year's complaints and outcomes are listed in Appendix 1.

- 1.1 From 8 May 2008 the Standards Committee (England) Regulations 2008 gave Standards Committees responsibility for the initial assessment of Code of Conduct allegations together with a review of those decisions' circumstances. I have attached at Appendix 2 the report and minute that went to March Committee to remind members of the Local Assessment framework.

2. Monitoring officer statistical returns to the Standards Board

2.1 These are completed quarterly.

The Standards Board has designed the quarterly return form so that it collects as little personal information as possible. The purpose of the quarterly returns is for the Standards Board to collect management information to allow them to fulfil their role as strategic regulator of the new local framework.

They publish general statistics about cases, such as:

- the number of cases received nationally, split by authority type, parished vs non-parished authorities, possibly even split by region
- the different types of referral decisions split by similar factors
- how long initial assessment and investigations etc. are taking
- numbers of investigations
- number of breaches

This is so the Standards Board can build up a picture of the landscape of local assessment and monitor how effectively it is working. I have attached the Standards Board's May 2008 to December 2008 published statistics in Appendix 3 for Members of the Committee.

2.2 EDDC Quarterly returns reporting

8 May 2008 – 30 June 2008	NIL return
1 July 2008 – 30 September 2008	NIL return
1 October 2008 – 31 December 2008	1 case (LSB10a)

2.3 The Standards Board have no plans at the moment to make individual case details available to the public or other authorities. All they will publish each quarter is simply numbers and percentages.

However, if a request under the Freedom of Information Act came in about East Devon, they would have to release information about how many cases had been received, what the sources of the cases were, whether they were about town/parish councillors, how long (on average) initial assessment had taken, what the referral decisions were, how many investigations found there to be a breach of the code, how many review requests there were, and what the outcomes of any reviews were.

Legal Implications

There are no legal implications to note.

Financial Implications

There are no financial implications to note.

Background Papers

Denise Lyon
Deputy Chief Executive and Monitoring Officer
17 March 2009

Standards Committee

Cases decided and costs in 2008

Key			
SB	Standards Board	ESO	Ethical Standards Officer
MO	Monitoring Officer	PC	Parish Council
TC	Town Council		

Cases reported to the Monitoring Officer in 2008

Date rec'd in 2007	Old world (pre-legislation)				
10.11.07	Cllr XX	20009.07	Seaton TC	SB referred case to ESO ESO referred case to local MO Case outsourced to Graham Rowe, Local Government Consultancy	Final report was due end May 2008 No breach of Code of Conduct (see appendix 3)
Date rec'd in 2008	Old world (pre-legislation)				
11.1.08	Cllr YY	20704.07	EDDC	SB reviewed allegation, no referral to ESO	Not referred so no breach
11.1.08	Cllr ZZ	20703.07	EDDC	SB reviewed allegation, no referral to ESO	Complainant appealed and requested review. SB upheld appeal and investigated under 21304.08 (see next line).
11.1.08	Cllr ZZ	21304.08	EDDC	ESO reviewed allegation and SB's decision ESO referred case to local MO Case outsourced to Graham Rowe, Local Government Consultancy	Breach of para 12(1) of the Code. Penalty imposed: censure and partial suspension – training to be given (see appendix 4).
29.1.08	Cllr BB	20974.08	Seaton TC	SB referred case to ESO ESO referred case to local MO Case outsourced to Graham Rowe, Local Government Consultancy	Breach of para 12(1)(b) of the Code. Penalty imposed: public censure and 2 month suspension from office - training to be given (see appendix 5).
2008	New world (post legislation)				
22.10.08	Cllr CC	LSB10a	Kilmington PC	MO received allegation direct from complainant MO referred case to the Assessment Sub-Committee of the Standards Committee	No action to be taken as no breach of para 3(1) of the Code of Conduct (see appendix 6).

Graham Rowe, Local Government Consultancy costs 2008/09 to date

Cllr CC 20009.07	
Investigation, interviews, report, hearing	£652.40
Cllr AA 21304.08	
Investigation, interviews, report, hearing	£1747.20
Cllr BB 20974.08	
Investigation, interviews, report, hearing	£1810.40
TOTAL	£4210.00

Training costs (billed to Members training)	£542.40
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Graham Rowe, Local Government Consultancy costs 2007/08

Cllr X 16749.06	£3808.65
Investigation, interviews, report and hearing	
Cllr A 17632.07	£1214.48
Investigation, interviews, report and hearing	
TOTAL	£5023.13

Cases decided and costs in 2007 (reported to March 2008 Committee, included here for comparison only)

Cases reported to the Monitoring Officer in 2007					
2007					
2.1.07	Cllr X	16749.06	Honiton TC	Referred to MO – Ashfords Hearing No breach	No breach
2.1.07	Cllr Y	17062.06	Seaton TC	Referred to MO - ASeddon	Breach, censure & training for all cllrs
2.1.07	Cllr Z	17004.06	EDDC	No referral to ESO	No breach
7.2.07	Cllr A	17315.07	Seaton TC	No referral to ESO	No breach
28.2.07	Cllr B	17560.07	Sidmouth TC	No referral to ESO	No breach Complainant requested review, original decision upheld
28.2.07	Cllr C	17561.07	Sidmouth TC	No referral to ESO	No breach Complainant requested review, original decision upheld
28.2.07	Cllr D	17562.07	Sidmouth TC	No referral to ESO	No breach Complainant requested review, original decision upheld
2.3.07	Cllr A	17632.07	Seaton TC	Referral to MO – Ashfords	No breach but training required
11.5.07	Cllr A	18395.07	Seaton TC	No referral to ESO insufficient information	
11.5.07	Cllr G	18140.07	EDDC	No referral to ESO insufficient information	
5.11.07	Cllr H	20003.07	Seaton TC	No referral to ESO	No breach, complainant requested a review, original decision upheld
5.11.07	Cllr I	20004.07	Seaton TC	No referral to ESO	No breach, complainant requested a review, original decision upheld
6.11.07	Cllr J	20005.07	Seaton TC	No referral to ESO	No breach, complainant requested a review, original decision upheld
7.11.047	Cllr K	20006.07	Seaton TC	No referral to ESO	No breach, complainant requested a review, original decision upheld
8.11.07	Cllr L	20007.07	Seaton TC	No referral to ESO	No breach, complainant requested a review, original decision upheld
9.11.07	Cllr M	20008.07	Seaton TC	No referral to ESO	No breach, complainant requested a review, original decision upheld

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Standards Committee held
at Knowle, Sidmouth on 18 March 2008

Present:	Mr E Butt Cllr P Bowden Cllr G P Chamberlain Cllr P Diviani Cllr Mrs A E Liverton Cllr S P Pollentine	Independent member EDDC Councillor EDDC Councillor EDDC Councillor EDDC Councillor Parish representative
Also Present as observers	*Mr R Davison *Cllr C Richards *Cllr Mrs K Tomkins	Independent Parish Parish
Officers	Rachel Pocock Diana Vernon	Head of Legal, Licensing and Democratic Services Democratic Services Manager
Apology	Cllr C Pole Carew	Parish representative

* Mr Davison, Cllr Richards and Cllr Mrs Tomkins had been invited to attend the meeting as members of the public. Their appointment, following interviews last month, would be reported to the Annual Meeting of the Council in May for confirmation. When approved they would be invited to serve on the Standards Committee.

The meeting started at 10.00 am and ended at 11.25 am

*9 Chairman for the meeting

Mr E Butt, as the only independent member on the Committee, chaired the meeting.

*10 Minutes

The minutes of the meeting of the Standards Committee held on 16 October 2007, were confirmed and signed as a true record.

*11 Committee membership

Members were aware of the interviews which had taken place last month to replace Dr Rees and Mrs Durrant (Independent Members) who had served on the Committee for 6 years in January 2008 (initially for 3 years with extension of the term of office having been agreed by the Council). Interviews were also carried out to appoint a third Parish representative to replace Councillor Bowden who was now an elected District Council representative and to replace Councillor Pole-Carew who had indicated at the last meeting that he wished to stand down from the Committee in May.

Mr Davison, Cllr Richards and Cllr Mrs Tomkins were welcomed and introductions made.

***12** Member Development 2007/08

Members considered the report of the Democratic Services Manager setting out the development programme for Councillors since the May 2007 elections and the action taken to progress Member development including the adopted Strategy, setting up a Working Group and proposed piloting of Individual Councillor Reviews.

The Standards Committee had asked particularly for this report to be presented as an update to check training of Members elected onto regulatory and quasi-judicial committees.

Members noted the level of attendance at the various courses and emphasised the need to use councillor expertise. Whenever possible, development opportunities were timetabled in the evenings to accommodate the needs of working Councillors. The Portfolio Holder – Resources was sent details of all conferences and seminars and if the expenditure was felt appropriate, advised which Councillors should be invited to attend.

The Democratic Services Manager confirmed that she explored a range of learning opportunities including paper based workbooks and on-line learning modules. In addition the Knowledge weekly newsletter was a useful means of keeping Members up-to-date and providing links to helpful and relevant websites.

RESOLVED that the 2007/08 Member Development Schedule, the Member Development Strategy and the introduction of personal development reviews for Councillors be noted.

***13** Estimated costs of investigations undertaken during the year

The Head of Legal, Licensing and Democratic Services advised that £5,000 had been used for out-sourced investigations in 2007/08 with other costs being borne in-house. Details of in-house costs would be referred to a future meeting of the Committee.

***14** Local Assessment

The Head of Legal, Licensing and Democratic Services advised that there was a need to put new procedures in place to meet changes to the way complaints were to be dealt with under the Local Government and Public Involvement in Health Act 2007. Regulations were yet to be published and guidelines made available. When the changes were in place, all complaints of breach of the Code of Conduct would be referred, in the first instance, to Councils' Standards Committees for initial assessment.

The Standards Committee would be required to do one of the following:

- Refer the allegation to the Monitoring Officer for consideration
- Refer the allegation to the Standards Board for England
- Take no action in respect of the complaint

The Act required Standards Committees to be chaired by an independent member of the Committee. In order to cope with the anticipated workload, the Committee would need to meet regularly. It was suggested that a number of independently chaired Sub-Committees, should be set up to consider complaints and deal with the investigation process. Although a Parish Councillor only needed to sit on those Sub-Committees dealing with Parish/Town Council complaints, it was felt appropriate for balance and to gain experience for the Sub-Committees to comprise an independent (chair), a district councillor and a parish councillor.

***14** Local Assessment (cont)..

It was also suggested that the Council may wish to set up joint Committees with neighbouring authorities to initially sift the complaints received. This would have the advantage of sharing the workload and cost but the possible disadvantage of losing local knowledge. If joint working was established, the Committee would wish to see the same standard of expertise, service and officer guidance as currently provided by this Council.

Another significant advantage of all complaints being referred in the first instance to the district Council was that the Monitoring Officer and Standards Committee would have the opportunity to possibly sort out issues at local level through mediation and informal action.

Training would be arranged for the Committee as soon as the regulations were made available. The Head of Legal, Licensing and Democratic Services advised that she hoped to arrange training on behalf of all authorities in Devon.

A three to four fold increase in workload for the Standards Committee was anticipated to deal with the sieving and reviewing of complaints and if appropriate dealing with hearings. The Standards Board for England was encouraging Councils to widely publicise the process and as a result there was likely to be an increase in complaints received.

- RESOLVED**
- (1) that the Council be recommended to replace the current Standards Sub-Committees with a Local Assessment and Hearings Sub-Committee and a Review Sub-Committee, whose Members shall be drawn from the Standards Committee as and when required, the introduction of the Sub-Committees, together with operational procedures, being delegated to the Head of Legal, Licensing and Democratic Services (together with authority to make the necessary constitutional changes) once the detail of Local Assessment Regulations is known,
 - (2) that the Head of Legal, Licensing and Democratic Services investigate the possibility of setting up a joint standards committee with one or more other local neighbouring authorities,
 - (3) that the position be monitored 6 months after implementation in respect of work-load, costs and adopted procedures.

***15** Declarations of Interest

In reply to concerns raised by a Member of the Committee, the Head of Legal, Licensing and Democratic Services confirmed that the Register of Interest forms completed by all Councillors complied with Central Government requirements and had been up-dated since the most recent amendments to the Code of Conduct. Councillors were also required to comply with the Code of Conduct which was there to make sure all Councillors met the necessary standards of public life. A reminder was sent out annually to Members reminding them to keep the Register of Interests up-to-date. The Head of Legal, Licensing and Democratic Services would be running a follow-up session on the new Code for all members.

*16 Date of next meeting

Members noted that the next scheduled meeting of the Standards Committee would take place on Tuesday, 14 October 2008 at 10 am, but a meeting might be necessary before this to make further recommendations and preparations in relation to local assessment. The agenda would include an item on Parish Council training and would up-date Members on the in-house costs of investigations.

Chairman Date.....

Agenda Item

Standards Committee

18 March 2008

RP



Local Assessment

Summary

The Local Government and Public Involvement in Health Act contains changes which, subject to regulations yet to be made, will require all complaints of breach of the Code of Conduct to be referred to this committee in the first instance. This report and recommendations set out the changes and the actions which need to be considered.

Recommendations

1. That the Committee recommends the Head of Legal, Licensing and Democratic services explores the possibility of setting up a joint standards committee with one or more other local authorities in Devon; or

2. That Council be recommended to replace the current Standards sub-committees with a Local Assessment and Hearings sub-committee and a Review sub-committee, whose members shall be drawn from the Standards Committee as and when required, the introduction of the sub-committees, together with operational procedures, being delegated to the Head of Legal, Licensing and Democratic services (together with authority to make the necessary constitutional changes) once the detail of regulations is known

a) Reasons for Recommendation

The council is required to implement statutory change

b) Alternative Options

Whether or not to have joint standards committees with other authorities is optional.

c) Risk Considerations

Failure by the committee to carry out its functions will damage the reputation of the council and could prevent the council achieving its corporate priorities. The 2007 Act contains powers for the Standards Board to intervene if the Authority does not discharge its functions satisfactorily. Any new system has the risk of not being fully effective during the transitional period. This will be minimised by councillors and officers attending appropriate training courses.

d) Policy and Budgetary Considerations

Local assessment means a significant increase in the likely number of complaints about councillor conduct being dealt with at local level. Limited budgetary provision (£9000) has been made; it is likely this will be exceeded. The budget will be reviewed mid-year once the position is clearer.

Positive Impact Overall

Excellent Customer Service.

Inspirational Council.

e) Date for Review of Decision

One year after the Local Assessment regime is fully operational.

1 Local Assessment

- 1.1** The 2007 Act received Royal Assent on 30 October. Subject to the making of the necessary commencement order it will make the Standards Committee responsible for receiving and carrying out the first assessment of complaints against members of the Authority, alleging breaches of the Authority's code of conduct with effect from 1 April 2008. Draft regulations have been promised. There will be a twenty eight day consultation period on the regulations before the final version is confirmed. There will be very little time to get arrangements in place before 1 April. It is possible this will slip to June.
- 1.2** The 2007 Act also makes provision that the Standards Committee must be chaired by an independent member of the committee. Because of the need to have different panels of members considering complaints at different stages of an investigation, the Act allows functions of the standards committee to be discharged by subcommittees. Each sub-committee must be chaired by an independent person.
- 1.3** The current Section 58 of the Local Government Act 2000 will be replaced with Section 57A and a new Section 58. These Sections will provide that all complaints about breach of the Members' Code of Conduct must be made to the Standards Committee.
- 1.4** The Committee will be required to do one of the following:
- (1) refer the allegation to the Monitoring Officer for consideration;
 - (2) refer the allegation to the Standards Board or
 - (3) take no action in respect of the complaint.
- 1.5** If the Committee decides to take no action in connection with the allegation, it must write to the complainant informing them of the decision and the reasons for this. The complainant can ask the Standards Committee to review its decision, provided the request for review is made within 30 days of the notice of the original decision. The Committee must then undertake a new assessment of the allegation and make a decision on the review request within three months.
- 1.6** Where the allegation is referred by the Standards Committee to the Standards Board, the Board must:
- (1) refer the allegation to an Ethical Standards Officer for investigation;
 - (2) decide to take no action; or
 - (3) refer the allegation back to the Standards Committee.
- 1.7** The Standards Board may issue guidance and give directions to Standards Committees with regard to their assessment of allegations and the Secretary of State also has power to issue Regulations to govern the process. It is not yet known what the guidance or Regulations will contain.
- 1.8** Following a number of pilot exercises carried out earlier this year the Standards Board has prepared a flow chart showing how they expect the process to work. A copy of the flow chart is attached at Annex 1. It is anticipated that the flow chart will be amended to include options for the Monitoring Officer to refer complaints to a conciliation process or to resolve complaints by other means.

2. Standards Board Checklist

2.1 Size of standards committee

Standards committees must have a minimum of:

- Three members (two elected members and one independent member).
- 25% as independent lay members if the committee is more than three people.
- An independent chair (from April 2008).
- One parish or town council member if the authority has responsibilities for those councils.

2.2 Effective practice - the Standards Board recommends:

- At least six people as a minimum (three elected members and three independent members).
- Two, or possibly three, parish or town council members if the authority has responsibilities for those councils.
- Consideration of whether more members are required to ensure cover in the event of conflicts of interest, holidays or sickness.

2.3 This Standards Committee already meets these criteria. Current composition is three councillors plus the Chairman of the Council, three independent members and three parish councillors. It would be possible to increase the size of the Standards Committee if members felt that is needed to cope with the increase in work; the alternative is to review the position after the first six months or year once the workload is clearer.

3. Structure of standards committees

3.1 In addition to their role as champion and guardian of the authority's ethical standards, standards committees will now have three separate but distinct roles in relation to complaints about member conduct:

- Receiving and assessing complaints.
- Reviewing local assessment decisions.
- Conducting hearings following investigation.

3.2 To avoid perceptions of bias or predetermination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be requested.

3.3 Effective practice – the Standards Board recommends:

- A structure of sub-committees or the standards committee acting as a pool of members to deal with the different roles.
- Each sub-committee will need three members as a minimum
- As a minimum, two separate subcommittees, one for taking initial assessment decisions and one for taking decisions on reviews.
- Subject to regulations, any subcommittee should also have an independent chair.
- A member who was involved in an initial assessment decision, or following referral of a complaint back to the standards committee from the monitoring officer or Standards Board for another assessment decision, can be a member of the committee that hears and determines the complaint. This is because an assessment decision only relates to whether a complaint discloses something that needs to be investigated. It does not require deliberation of whether the

conduct did or did not take place and so no conflict of interest will arise in hearing and determining the complaint.

3.4 Joint standards committees

In order to promote more effective ways of working, the government proposes to enable a standards committee to work jointly with one or more other standards committees in exercising their new functions under the local decision-making regime for allegations of misconduct, which might allow, for example, for more efficient use of common resources and aid the sharing of information, expertise, advice and experience.

3.5 Functions applicable for joint working

In common with the wishes expressed by many standards committees in recent pilot exercises on joint working run by the Standards Board, the government wishes all standards committees' functions to be available for joint working, but for each standards committee to decide which of the ethical regime functions it would like to operate jointly with other standards committees. For instance, the majority of those authorities involved in the pilots intended only to operate jointly the initial assessment functions under section 57A of the 2000 Act, whilst other authorities expressed an interest in extending joint arrangements to cover the holding of hearings and determinations of whether a member has breached the code.

3.6 Structure and procedural rules of joint standards committees

Following the results from the joint working pilot, the government believes relevant authorities may best establish joint standards committees within schemes which reflect the regulatory requirements, and which are agreed by each participating local authority. The regulations will specify the functions in relation to which joint working arrangements may be made. Guidance from the Standards Board will give advice on the content of these arrangements, including:

- size of joint committee, number of independent members and independent chair (ie to follow the rules on the size and composition of individual standards committees)

- residual functions retained by standards committees (if any)
- process for dissolution
- process for appointment of members of a joint standards committee, including independent members and parish representatives
- process for individual relevant authorities to withdraw from the joint standards committee
- the appointment of a lead monitoring officer for the joint standards committee or outline division of monitoring officers duties between the relevant authority monitoring officers
- payment of allowances
- arrangements for where the Standards Board suspends the functions of the joint standards committee

Guidance issued by the Standards Board will help local authorities decide what joint arrangements might be suitable for them. The options available would include the creation of a joint committee which would undertake all the functions of the individual committees, which could be particularly appropriate and represent a sensible use of resources for single purpose authorities, who are the source of fewer complaints than other authorities. Alternatively, agreements would be possible to allow one or more of committees' functions, ie the initial assessment of allegations, the review of a decision to take no action or the determination hearing, to be undertaken by the joint committee. In either model, it would be possible for the joint committee to establish sub-committees to deal with particular functions.

Regulations will make clear that joint standards committees are bound by the same rules and procedures that apply to standards committees.

3.7 Training - Effective practice – the Standards Board recommends:

- Standards committees are fully trained on the Code of Conduct.
- Standards committees are offered other training to equip them with necessary skills, for example in conducting a hearing.
- Independent chairs and vice-chairs are trained in chairing meetings.
- Any newly-appointed standards committee members receive a comprehensive induction to the role and appropriate training.

4. Local assessment criteria

- Guidance will be available from the Standards Board on developing criteria and the types of issues to be considered when assessing complaints.
- Standards committees will need to develop their own criteria, that reflect local circumstances and priorities, and which are simple, clear, open and ensure fairness.
- Monitoring officers will be able to acquire additional factual information which is readily available about allegations before the assessment process begins. This could be from minutes or the register of interests, for example, if such information about a complaint would assist decision-making. It should not include interviews or investigation.
- A complainant has a right to appeal if a complaint is rejected, so standards committees will be able to invite complainants to submit further information in support of the complaint at the appeal stage in the process.

5. Role of the monitoring officer in the new framework

Effective practice – the Standards Board recommends:

- A pre-meeting with the independent chair.
- Preparing a summary of the allegation for the standards committee.
- Highlighting what the potential Code breaches are which underlie an allegation to the standards committee.
- Allowing case reading time for the monitoring officer and the standards committee.

6. New procedures

- 6.1** Procedures will be needed for dealing with complaints including complaint forms, time limits, whether to notify the member complained about, communications and the admission of the public to meetings. The Standards Board's preferred approach seems to be to incorporate the complaint form within the Authority's existing complaints scheme. Further consideration will need to be given to this aspect.
- 6.2** Publicity required to inform potential complainants of the new procedure.
- 6.3** The role of officers in the process will need to be considered including how any conflicts of interest can be avoided.

7. Regulations and guidance still awaited

- 7.1** Regulations and guidance are not available, even in draft. Decisions as to how the Committee is to discharge its new functions under the 2007 Act cannot be made until at least draft regulations and guidance have been issued. There will, however, be little time to make arrangements once the regulations and

guidance have been published. The Committee should decide now whether it wishes me to investigate fully options for joint working with other authorities. This would enable the workload to be shared between authorities, and for joint sub committees to deal with cases from more than one authority. This would only work if the council agreed to set up a joint standards committee with one or more other authorities.

Legal Implications

Included within the report.

Financial Implications

Budgetary provision has already been included. This will be reviewed after an initial 6 month period.

Background Papers

- Consultation on Orders and Regulations Relating to the Conduct of
- Local Authority Members in England

Rachel Pocock
Head of Legal, Licensing and Democratic Services

Standards Committee
18 March 2008

Agenda Item 6

Standards Committee

20 October 2008

MO/DL



Local Assessment Procedures

Summary

From 8 May 2008 the Standards Committee (England) Regulations 2008 gave Standards Committees responsibility for the initial assessment of Code of Conduct allegations together with a review of those decisions' circumstances. This report proposes the draft Local Assessment procedure for Members to consider.

Recommendation

That the Standards Committee:

1. Approves the Local Assessment Procedure attached
2. Delegates to the Monitoring Officer and/or her Deputy the final amendments to the Local Assessment procedures and any amendments which may be necessary from time to time
3. Delegates to the Monitoring Officer and/or her Deputy consequential amendments to the related Investigation and Hearing Procedures.

a) Reasons for Recommendation

As there are issues to consider and debate, I have recommended delegation to me and/or my Deputy to make the final amendments.

b) Alternative Options

The Standards Board guidance "Local Assessment of Complaints" requires the Standards Committee to approve the procedures for the new assessment rules.

c) Risk Considerations

Sub committees cannot operate effectively without laid down procedures.

d) Policy and Budgetary Considerations

These recommendations are in line with Policy and in budget. We are assured by West Devon's Monitoring Officer that she has done an Equality Impact Assessment on this draft procedure and that there are no implications.

e) Date for Review of Decision

It is likely that this procedure will evolve as issues arise through the complaints we receive and also if national guidelines change.

Main Body of the Report

1. Background

- 1.1 From 8 May 2008 the Standards Committee (England) Regulations 2008 gave standards committees responsibility for the initial assessment of code of conduct allegations together with a review of those decisions' circumstances. I have attached at Appendix 1 the report and minute that went to March Committee to remind members of the Local Assessment framework.
- 1.2 In order to implement the new rules it is necessary to have a Local Assessment Procedure and a draft is attached at Appendix 2 for the Committee's consideration. The Committee needs to consider and decide on the issues set out in paragraph 4. For this reason delegated authority needs to be given to the Monitoring Officer to make the final amendments in accordance with the Standards Committee's decisions.
- 1.3 In drafting the Procedure, due regard has been given to the Standards Board's Guidance "Local Assessment of Complaints" (see www.standardsboard.gov.uk)
- 1.4 The Standards Committee must approve the processes and procedures for dealing with Local Assessments and Reviews and, in due course, these procedures must be publicised.
- 1.5 This is a brand new procedure and we will need to review it frequently in the early stages. The criteria in particular will need to be reviewed, as these are likely to change in the light of experience, local circumstances and updated guidance from the Standards Board.
- 1.6 I haven't at this stage, included paragraph numbering as there are likely to be further changes following members' consideration of the Procedure.

2. Matters for the Standards Committee to decide

- 2.1 A full discussion on the draft procedures is welcomed at the Committee meeting but members are asked to note the following in particular:
- 2.2 The timescales included in the draft procedure are those recommended in the Standards Board Guidance. The timescales are targets which we should aim to meet for the majority of cases. For example, the Standards Board recommends that the Assessment Sub-committee should complete its initial assessment of an allegation within an average of 20 working days of receipt of allegation. Our schedule of meetings was arranged with this in mind.
- 2.3 Chairman's introduction – I have included an introduction from the Chairman which he might like to consider including in the Procedure.
- 2.4 In accordance with the Standards Board guidance, the acknowledgement of receipt of complaints is at the discretion of the Monitoring Officer. I have therefore considered this carefully, (along with other Devon Monitoring Officers) and the Monitoring Officer decision is to issue acknowledgement letters when complaints are received. The acknowledgement will not include a written summary of the complaint – this can only be provided after the Assessment Sub-committee has met to consider the complaint. Please see "Receipt of Complaints" section in the draft Procedure.

- 2.5 Summary of the complaint at the pre-assessment stage – the Committee must decide whether it wants the Monitoring Officer to provide a short summary of the complaint for the Assessment Sub-committee to consider. I have included this in the draft procedure for members to consider - please see the “Pre-assessment of complaints” heading in the attached draft Procedure.
- 2.6 The Standards Board’s guidance says that Standards Committees may find it helpful to include in the part of the Procedure for referral for “other action”, a requirement for the parties involved to confirm in writing that they will co-operate with the direction of other action.
- 2.7 Summary of complaint – the Standards Board guidance specifically states that the Standards Committee must decide whether a summary of the complaint should be produced after the Assessment Sub-committee has made a decision. This summary can only be given by the Standards Committee or the Assessment Sub-committee and not the Monitoring Officer.
- 3. Training**
- 3.1.1 It is essential that Members receive appropriate training on the initial assessment and review processes.
- 3.1.2 The Standards Committee has already completed a training exercise in June 2008.

Legal Implications

The Constitution and the Standards Board Guidance, “Local Assessment of Complaints”, require the Standards Committee to approve the procedures for the new local assessment rules.

The necessary powers are set out in the legislation referred to in the background papers below. The Standards Committee also needs to have regard to the Guidance issued by the Standards Board

The implications of not adopting new procedures for dealing with local assessments is that this is contrary to the Standards Board guidance, may cause inconsistent decisions, and will leave the Committee’s decisions open to challenge.

Financial Implications

There are indirect cost implications with regards to staff time and resources need to set up and support the new procedures and associated documentation.

There are likely to be financial implications relating to training of Standards Committee Members. However, these costs are being mitigated by joint training with other districts and can be met from existing resources. This is another new duty imposed on us without any financial resource from Government.

Consultation on Reports to the Executive

Our thanks to Catherine Bowen, Borough Solicitor at West Devon Borough Council for preparing the initial drafts of these documents.

Background Papers

- Local Government Act 1972
- Local Government Act 2000
- Local Government and Public Involvement in Health Act, 2007
- Standards Committee (England) Regulations 2008
- Standards Board Guidance “Local Assessment of Complaints”
- Standards Board Guidance “the Role and Make-up of Standards Committees”
- Standards Board Guidance can be found on www.standardsboard.gov.uk

Denise Lyon
Deputy Chief Executive and Monitoring Officer

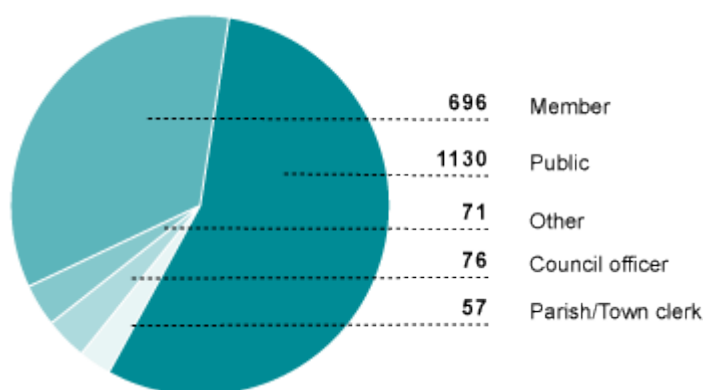
Standards Committee
20 October 2008

Standards Board Source of complaint

The following statistics were compiled from data submitted on quarterly return forms, covering the period 8 May to 31 December 2008.

Monitoring officers have reported a total of 2030 cases received between 8 May and 31 December.

The sources of these are broken down as follows:



The split of cases by authority type is as follows:

Authority types	Number of cases	Average number of cases per authority
County Council	62	1.8
District Council	1317	5.5
London Borough	80	0.1
Metropolitan Council	217	2.5
Unitary	331	6.2
Other	23	7.2

Initial assessment decisions

The following statistics were compiled from data submitted on quarterly return forms, covering the period 8 May to 31 December 2008.

A decision about whether to refer had not been made on 179 (9%) of cases received so far. The breakdown of decisions for the other 1851 cases is as follows:

Initial assessments	Number	Percentage
Referred to another authority	2	0%
Referred to Standards Board	104	6%
Referred to MO for alternative measures	250	14%
Referred to MO for investigation	524	28%
No further action	971	52%

Timeliness of decisions

The guidance indicates that it should take, on average, 20 working days from receipt of a complaint to a referral decision being made.

- So far, the average length of time a case takes from date of receipt to referral decision is **20 working days**.
- However, 545 cases took longer than 20 days for a referral decision to be made (29%)

Review requests

There have been 344 requests for reviews of referral decisions so far. This shows that a review is requested in 35% of cases where the initial assessment decision is to not refer the complaint any further.

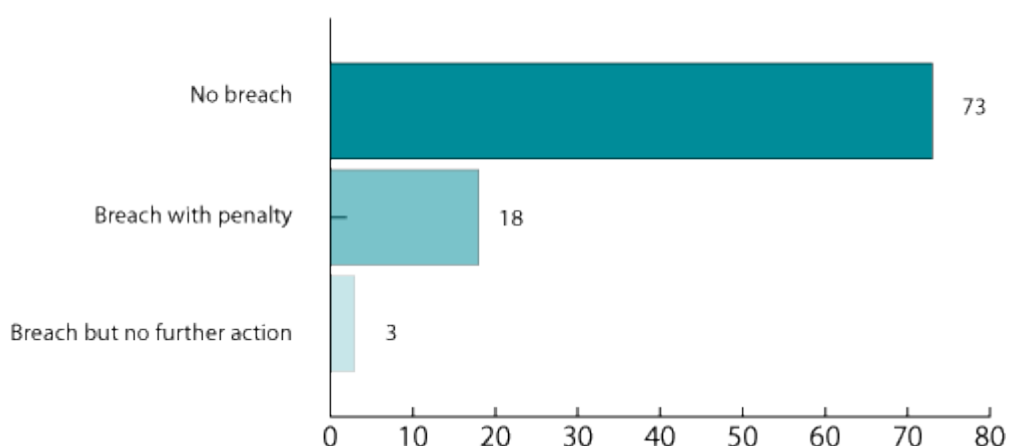
265 review requests have been assessed. 12 resulted in the case being referred for investigation (5%) and 1 resulted in the case being referred to the Standards Board (less than 1%)

Investigations

There are 98 cases referred for investigation that have standards committee determination meeting dates recorded on quarterly returns.

The average length of time between the date of the decision to investigate and the date of the determination meeting is 80 working days. This figure discounts cases that are recorded as 1 day or less from decision to determination.

There are 94 cases with investigation outcomes recorded on quarterly returns. The breakdown of these is:



Percentages are:

Percentage	Outcome
78%	no breach of the Code
19%	breach with penalty
3%	breach but no further action.

There are 39 breaches of the Code recorded under the 21 cases that were either breach with penalty or breach but no further action.

Parts of the Code that breaches are recorded against are listed below, sorted in descending order of number of occurrences. Failure to disclose a personal interest is the most common part of the Code that is breached.

Part of the code	Number of occurrences	Code description
Part 2 9(1)	8	Where you have a personal interest in any business of your authority and you attend a meeting

		of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
Part 1 3(1)	7	You must treat others with respect
Part 1 5	7	You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute
Part 2 12(1)(a)	6	Where you have a prejudicial interest in any business of your authority you must withdraw from the room or chamber where a meeting considering the business is being held
Part 1 4(a)	3	You must not 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
Part 1 6(a)	2	You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage
Part 1 3(2)(b)	1	You must not bully any person
Part 1 6(b)	1	You must, when using or authorising the use by others of the resources of your authority, act in accordance with your authority's reasonable requirements, ensure that such resources are not used improperly for political purposes (including party political purposes); and have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986(15).
Part 2 12(1)(c)	1	Where you have a prejudicial interest in any business of your authority you must not seek improperly to influence a decision about that business

Part 2 12(2)	1	Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
Part 3 13(1)	1	You must register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
Other (please specify)	1	Also Principle 2 - honesty and integrity

As data about investigations mounts up over the next few quarters, more detailed analysis will be provided, including splits by authority type, region etc. to pick up on any emerging patterns and themes.

Date: 17 November 2008
Contact number: 01395 517480
E-mail: dlyon@eastdevon.gov.uk
Direct Fax: 01395 517507
Our Reference: SC/CEH/DL
Your Reference:

Professor Forsythe
Chairman, Standards Committee
Devon County Council
County Hall
Topsham Road
Exeter
EX2 4QD

Dear Professor Forsythe

Distribution of County Council Community Fund Budgets in an election year

I am writing following a meeting of East Devon District Council's Standards Committee when the issue of the spending of County Council Community Fund Budgets during an election year was raised.

It was suggested during the last meeting that the distribution of Community Fund money by County Councillors in an election year could be seen to be giving that Councillor an unfair advantage going into an election. It was also suggested that there was a public impression that Councillors might be 'buying votes' ahead of such a poll as in many cases the public did not understand that the money was from an existing County Council budget. The Committee felt that although they understood how the Community fund budget worked, many of the public did not, and that poor public perception could easily undermine the work of our Standards Committees.

I have been asked that the issue be made aware to the County Council Standards Committee with a recommendation that the County Council considers putting a freeze on the distribution of Community Fund money for 12 months before any County Council Election.

You will see that I have copied in Phil Norrey, Chief Executive, so that he is made aware of these concerns.

On behalf of East Devon's Standards Committee, I look forward to hearing from you.

Yours sincerely

Denise Lyon
Corporate Director
(Deputy Chief Executive and Monitoring Officer)

Cc: Phil Norrey, Chief Executive, Devon County Council

*79

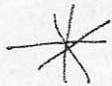
Conferences and Budget Monitoring

The Committee considered the report of the County Solicitor (CS/08/7) on the monitoring of members allowances and locality budgets for both the 2007/08 outturn and at the current financial year, to date.

It was **MOVED** by Councillor Greenslade, **SECONDED** by Councillor Hart and

RESOLVED

(a) that the Report be noted and Members be reminded of the need to submit travel claims on a monthly basis;



(b) that, at the appropriate time, the County Solicitor provide appropriate advice and guidance to Members as to the exercise of their functions in the period immediately prior to the next County Council elections, including the use of locality budgets;

(c) that the application to members of the County Council's Green Travel Plan, when approved, be monitored by this committee.

Roger Gash
County Solicitor

To all Members of the County Council

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Your ref:
My ref: RG/GM

Date: 11 February 2009
Please ask for: Mr Gash

Phone 01392 382285 e-mail:
Fax: 01392 382286 DX: 8345 EXETER

Dear Member

LOCALITY BUDGETS

Since it now seems very likely that the County Council elections will take place on 4 June the Procedures Committee earlier this week considered how to ensure that during the intervening period locality budgets are not used in a way that exposes members to criticism, however unfounded, of improper influence.

Accordingly:

- (1) Any member who still has funds available within his or her allocation for the current financial year needs to act quickly so that proposals to spend this money are approved during the next round of County Committees (beginning with South Hams on 13 March and ending with Exeter on 9 April);
- (2) Locality budgets for the coming financial year cannot be tapped until after the elections. Thereafter they can be accessed under the normal arrangements – with the addition of course of any money carried forward from this year.
- (3) During the period 1 April to 4 June 2009 it would be very imprudent for any member to give anything that might appear to be a promise to make a locality budget payment after the elections should he or she be safely returned on 5 June.

I hope the above is clear but I am happy to discuss any doubts which it may raise in members' minds.

Yours sincerely

COUNTY SOLICITOR