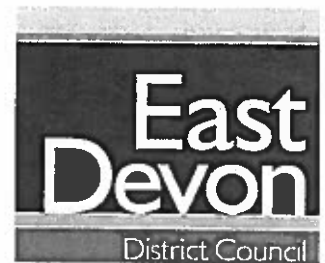


Date: 4 March 2010
Contact number: 01395 517541
E-mail: dvernon@eastdevon.gov.uk
Our Reference: DV/StandardsCom



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

Chief Executive
Monitoring Officer
Head of Legal, Licensing and Democratic Services

East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

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Dear Sir/Madam

**Standards Committee
Tuesday 16 March 2010 at 10.00 am**

The above meeting will be held in the Committee Room at East Devon District Council Offices, Knowle, Sidmouth, to consider the matters detailed on the agenda below.

Yours faithfully,

MARK WILLIAMS

Chief Executive

Members of the public are welcome to attend this meeting.

- A period of 15 minutes has been provided at the beginning of the meeting to allow members of the public to raise questions.
- In addition, the public may speak on items listed on the agenda. After a report has been introduced, the Chairman of the Committee will ask if any member of the public would like to speak in respect of the matter and/or ask questions.
- All individual contributions will be limited to a period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.
- The public is advised that the Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.

AGENDA

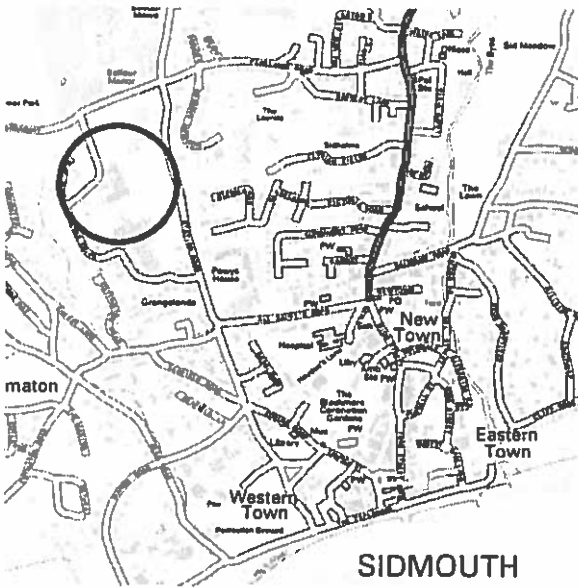
Part A

			Page/s
1	<p>Public question time – standard agenda item (15 minutes) Members of the public are invited to put questions to the Committee through the Chairman.</p> <p>Councillors also have the opportunity to ask questions of the Leader and/or Portfolio Holders during this time slot whilst giving priority at this part of the agenda to members of the public</p>		
2	To receive any apologies for absence		
3	To confirm the minutes of the meeting held on 3 November 2009		4-9
4	To receive any declarations of interests relating to items on the agenda.		
5	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.		
6	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).		
7	2009/10 Annual Report to the Standards Committee	Monitoring Officer	10-33
8	To consider the report and recommendations of the Standards Working Group (Minute 8 of the 3.11.09 meeting refers)	Chairman	33-35
9	Code of Conduct Training Session for Parish and Town Councils	Monitoring Officer	verbal
	To consider the arrangements in place for 27 April 2010		
10	Committee membership	Monitoring Officer	verbal
	To note the Monitoring Officer's intention to extend the terms of office of the independent and parish council representatives on the Standards Committee.		
11	Date of Next meeting – currently programmed for Tuesday 6 July 2010 (10am)		

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 Poppelford – 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 – 52B
From Seaton – 52A
From Ottery St Mary – 379, 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. 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. A hearing loop system will be in operation in the Council Chamber.

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 3 November 2009

Present:	Mr E Butt	Independent Chairman
	Cllr G P Chamberlain	EDDC Councillor
	Mr R Davison	Independent member
	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
	Rachel Pocock	Head of Legal, Licensing and Democratic Services
	Diana Vernon	Democratic Services Manager
	Mark Williams	Chief Executive
Apology:	Cllr P Bowden	EDDC Councillor
	Cllr G K Liverton	EDDC Councillor

The meeting started at 9.30 am and ended at 11:46 am

*1 **Minutes**

The minutes of the meeting of the Standards Committee held on 17 March were confirmed and signed as a true record.

*2 **Spending of Locality Budgets by Devon County Council Members in an election year**

Members considered the report of the Monitoring Officer regarding Devon County Council (DCC) Community Fund Budgets during an election year. This had been raised at previous meetings of the Committee when it was suggested 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 could be a public impression that Councillors might be 'buying votes' as the public may not understand that the money used 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.

At the last meeting, the Members asked the Monitoring Officer to raise the issue with 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.

Members noted that the issue had been considered by Members of the County Standards Committee on 2 July 2009. At that meeting, the County Solicitor had advised that the County Council's Procedures Committee had, in his view, taken reasonable steps to ensure that no conflict arose. The DCC Standards Committee recognised the need for Members to exercise caution in the use of their locality budgets in the period leading up to the County Council elections on 4 June 2009. The Committee had therefore, determined that approval to allocations could only be given by County Committees before 9 April 2009 and that, thereafter, the use of any such funds in 2008/09 or 2009/10 would be embargoed until after the June elections. Similarly, DCC Members were not permitted to give any undertaking to allocate funds in that period.

*2 **Spending of Locality Budgets by Devon County Council Members in an election year (cont'd)**

DCC Members were therefore of the view that there had been no conflict of interest and that in restricting the use of these funds for a period well in advance of the Notice of Election the County Council had acted responsibly and no further action was required. It was noted that the District Council's suggestion that the allocation of such funds should be prohibited for up to 12 months before election was regarded as excessive.

Members of the Committee discussed the reply from the County Standards Committee. Although some felt that there was still an issue, it was agreed that any individual concerns should taken up with the DCC Standards Committee directly.

RESOLVED that the reply from the Devon County Council Standards Committee be noted.

*3 **Review of the Standards Committee Procedure for Local Assessment of Complaints and Summary of complaints to date**

Members considered the report of the Monitoring Officer which reviewed the Standards Committee's "Procedure for Local Assessment of Complaints" in the light of experience to date. Only minor alterations to text to clarify processes were recommended by Officers.

The report also gave Members a summary of information showing all the Code of Conduct complaints dealt with so far in 2009 in East Devon. Since May 2008, all Code of Conduct complaints received by the Monitoring Officer had been handled by East Devon District Council entirely.

- RESOLVED:**
- 1) that the amended Procedure for Local Assessment of Complaints attached to the report be approved.
 - 2) that the Monitoring Officer makes any necessary amendments to the supporting documentation to the Local Assessment of Complaints Procedure.
 - 3) that the summary of complaints to date be noted.

*4 **Probity in planning**

Members considered the report of the Monitoring Officer regarding Probity in Planning guidance notes which had been circulated to all Members of the Council, and were due to be considered by the Development Management Committee and the Council before the end of the year.

Members noted that the guidance formed part of the ethical framework for local government and was an important tool to assist Members in balancing the needs and interests of individuals and the community, with the need to maintain ethical and transparent decision-making.

Members noted that planning applications and subsequent Development Management Committee meetings could be highly controversial. This was particularly true of recent applications in Seaton and Budleigh Salterton where controversial proposals had resulted in a high volume of correspondence from residents. Some correspondence relating to a proposal for the Longboat Café in Budleigh Salterton had been attached to the report for Members information.

4 **Probity in planning (cont'd)**

Members of the Committee were reassured that through recent and ongoing training and newly developed protocols the issues relating to some residents' concerns were being addressed. The Chief Executive stressed that in many cases, public concern was due to misunderstanding the processes and the way in which committees operated. He reported that he was involved in examining the way in which the Development Management Committee was functioning.

Members accepted that Planning issues were very often very controversial and in many cases this could be prevented if the public had more information on the processes involved with decision making in planning. Members suggested that an information leaflet for the Development Management Committee could be distributed at meetings to help explain the functions and decision making processes involved.

- RECOMMENDED:**
- 1) that the Probity in Planning guidance notes and related protocols be approved.
 - 2) that Development Management Committee consider producing a leaflet explaining the committee and decision making process to members of the public.

*5 **The Standards Committee (Further Provisions) Regulations 2009**

Members considered the report of the Head of Legal, Licensing and Democratic Services regarding new Regulations relating to the work of Standards Committees and came into force on 15 June 2009.

It was noted that there were three initiatives. Firstly, a power for Standards for England (formerly the Standards Board for England) to suspend arrangements for the local assessment of complaints. There was also a power for local authorities to establish Joint Standards Committees and a power for Standards Committees to grant dispensations to members to participate in meetings where they have a prejudicial interest.

Some Members of the Committee felt that the formation of a Joint Committee would be useful, particularly when dealing with District Councillor cases. However, it was appreciated that there may be financial and organisational problems if a Joint Committee was formed. It was also suggested that any future investigation into the setting up of a Joint Committee be delayed for 6 months until the results of Local Government Review were known and the operation of the Standards Committee and Assessment Sub Committees was more established.

- RESOLVED:**
- 1) that the name change from Standards Board for England to Standards for England be noted together with the new power to suspend local assessment;
 - 2) that the Head of Legal, Licensing and Democratic Services and Chairman of the Standards Committee further explore the cost/benefit of setting up a Joint Standards Committee in summer 2010.
 - 3) that the new guidance for dispensations be adopted with authority for the Head of Legal, Licensing and Democratic Services to make the appropriate amendments to the Constitution, including dispensations being delegated to the Standards Assessment and Hearings Sub Committee, with the Standards Committee retaining concurrent powers.

***6 Memorandum of understanding between Standards for England and the Local Government Ombudsman**

Members considered the report of the Head of Legal, Licensing and Democratic Services regarding a new protocol for Standards for England and the Local Government Ombudsman to deal with their respective and sometimes overlapping jurisdictions.

Members noted that Standards for England's role was primarily as the lead regulator in connection with breaches of the Code of Conduct and in giving strategic guidance as a preventative measure. The Ombudsman's role was concerned with investigating complaints of maladministration against certain public authorities. The report highlighted that the new protocol should help people to understand the differences between the two organisations and the way in which to make a complaint to the correct body.

- RESOLVED:** 1) that the contents of the memorandum of understanding between Standards for England and the Local Government Ombudsman and the implications for the Council be noted.
- 2) that an annual report be made to the Standards Committee regarding Ombudsman complaints made against the Council.

***7 Report of Annual Assembly of Standards Committees**

Members considered Ray Davison's report which outlined his experiences from the Annual Assembly of Standards Committees in the ICC Birmingham from 12 to 13 October 2009. It was noted that the conference had been extremely useful and had been attended by around 1500 delegates. It was hoped that the lessons learnt and experiences gained could be some use as the Standards Committee undertakes a review of best practice. The recommendation that the Committee should consider sending more than one delegate in 2010 was considered although it was appreciated that time and financial constraints may make this unlikely.

RESOLVED that the report be noted.

***8 Standards for England – Standards & Ethics- Good Practice**

Members considered the report of the Monitoring Officer concerning ideas and innovations designed to promote standards and ethics in Local Government. Members noted that the ideas and schemes set out in the report were a selection of those identified best practices of authorities which had been short listed in the past for the Local Government Chronicle (LGC) Standards and Ethics Awards and supported by Standards for England.

Members suggested that the profile of the Standards Committee should be raised. It was agreed that although there was limited additional resourcing available to achieve this, an informal Working Group could be set up to examine various ways of enhancing awareness and the profile of the Committee amongst the public and all Councillors.

***8 Standards for England – Standards & Ethics- Good Practice (cont'd)**

During the debate the following ideas were supported and would be considered by the Working Group:

- Regular updates on the work of the Standards Committee (bi monthly).
- Dedicated website page on the EDDC website for the Standards Committee.
- Consider using Ward Members more as a way of informing Parish Councils of the workings of the Standards Committee and Council as a whole.
- Standards Committee to meet three times a year.
- Members of the Standards Committee could attend Parish Council meetings to update them on the work of the Committee and new legislation/rules.

The report also included the 'Standards for England: Annual return responses 2009'. It was noted that this survey summarised all responses from authorities regarding their Standards Committees and activity in 2009 to date.

- RESOLVED:**
- 1) that an informal Working Group meet once (to be serviced by the Monitoring Officer's PA) to examine various ways of enhancing awareness and the profile of the Committee amongst the public and all Councillors. (Membership to be: Mr E Butt, Ms A Wilan, Mr R Davison, Cllr C Richards and Cllr S Pollentine)
 - 2) that the Independent Members of the Standards Committee and Tenant and Community Representative Members of the Housing Review Board be sent copies of the Council's weekly newsletter 'the Knowledge' to assist in their working with the authority.
 - 3) that 2009 annual return survey responses to Standards for England be noted.

***9 Member Development (training) – up-date**

Members considered the report of the Democratic Services Manager regarding Member Development. It was noted that the Council, through adopting the Member Training and Development Strategy and committing to the Member Development Charter had shown the importance it gave to Member Development. The Member Development Working Group met regularly to discuss development issues, progress in respect of the Charter and to monitor development opportunities undertaken and planned to ensure that these had a direct link to the Corporate Strategy and represented value for money. The Working Group recommended the appointment of a Member Champion for Member Development; Councillor Ann Liverton was appointed Member Champion at the Annual meeting of the Council in May 2009.

Members noted that one of the local Performance Indicators was to ensure that training was undertaken by all Councillors who served on regulatory (Standards and Audit and Governance Committees) and those with quasi-judicial functions (Licensing and Enforcement and Development Management Committees). These were reported quarterly.

It was noted that Members were being encouraged to take charge of their own personal development, to enhance their existing skills and to specialise in their areas of expertise. The Committee welcomed the report and the update on training provided. It was noted that training was particularly useful for the newer Members who needed guidance but also learnt much from the more experienced Members who attended such events.

- RESOLVED** that the Council's progress in embedding Member Development within the organisation be noted.

*10 **Forward Plan**

Members considered the Standards Committee Forward Plan for the next two meetings.

- RESOLVED:** 1) that the report of the informal Working Group on Best Practice for Standards Committees be added to the March meeting.
2) that the contents of the Forward Plan be noted.

Chairman Date

Agenda Item 7

Standards Committee

16 March 2010

MO/DL/JS



2009/10 Annual Report to the Standards Committee

Summary

The purpose of this annual report is to advise Members about what has happened in this financial year in relation to the Standards Committee and its work.

Recommendation

That the Standards Committee recommends that the Council considers and notes the Monitoring Officer's Annual Report for 2009-2010

a) Reasons for Recommendation

It is considered best practice for the Monitoring Officer to produce an annual report on her duties and role throughout the year. The report is necessary to present a summary to the Standards Committee and to Council of the Monitoring Officer's duties for the financial year 2009 to 2010. Whilst there is no legal requirement for such a report it is considered good practice.

b) Alternative Options

Members can decide they don't need this report.

c) Risk Considerations

None.

d) Policy and Budgetary Considerations

Members will be aware of the increasingly tight budget situation and proposals to share senior management with South Somerset District Council.

At this point, this is just for information as I cannot yet confirm whether and how this will impact on the Standards Committee.

e) Date for Review of Decision

N/A

1. Main body of the report

- I. Every Council must have a Standards Committee and every councillor (including co-opted members and parish councillors) must comply with the Code of Conduct
- II. The Standards Committee was set up in 2002 under the Local Government Act 2000. The overall purpose of the Standards Committee is to promote and maintain high standards of conduct throughout the District Council and the Parish and Town Councils within East Devon.

- III. Under the Local Government and Housing Act 1989, all Councils have a duty to appoint a Monitoring Officer to ensure the lawfulness and fairness of Council decision-making.
- IV. The Monitoring Officer is responsible for advising the Council on the legality of its decisions, and on the conduct of Councillors under the Local Government Act 2000.

2. The role, function and membership of the Standards Committee and its sub-committees

- I. promoting and maintaining high standards of conduct by Councillors, co-opted members and Council officers
- II. considering reports referred to the Committee by ethical standards officers or the monitoring officer and making recommendations concerning the governance and ethical standards of the Council
- III. Where necessary to conduct hearings into allegations of breach of the Code of Conduct and interview officers members and others as required
- IV. assisting the Councillors and any co-opted members to observe the Councils' Code of Conduct for members
- V. advising the Council on the adoption or revision of the Councils' Code of Conduct for members; a Code for officers, and any related codes or protocols
- VI. monitoring the operation of the Councils' Code of Conduct for members
- VII. advising, training or arranging to train Councillors on matters relating to the Councils' Code of Conduct for members
- VIII. To the extent allowed by the law granting dispensations to Councillors from requirements relating to interests set out in the Councils' Code of Conduct for members.
- IX. Referring appropriate cases to the First Tier Tribunal(Local Government Standards in England
- X. the exercise of the above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.
- XI. to appoint sub-committees to undertake these functions

XII. Monitoring Officer functions

I. Support to the Standards Committee

The Monitoring Officer, ably assisted by the Deputy Monitoring Officer, is the Lead Officer for the Standards Committee assisting the Committee in its role of promoting and maintaining high standards of the conduct of councillors.

The Standards Committee meets twice a year.

The new Local Assessment rules came in to force in May 2008 whereby all complaints of councillor misconduct must be referred to the local Standards Committee for consideration. This resulted in us setting up two sub-committees:

II. Standards Assessment and Hearings Sub-Committee

The sub-committee set up by the Standards Committee to deal with the initial assessment of complaints of misconduct and Hearings following an investigation.

III. Standards Review Sub-Committee

The sub-committee set up by the Standards Committee to deal with the review of initial assessments of complaints.

The purpose of an assessment decision (or review) is simply to decide whether any action should be taken on the complaint. The Assessment and Review Sub-committees make no findings of fact.

The Assessment and Hearings sub-committee has met five times to consider 25 allegations of misconduct and once to consider a request for dispensation. The Review sub-committee has met once to carry out a review.

The Monitoring Officer must carry out investigations (or appoint an Investigating Officer) into matters which have been referred for local investigation by the Assessment sub-committee.

Five of the 25 complaints have been referred for investigation by the Assessment sub-committee during this year and the outcome will be reported in next year's annual report. Members of Committee also get a copy of the notice following meetings of the Sub-Committees.

IV. Meeting and complaint case outcomes

Meeting date	Case #	Town/Parish or EDDC member	Outcome
14/07/09 Standards Assessment and Hearings Sub Committee	LSB13a	Cllr B EDDC	Cllr B - Not to be investigated but referred for other action – training
	LSB13b	Cllr B EDDC	Cllr B - Not to be investigated but referred for other action – training
		Cllr S EDDC	Cllr S – No further action
	LSB13c	Cllr B EDDC	Cllr B - Not to be investigated but referred for other action – training
		Cllr P EDDC	Cllr P – No further action
	LSB13d	Cllr B EDDC	Cllr B - Not to be investigated but referred for other action – training
	Cllr S EDDC Cllr P EDDC	Cllr S – No further action Cllr P – No further action	
LSB13e	Cllr B EDDC	Cllr B - Not to be investigated but referred for other action – training	
	Cllr S EDDC Cllr P EDDC	Cllr S – No further action Cllr P – No further action	
LSB13f	Cllr B EDDC	Cllr B - Not to be investigated but referred for other action – training	
	Cllr S EDDC	Cllr S – No further action	
11/08/09 Standards Assessment and Hearings Sub Committee	LSB14a	Cllr D Town Cncl	Cllr D – Not to be investigated but referred for other action – training
	LSB14b	Cllr H Town Cncl	Cllr H – Not to be investigated but referred for other action – training
	LSB14c	Cllr D Town Cncl	Cllr D – Not to be investigated but referred for other action – training
	LSB14d	Cllr H Town Cncl	Cllr H – Not to be investigated but referred for other action – training
16/09/09 Standards Assessment and Hearings Sub Committee	LSB11a	Cllr M Parish Cncl	Cllr M – Referred for investigation Draft report issued 25/01/09
	LSB12a	Cllr B Town Cncl	Referred to Monitoring Officer for investigation
	LSB12b	Cllr R EDDC	Referred to Monitoring Officer for investigation
	LSB15	Cllr B Town Cncl	Referred to Monitoring Officer for investigation

Meeting date	Case #	Town/Parish or EDDC member	Outcome
15/10/09 Standards Assessment and Hearings Sub Committee	LSB17	Cllr T Parish Cncl	No further action
24/11/09 Standards Review Sub Committee	LSB17	Cllr T Parish Cncl	Decision upheld, no further action
24/11/09 Standards Assessment and Hearings Sub Committee	LSB18	Cllr D EDDC	No further action
	LSB19	Cllr D EDDC	No further action
	LSB20	Cllr G Parish Cncl	Referred to Monitoring Officer for investigation. 02/03/10 Monitoring Officer agreed to defer investigation due to a pending Land Registry Adjudication Hearing in March and a County Court action against the Cllr. Agreed that bringing the investigation to a conclusion now might prejudice either of these proceedings.
Standards Review Sub Committee	LSB18 Review requested	Cllr D EDDC	No date set yet
Standards Review Sub Committee	LSB19 Review requested	Cllr D EDDC	No date set yet
11/01/10 Standards Assessment and Hearings Sub Committee	Dispensation request	Members of Dalwood Parish Cncl	Request refused

3. Membership and Appointments to the Standards Committee

- I. Independent members and Parish members appointments will normally be for a term of three years and may be extended by the Council for up to a further three years. Recent Standards for England Guidance suggestion a maximum of two four year terms but leaves this to local discretion.
- II. Nominations for a Parish representative were sought from all the Parish and Town councils within the District of East Devon following the resignation of a Parish representative in December 2009. Three applications have been received and interviews will be held before the next meeting of the council on 14 April 2010 at which the appointment will be considered for approval.
- III. The Standards committee members for 2009/2010 were:

Independent members

Mr Ted Butt - Chairman	May 2004 6 yrs
Mr Ray Davison	May 2008 2 yrs
Ms Alison Willan	May 2008 2 yrs

Parish representatives

Mr S Pollentine	May 2004 6 yrs
Mr Courtney Richards	May 2008 2 yrs
Mrs Katherine Tomkins	May 2008 – (Resigned December '09)

EDDC members	Cllr Chamberlain	May 2007
	Cllr G Liverton	May 2007
	Cllr Mrs A Liverton	May 2007
	Cllr P Bowden	May 2007

- IV. District members are appointed every four years at the Council's annual meeting in May.

4. Relevant new legislation, guidance or rules

- I. Probity in Planning (<http://www.lga.gov.uk/lga/aio/1940404>)
- II. Bulletin 44 – Changes to criteria for granting dispensations (<http://www.standardsforengland.gov.uk/News/Newsletters/TheBulletin/Issue44/#d.en.17790>)
- III. Bulletin 46 – Bias, Predetermination and the code <http://www.standardsforengland.gov.uk/News/Newsletters/TheBulletin/Issue46/#d.en.26584>
- IV. Local Government Lawyer – Bias, Predetermination and the Code article http://localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=1060%3Abias-predetermination-and-the-code&catid=59%3Agovernance-a-risk-articles&q=&Itemid=27
- V. Transfer of the Adjudication Panel for England into the unified Tribunal Structure <http://www.standardsforengland.gov.uk/News/Newsletters/TheBulletin/Issue46/#d.en.26584>
www.standardsforengland.gov.uk/News/Newsletters/TheBulletin/Issue47/AdjudicationPanelforEnglandbecomesknownasFi/
- VI. Revised Code of Conduct
“A new Code of Conduct for Members will not be laid during this Parliamentary session. Communities and Local Government have notified us that the government is concentrating on financial instruments and so there will not be Parliamentary time available for the Code.
In practice this means that a new Code will not now be laid until after a general election.”
- VII. Equalities Bill will, amongst other things, create a unified public sector duty, intended to promote equality in public policy and decision-making to cover age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation, being extended to the protected characteristics of sexual orientation, age and religion or belief.

5. Complaints received during the year and the Standards for England data

- I. **Table of complaints**
See Appendix A
- II. **Annual and Quarterly Returns to Standards for England**
Following the introduction of the Local Assessment rules in May 2008, the Monitoring Officer has a new duty to submit quarterly returns to Standards for England on the number of complaints and their outcomes. From April 2009 the Monitoring Officer had to submit Annual Returns dealing with wider issues including monitoring the effectiveness of the Code.
http://www.eastdevon.gov.uk/index/your_council/councillors_and_meetings/committees/standards_committee.htm

The next Annual Return is due in April 2010.

6. Applications for dispensations

Three Dispensation requests were received from:

i. Dalwood Parish Council

The request for a dispensation to speak and vote on matters relating to Dalwood Community Shop was made because six of the seven Members of the Parish Council were shareholders of the shop and are proposing to apply for planning permission in relation to the shop.

The Sub Committee felt that it would be inappropriate to grant a dispensation to a Member who has an interest arising as a result of their personal financial responsibility. In this case the six Members concerned were shareholders in Dalwood Community Shop.

ii. Axminster Town Council

The request was from 7 members of the Town Council for ongoing dispensation about matters relating to Axminster Guildhall.

The Monitoring Officer advised that dispensations are only normally granted for an individual issue at a specific meeting or for a specific period of time. The Standards for England guidance goes on to say that 'the regulations do not allow standards committees to issue general dispensations to cover members for any situation where a prejudicial interest may arise'. The Monitoring Officer advised that for this reason, she could not put the members' general request to the Standards Committee.

iii. Budleigh Town Council

The Monitoring Officer received a letter from the clerk as some of the members of the town council had concerns about their ability to take decisions on issues affecting the Budleigh Salterton Music Festival, as they were also members of the Friends of Budleigh Salterton Music Festival.

The Monitoring Officer advised that there were two things to consider, firstly whether membership of the Friends constitutes a prejudicial interest and secondly, if it does, whether the dispensation rules apply.

The Monitoring Officer advised from what she understood, the Friends have no financial, or other prejudicial interest, and she therefore concluded that the Council members would not need to declare a prejudicial interest.

The Monitoring Officer gave additional information, that even if they had a prejudicial interest, the dispensation rule would not apply because her understanding was that 5 of the 12 council members were Friends, and this did not reach the 50% threshold for dispensation applications.

7. Training

- i. The Monitoring Officer is required to support the Standards Committee in its duty regarding training for both district councillors, co-opted members and parish/town councillors.

Date	Type of training	
13/03/09 & 22/04/09	Code of Conduct refresher training for members in conjunction with Seaton Town Council : <ul style="list-style-type: none"> • Declaring interests • Changes made by revised code of conduct • Bias and pre-determination 	External trainer
19/05/09	Hearings training for officers and SC members	External trainer

28/09/09	Understanding the role of the frontline councillor (open to other authorities)	South West Employers
05/10/09	Training for all members of the Development Management committee on the process of dealing with planning applications in the public domain <ul style="list-style-type: none"> • How to handle public expectations • Ensure decision making is and is seen to be fair respectful and unbiased 	External trainer
14/10/09	Code of conduct training for individual member who had been the subject of a Code of Conduct complaint	Internal training
21/10/09	Code of Conduct training, specifically for parish councillors who had been the subject of a Code of Conduct complaint Training open to other members	Internal training
14/01/10	Chairmanship training – set up following complaints dealt with through Standards Committee.	External trainer
27/04/2010	Code of Conduct training for towns and parishes	Internal training

8. Advice, policy and procedures

Providing advice on standards matters

- I. The Monitoring Officer is statutorily required to provide advice to parish councils as well as the District Council on all standards matters. The Monitoring Officer and Deputy Monitoring Officer have provided advice by personal appointment, telephone and email/letter on a wide range of standard matters, primarily relating to declaring interests and the interpretation of the Code of Conduct. Advice has also included governance issues associated with contentious planning applications at parish council level.
- II. Uplyme Parish Council asked for guidance for the procedure for investigating complaints as they wished to lobby for a change in the investigation of complaints process. (See Appendix B).
- III. Seaton Town Council has generated many complaints over a sustained period and the Monitoring Officer has liaised with the Audit Commission and written to the Town Clerk to express concerns. (See Appendix C).
- IV. The Standards Committee Chairman spoke at Council in December 2009 to raise awareness of the key issues the Standards Committee had dealt with so far this year. (http://www.eastdevon.gov.uk/ted_butt_speech_for_council_on_091209.pdf).
- V. **The Knowledge - Standards News**
In the first edition of Standards News Towns and Parish Councils were offered advice on updating Standing Orders and the dispensation process. (http://www.eastdevon.gov.uk/knowledge_290110_issue_35.pdf). The Knowledge is also regularly used to update councillors and parish councillors on governance and probity issues.
- VI. See section 9 of this report for the recently agreed working party remit.

9. Working party

At the last meeting of the Standards Committee it was agreed to set up a working party.
Minute note:

“that an informal Working Group be set up to examine various ways of enhancing awareness and the profile of the Committee amongst the public and all Councillors.

(Membership to be: Mr E Butt, Mr R Davison, Cllr C Richards, Cllr S Pollentine and Ms A Willan.)

Suggested areas to look at are:

- Regular updates on the work of the Standards Committee (bi monthly).
- Dedicated website page on the EDDC website for the Standards Committee.
- Consider using Ward Members more as a way of informing Parish Councils of the workings of the Standards Committee and Council as a whole.
- Standards Committee to meet quarterly.
- Members of the Standards Committee could attend Parish Council meetings to update them on the work of the Committee and new legislation/rules”

The working party met on 1 December 2009 and their final report is included on today's agenda.

10. Standards for England publications

i. **Guidance for Standards Committees on granting dispensations**

The legislation states standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest. The criteria for granting these dispensations changed in June 2009. http://www.standardsforengland.gov.uk/Guidance/TheLocalStandardsFramework/Standardscommittees/Dispensations%20FINAL_for%20web1.pdf

<http://www.standardsforengland.gov.uk/media/Bulletin%20Issue%2044.pdf>

11. Ombudsman complaints

This report will be available the November meeting of the Standards Committee. Standards Committee has also considered a report explaining the memorandum of understanding between the Ombudsman and Standards for England which sets out good practice in terms of managing these sometimes overlapping jurisdictions. [

<http://www.standardsforengland.gov.uk/media/Final%20Memorandum%20of%20Understanding.pdf>

12. Budget

Standards work is incorporated in the work of staff within the establishment apart from some investigatory work and occasional external training. These extra costs are:

- i. Outsourcing cost to date for LSB12a and LSB12b is £ 1868.34.
- ii. External training costs to date are £1218.40.

13. Forward Plan

March committee	<ol style="list-style-type: none">1. Annual Report covering:<ol style="list-style-type: none">a. The role, function and membership of the Standards Committee and its subcommitteesb. Any relevant new legislation, guidance or rulesc. Issues considered by the Committee in the last yeard. Complaints received during the year and the Standards for England returns datae. Applications for dispensations
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	<ul style="list-style-type: none"> f. Training g. Advice, policy and procedures h. Standards for England publications i. Ombudsman complaints j. Budget <ul style="list-style-type: none"> 2. New or amended legislation update 3. Forward Plan
November committee	<ul style="list-style-type: none"> 1. Election of Chairman 2. Report on Annual Assembly of Standards Committees 3. Complaints update 4. Member training and development update 5. Ombudsman's annual letter 6. New or amended legislation update 7. Forward plan

These are the main items, but there may be other matters arising through the year that members want to include too.

Legal Implications

There are resource implications in relation to the increased amount of work arising under the standards legislation for the Standards Committee members, Monitoring Officer and Legal and Democratic Services. We are coping with as much as possible in-house. The Council has a legal duty to provide such officers, accommodation and other resources as are in the opinion of the Monitoring Officer reasonably sufficient to allow the statutory duties to be performed.

Financial Implications

There does not appear to be any significant financial implications relating to this report.

Consultation on Reports to the Executive

None

Background Papers

- The Council's Constitution (May 2008)
- Member Code of Conduct (May 2007)
- Local Assessment Criteria and Procedure (October 2008)
- Probity in Planning – Local government Association guidance
- Standards for England – Bulletin 44 – Changes to criteria for granting dispensations
- Standards for England – Bulletin 46 – Bias, Predetermination and the code
- Bulletin 47 – News - Adjudication Panel for England becomes know as First-tier Tribunal (Local Government Standards for England) -
- Council meeting 9 December 2009 – Standards Committee Chairman's speech
- Standards News – The Knowledge 5 February 2010 and 29 January 2010
- Standards for England – Guidance document on Dispensations and Bulletin 44

- Memorandum of Understanding between Commission for Local Administration in England and the Standards Board for England February 2009
 - Appendix A
Table of complaints
 - Appendix B
Letter to Uplyme Parish Council - Procedure for investigating code of conduct complaints
 - Appendix C
Advice letter to Seaton Town Council
-

Denise Lyon
Deputy Chief Executive and Monitoring Officer

Standards Committee
16 March 2010

Table of complaints received during the year

Date rec'd & from	Town/Parish or EDDC member	Allegation	Assessment and Hearings Sub Committee - decision
11/06/09 Member of the public LSB13a	EDDC member	Para 3(1) by acting disrespectfully Para 3(2)(b) by bullying Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at a meeting of the Development Management Committee on 2 June 2008	<p>Not to be investigated - referral for other action: Potential breach identified: 3(1) Failing to treat others with respect - Decision - Referral for other action • Personal Training for member relating to understanding the Code of Conduct and the standards expected of them in their role as a Councillor. In addition, the Monitoring Officer is instructed to arrange:</p> <ul style="list-style-type: none"> • Training for all Members of the Development Management Committee on the process of dealing with planning applications in the public domain. In particular, how to handle public expectations and ensure decision making is, and is seen to be, fair, respectful and unbiased. • Chairing Skills Training for Chairman of Development Management Committee. • A review of the role of Officers and their support to Committee Members at Development Management Committee. • Chairman of Standards Committee to address Full Council and report the findings of this Sub Committee.
09/06/09 Member of the public LSB13b	EDDC member x 2	<p>Member 1 Para 3(1) by acting disrespectfully Para 3(2)(b) by bullying Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at a meeting of the Development Management Committee on 2 June 2008</p> <p>Member 2 Para 3(1) by acting disrespectfully Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at the meeting of the Development Management committee on 2 June 2008.</p>	<p>Member 1 Not to be investigated - referral for other action: Potential breach identified: 3(1) Failing to treat others with respect - Decision - Referral for other action • Personal Training for member relating to understanding the Code of Conduct and the standards expected of them in their role as a Councillor. In addition, the Monitoring Officer is instructed to arrange:</p> <ul style="list-style-type: none"> • Training for all Members of the Development Management Committee on the process of dealing with planning applications in the public domain. In particular, how to handle public expectations and ensure decision making is, and is seen to be, fair, respectful and unbiased. • Chairing Skills Training for Chairman of Development Management Committee. • A review of the role of Officers and their support to Committee Members at Development Management Committee. • Chairman of Standards Committee to address Full Council and report the findings of this Sub Committee. <p>Member 2 No further action</p>

Date rec'd & from	Town/Parish or EDDC member	Allegation	Assessment and Hearings Sub Committee - decision
12/06/09 Member of the public LSB13c	EDDC member x 2	<p>Member 1 Para 3(1) by acting disrespectfully Para 3(2)(b) by bullying Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at a meeting of the Development Management Committee on 2 June 2008</p> <p>Member 2 Para3(1) by acting disrespectfully Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at the meeting of the Development Management committee on 2 June 2008</p>	<p>Member 1 Not to be Investigated - referral for other action: Potential breach identified: 3(1) Failing to treat others with respect - Decision - Referral for other action • Personal Training for member relating to understanding the Code of Conduct and the standards expected of them in their role as a Councillor. In addition, the Monitoring Officer is instructed to arrange:</p> <ul style="list-style-type: none"> • Training for all Members of the Development Management Committee on the process of dealing with planning applications in the public domain. In particular, how to handle public expectations and ensure decision making is, and is seen to be, fair, respectful and unbiased. • Chairing Skills Training for Chairman of Development Management Committee. • A review of the role of Officers and their support to Committee Members at Development Management Committee. • Chairman of Standards Committee to address Full Council and report the findings of this Sub Committee. <p>Member 2 No further action</p>
15/06/09 Member of the public LSB13d	EDDC member x 3	<p>Member 1 Para 3(1) by acting disrespectfully Para 3(2)(b) by bullying Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at a meeting of the Development Management Committee on 2 June 2008</p> <p>Member 2 Para3(1) by acting disrespectfully Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at the meeting of the Development Management committee on 2 June 2008</p> <p>Member 3 Para 3(1) by acting disrespectfully Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at the meeting of the Development Management committee on 2 June 2008.</p>	<p>Member 1 Not to be investigated - referral for other action: Potential breach identified: 3(1) Failing to treat others with respect - Decision - Referral for other action • Personal Training for member relating to understanding the Code of Conduct and the standards expected of them in their role as a Councillor. In addition, the Monitoring Officer is instructed to arrange:</p> <ul style="list-style-type: none"> • Training for all Members of the Development Management Committee on the process of dealing with planning applications in the public domain. In particular, how to handle public expectations and ensure decision making is, and is seen to be, fair, respectful and unbiased. • Chairing Skills Training for Chairman of Development Management Committee. • A review of the role of Officers and their support to Committee Members at Development Management Committee. • Chairman of Standards Committee to address Full Council and report the findings of this Sub Committee. <p>Member 2 No further action</p> <p>Member 3 No further action</p>

Date rec'd & from	Town/Parish or EDDC member	Allegation	Assessment and Hearings Sub Committee - decision
22/06/09 Arish Clerk LSB13e	EDDC member x 3	<p>Member 1 Para 3(1) by acting disrespectfully Para 3(2)(b) by bullying Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at a meeting of the Development Management Committee on 2 June 2008</p> <p>Member 2 Para 3(1) by acting disrespectfully Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at the meeting of the Development Management committee on 2 June 2008</p> <p>Member 3 Para 3(1) by acting disrespectfully Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at the meeting of the Development Management committee on 2 June 2008.</p>	<p>Member 1 Not to be investigated - referral for other action: Potential breach identified: 3(1) Failing to treat others with respect - Decision - Referral for other action • Personal Training for member relating to understanding the Code of Conduct and the standards expected of them in their role as a Councillor. In addition, the Monitoring Officer is instructed to arrange:</p> <ul style="list-style-type: none"> • Training for all Members of the Development Management Committee on the process of dealing with planning applications in the public domain. In particular, how to handle public expectations and ensure decision making is, and is seen to be, fair, respectful and unbiased. • Chairing Skills Training for Chairman of Development Management Committee. • A review of the role of Officers and their support to Committee Members at Development Management Committee. • Chairman of Standards Committee to address Full Council and report the findings of this Sub Committee. <p>Member 2 No further action</p> <p>Member 3 No further action</p>
24/06/09 Member of the public LSB13f	EDDC member x 2	<p>Member 1 Para 3(1) by acting disrespectfully Para 3(2)(b) by bullying Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at a meeting of the Development Management Committee on 2 June 2008</p> <p>Member 2 Para 3(1) by acting disrespectfully Para 5 by bringing their office into disrepute Para 6(a) by attempting to use their position improperly at the meeting of the Development Management committee on 2 June 2008.</p>	<p>Member 1 Not to be investigated - referral for other action: Potential breach identified: 3(1) Failing to treat others with respect - Decision - Referral for other action • Personal Training for member relating to understanding the Code of Conduct and the standards expected of them in their role as a Councillor. In addition, the Monitoring Officer is instructed to arrange:</p> <ul style="list-style-type: none"> • Training for all Members of the Development Management Committee on the process of dealing with planning applications in the public domain. In particular, how to handle public expectations and ensure decision making is, and is seen to be, fair, respectful and unbiased. • Chairing Skills Training for Chairman of Development Management Committee. • A review of the role of Officers and their support to Committee Members at Development Management Committee. • Chairman of Standards Committee to address Full Council and report the findings of this Sub Committee. <p>Member 2 No further action</p>

Date rec'd & from	Town/Parish or EDDC member	Allegation	Assessment and Hearings Sub Committee - decision
15/07/09 Member of the public LSB14a	Town Councillor	That the Cllr breached the Code of Conduct, paragraph 12 by participating in council business despite having a prejudicial interest; and by bringing themselves and the Town Council into disrepute by attempting to use their position improperly at a Town Council meeting on 6 July 2009 and at a site meeting on 7 July.	Not to be investigated - referral for other action: Potential breach identified: Para 5: Conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. Other action: Monitoring Officer to arrange personal training for the Cllr relating to understanding the Code of Conduct and the standards expected of them in their role as a councillor. In addition the Monitoring Officer to provide training to the Clerk of the Town Council in advising members on the Code of Conduct, particularly in controversial issues.
15/07/09 Member of the public LSB14b	Town Councillor	That the Cllr breached the Code of Conduct, paragraph 12 by participating in council business despite having a prejudicial interest; and by bringing themselves and the Town Council into disrepute by attempting to use their position improperly at a Town Council meeting on 6 July 2009 and at a site meeting on 7 July.	Not to be investigated - referral for other action: Potential breach identified: Para 5: Conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. Other action: Monitoring Officer to arrange personal training for the Cllr relating to understanding the Code of Conduct and the standards expected of them in their role as a councillor. In addition the Monitoring Officer to provide training to the Clerk of the Town Council in advising members on the Code of Conduct, particularly in controversial issues.
24/07/09 Member of the public LSB14c	Town Councillor	That the Cllr breached the Code of Conduct, paragraph 12 by participating in council business despite having a prejudicial interest; and by bringing themselves and the Town Council into disrepute by attempting to use their position improperly at a Town Council meeting on 6 July 2009 and at a site meeting on 7 July.	Not to be investigated - referral for other action: Potential breach identified: Para 5: Conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. Other action: Monitoring Officer to arrange personal training for the Cllr relating to understanding the Code of Conduct and the standards expected of them in their role as a councillor. In addition the Monitoring Officer to provide training to the Clerk of the Town Council in advising members on the Code of Conduct, particularly in controversial issues.
24/07/09 Member of the public LSB14d	Town Councillor	That the Cllr breached the Code of Conduct, paragraph 12 by participating in council business despite having a prejudicial interest; and by bringing themselves and the Town Council into disrepute by attempting to use their position improperly at a Town Council meeting on 6 July 2009 and at a site meeting on 7 July.	Not to be investigated - referral for other action: Potential breach identified: Para 5: Conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. Other action: Monitoring Officer to arrange personal training for the Cllr relating to understanding the Code of Conduct and the standards expected of them in their role as a councillor. In addition the Monitoring Officer to provide training to the Clerk of the Town Council in advising members on the Code of Conduct, particularly in controversial issues.
20/08/09 Member of the public LSB11a	Parish Councillor	Para 12 by participating in council business despite have a prejudicial interest Para 5 bringing their office into disrepute Para 6a) by attempting to use position improperly at a committee meeting	Referred to Monitoring Officer for investigation Potential breach: Para 5 bringing their office into disrepute Para 3(1) failing to treat others with respect Para3(2)(a) acting in a way that may caused the authority to breach an equality enactment Para 6(a) using position improperly to confer or secure an advantage or disadvantage Para 8(1), 9(1) and 10(1) failing to declare a personal or prejudicial interest Draft report issued 25/01/10.

Date rec'd & from	Town/Parish or EDDC member	Allegation	Assessment and Hearings Sub Committee - decision
01/09/09 Member of the public LSB12a	Town Councillor	Para 3(1) and Para 3(2)(b) that the member brought the office of councillor into disrepute and failed to treat others with respect	Referred to Monitoring Officer for investigation Potential breach: Para 3(1) failing to treat others with respect. Para 5 bringing an office or authority into disrepute
01/09/09 Member of the public LSB12b	EDDC member	The member failed to treat others with respect, brought the office of councillor into disrepute and used bullying or intimidating behaviour Para 3(1), Para 3(2)(b) and Para 3(2)(c) and Para 5.	Referred to Monitoring Officer for investigation Potential breach: Para 3(1) failing to treat others with respect. Para 5 bringing an office or authority into disrepute
04/09/09 Town Clerk LSB15	Town Councillor	Alleged that the member has consistently used bullying or intimidating behaviour towards Town Clerk and his Office Manager and brought the office of Councillor into disrepute.	Referred to Monitoring Officer for investigation. Potential breach: Para 3(1) failing to treat others with respect; Para 3(2)(b) and Para 3(2)(c) using bullying or intimidating behaviour; Para 5 bringing an office or authority into disrepute.
22/09/09 Member of the public LSB17	Parish Councillor	Alleged member has acted in a dishonest manner when giving information to an Enforcement Office at EDDC.	Referred to Assessment Sub Committee 15/10/09 No further action. Review requested by complainant 29/10/2009. Review Sub-Committee upheld decision 24/11/2009. Case closed.
04/11/09 Member of the public LSB18	EDDC member	Alleged breach of Code, para 3(2)(d) by not acting in an impartial manner while acting in their capacity when chairing a committee.	Referred to Assessment Sub-Committee 24/11/2009. Potential breach: Para 3(2)(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority. No further action - insufficient evidence, no breach of the code. Review requested 30/12/09 (no date set yet)
12/11/09 Member of the public LSB19	EDDC	Alleged breach of Code, para 3(2)(d) by not acting in an impartial manner while acting in their capacity when chairing a committee.	Referred to Assessment Sub-Committee 24/11/2009. Potential breach: Para 3(2)(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority. No further action - insufficient evidence, no breach of the code. Review requested 15/12/09 (no date set yet)
10/11/09 Member of the public LSB20	Parish Councillor	Alleged breach of Code: bringing his office into disrepute, not declaring a personal and prejudicial interest and not withdrawing from the meeting while acting in his official capacity as Chairman of the parish council.	Referred to Sub-Committee 24/11/09: Para 5 bringing office into disrepute, Para 10 disclosure of prejudicial interests Para 12 Effect of prejudicial interest on participation Para 9 disclosure of personal Interests Referred to Monitoring Officer /Senior Solicitor for investigation As at 02/03/10 Monitoring Officer has agreed to defer this investigation due to a pending Land Registry Adjudication Hearing in March and a County Court action against the Cllr. It has been agreed that bringing the investigation to a conclusion now might prejudice either of these proceedings.

Date: 4 February 2010
 Contact number: 01395 517480
 E-mail: dlyon@eastdevon.gov.uk
 Direct Fax: 01395 517507
 Our Reference: MO/DL/Uplyme/CoC/JS
 Your Reference:



East Devon District Council
 Knowle
 Sidmouth
 Devon
 EX10 8HL
 DX 48705 Sidmouth
 Tel: 01395 516551
www.eastdevon.gov.uk

Mrs L Wakeman
 Clerk to Uplyme Parish Council
 Horseman's Hill Barn
 Gore Lane
 UPLYME
 LYME REGIS
 DT7 3RJ

Dear Lois

Procedure for investigating complaints

Thank you for your query on the current procedure for investigating complaints made under the Code of Conduct.

At the Standards for England Annual Assembly in October last year, there was a discussion forum about the local assessment process. A number of suggested changes to the local standards framework were made and I have highlighted here some of the key issues that seem to me to be reasonable. I have also attached a link to bulletin 46 <http://www.standardsforengland.gov.uk/News/Newsletters/TheBulletin/Issue46/Issue46FullVersion/>

which you may find interesting, as it includes all the suggestions from the various workshops at the Assembly.

Standards for England has promised to issue further guidance about vexatious or persistent complainants for Standards Committees, although they have recognised that guidance alone is unlikely to solve the issue. For my part, I would prefer a change in legislation to allow Monitoring Officers to filter out such complaints before they get to Committee. In fact, I would advocate that Monitoring Officers should be given the power to filter complaints anyway, and indeed to try to resolve them straight away rather than be bound up with the bureaucracy of a potentially lengthy committee procedure.

In terms of confidentiality, the Standards Committee's Assessment Sub Committee does not meet in public, nor would it publish any detail about complaints it considered vexatious.

contd/.....

2.
4 February 2010
Letter to Mrs Wakeman

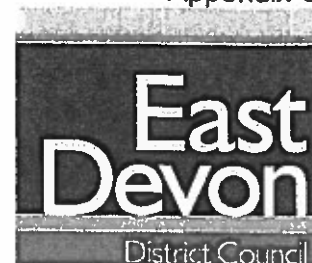
As you will see from the bulletin I have attached, Standards for England is currently reviewing the local standards framework and has listened to many similar views to the ones expressed by your Council. Their advice on who to lobby was to contact Steve McAllister Stephen.mcAllister@communities.gsi.gov.uk at the Communities and Local Government Department of Government. You can write to him at Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU. Their website is: <http://www.communities.gov.uk/localgovernment/>

Yours sincerely



Denise Lyon
Deputy Chief Executive and Monitoring Officer

Date: 10 January 2010
 Contact number: 01395 517480
 E-mail: DLyon@eastdevon.gov.uk
 Direct Fax: 01395 517507
 Our Reference: MO/DL/JS/Seaton
 Your Reference:



East Devon District Council
 Knowle
 Sidmouth
 Devon
 EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

www.eastdevon.gov.uk

Mr D Mears
 Town Clerk, Seaton Town Council
 Town Hall
 Fore Street
SEATON
 EX12 2LD

Dear David,

Complaints and issues at Seaton Town Council

We have spoken several times over the past few months about the number of complaints I am receiving as Monitoring Officer from residents in Seaton. The complaints have come from different people and although the issues are varied, there seems to be some common ground in many of them. I have attached two of the emails with the permission of the complainant, as they give the most detailed evidence of the type of issues which are causing alarm and concern to people in Seaton.

I have carefully considered my role in these matters, as I would normally only get involved if there is evidence of a breach of the Code of Conduct by a Seaton councillor. However, given the number, and ongoing nature of the complaints, together with the Audit Commission's position which I will outline to you in more detail in my next paragraph, I have decided to write to you outlining each issue so that you can discuss these with your Council and decide how to deal with them.

Potentially unlawful decisions

Having considered the letter dated 20 November 2009 (pages 3 to 6 of this letter), the Audit Commission do consider that there is the potential that decisions are being made by the Town Council in private session unlawfully. They are clearly concerned about this and have considered whether there is enough evidence to warrant them conducting an investigation. They have concluded that the substantial additional cost to the public purse mitigates against this course of action currently, however, they are very keen to see the Town Council organise a training session covering key administrative points, namely:

- a. Criteria for private session resolutions
- b. Transparency of decisions
- c. Clarity and content of agendas and minutes
- d. Availability of council information - notices, agendas and minutes.

You are, of course, free to choose a training provider, but the Devon Association of Parish Councils is a reputable and respected source of support and information and you might wish to ask them to organise an appropriate session for you, your Chairman and key decision makers.

contd/.....

2.
10 January 2010
Letter to Town Clerk, Seaton Town Council

Administrative and procedural concerns

The other matters which have been raised with me include these allegations:

1. no response to emails particularly where the complainants consider you find them persistent or to be asking difficult questions
2. inconsistent posting of public notices – at least one occasion where the notice was not posted in line with legal requirements
3. poor procedures for document saving leading to misleading and confusing information in the public domain
4. a lack of respect for members of the public, including refusing to note their views in minutes
5. limited use of the website as a communication tool which hinders people wanting to find out about the intentions, meetings, minutes, decisions and actions of the Council
6. extensive delegated spending powers to the Town Clerk, unprecedented in the history of the Council

I know from our conversations that you have every intention of changing your processes to address the issues outlined in points 2 and 3, however I'm not sure if you have made any public statements about these things to reassure those residents who are concerned. You might also wish to consider the other numbered points and decide how best to respond to and/or reassure the public in these matters.

Would you be able to let me know how you intend to proceed and which meeting(s) of the Council will be considering this letter and its attachments?

Thank you for your time.

Yours sincerely

Denise Lyon
Deputy Chief Executive and Monitoring Officer

Copy: Councillor Sandra Semple
Mark Bartlett - Audit Commission
Heather Sanham
Ted Butt – Chairman of East Devon Standards Committee

Flint House
Fremington Road
Seaton EX12 2HX

20 November 2009

To East Devon District Council Standards Committee

Dear Sirs,

Seaton Town Council

I am writing to you because I am concerned that Seaton Town Council is increasingly not conducting its business in the public interest to ensure openness, accountability and leadership, and in some instances their process of decision-making is not lawful.

I have sought clarification through the Society of Local Council Clerks and NALC. I understand that it is unlawful for a decision to be made by a local council that has not been placed on an agenda, and that it is a requirement that business to be transacted at a council meeting – including any proposal to spend public money - must be specified in the summons to that meeting. It is important that the agenda includes sufficient information to enable the council to discuss items of business properly and to make sensible decisions about them.

1) In the recent case of Seaton Town Council agreeing to the expenditure of up to, and possibly more than, £800,000 of public money on the purchase of a property, this proposal does not appear to have been placed on an agenda nor did the agenda item under which the discussion took place give any indication as to the business to be discussed, therefore neither the public nor councillors could be expected to have any idea at all as to the content of the proposal to be discussed. The relevant agenda states:

15th June 2009 –In the view of the confidential nature of the business about to be transacted, it is likely that the press and public will be excluded during consideration of item 6 (agenda item 5 above refers). Item 5 states: Exclusion of the press and public - To agree any items to be dealt with after the public, including the press, have been excluded under Standing Order 35(b). It then states: (Commercial in confidence 2 items).

I understand that as meetings of local councils should be open to the public and press, their exclusion should only be proposed when business is to be discussed that would be prejudicial to the public interest; specifically:

- a) appointment,
- b) terms of service,
- c) conduct and dismissal of particular employees;
- d) terms of tenders and negotiations for contracts to be entered into;
- e) the early stages of any dispute and the preparation of cases in legal proceedings.

If this was the first time that the proposal to purchase a property had been mooted, on such an important issue it was presumably too early for deliberations to have included matters affecting personnel contracts or terms of tender which would be an acceptable reason for meeting behind closed doors. Therefore it would seem that the public and press were excluded from the discussions for no valid reason.

2) Seaton Town Council appears to be applying the facility to exclude the public and press from its meetings very frequently and what appears to be often inappropriately. This practice means that neither the criteria for meeting the principles of Best Value in terms of consulting the community are met; that such practice does not uphold the principles of openness and transparency of decisions affecting members of the community whom councillors are representing, and more importantly and

seriously, agendas either do not specify the business to be transacted at all which I understand is unlawful, or not sufficiently to allow either the councillors to discuss them properly or the public to be aware of what is being discussed.

3) Whilst Seaton Town Council does not have a *duty* of Best Value, as I understand it the government expects all town and parish councils to *embrace* the principles of Best Value and follow Best Value practices as far as possible. This requires setting objectives and priorities and ensuring that those objectives and priorities reflect the views of local people. It is expected that they consult with local people, key partners, local businesses and voluntary organisations. However, in a number of matters that directly affect local people, partners, businesses and voluntary organisations, Seaton Town Council does not consult; indeed in the matter of Willoughby House, the chairman of the council, Mrs Semple, was quoted in the press as saying that "there would be no public consultation and the council's decision was final".

4) In recent months Seaton Town Council has excluded the public from a number of its meetings when discussions have taken place on matters of interest and concern to the public, significantly:

- a) 15th June 2009 – already covered above. Although the proposals never appeared on an agenda, the minutes of the meeting are as follows:

Item 23 (1) - to consider purchasing Willoughby House for the sum of £275,000 including adjacent land.

After much discussions taking place

RESOLVED – *To authorise the Town clerk to make arrangements to purchase Willoughby House for £275,000 and that the Town Clerk be authorised in consultation with Cllrs Mrs P Collins & Mrs C Wise to instruct professional organisations to take this project forward.*

The proposal to spend public money on purchasing a property and on instructing professional organisations does not appear to have been placed on an agenda.

- b) 20 July 2009 – the agenda simply states "Willoughby House". Once again, the agenda states that the public and press are to be excluded from the meeting and once again are not provided with any indication as to the discussions to take place. However, the minutes state that the public were not excluded but anyone reading the agenda would have expected to have been excluded from that item and might well not have attended the meeting on that basis. The minutes merely state that the Clerk gave a verbal update on the Willoughby House situation. For the public who did not attend the meeting, they were none the wiser.
- c) 17 August 2009 – This is marked as being a "revised agenda". Again the public are excluded for an item that reads:

" To discuss possible funding from Devon County Council for part of land at Elizabeth Road for Nursery"

It seems unlikely that possible funding from DCC to purchase land for the provision of a nursery falls into the category of being prejudicial to the public interest; in fact it is likely to be very much *in* the public interest, particularly if it affects any of the facilities currently owned and run by other organisations on that land. The minute of that meeting appears to confirm that there was no valid reason to exclude the public and the press.

- d) 19 October 2009 – the public and press are removed from the meeting for the following item:

"Tourist Information Centre – Members to receive a report from the Town Clerk on options for the relocation of the TIC, after EDDC has taken the decision to terminate the Town

Councils Lease on the current premises. Please note the TIC Manager will be present for this item.

Any proposal to relocate the TIC affects significant sections of the local community such as businesses, tourist providers, accommodation providers as well as members of the public who use the facility. The level of concern was evident by the presence of representatives from a number of groups in the town making representations during public question time.

The Clerk's recommended option to relocate the TIC into the Town Hall, was not a matter that appeared to be prejudicial to the public interest. In fact on such an important issue, that proposal, or indeed any other, would be considered by those affected to be very much *in* the public interest, requiring full consultation.

- e) Despite the concern expressed by those community groups most affected by any proposed move of the TIC to the Town Hall, the Town Council continued to meet in private. They then deferred the matter until its meeting on 16th November at which they continued to exclude the public and press from their discussions. The proposal on their agenda was the same as that for their meeting of 19 October. The agenda did not appear on their website nor have the minutes. Despite this being a matter of immediate and serious concern to a large section of the community, lack of consultation and lack of disclosure of decision continues. It is unlikely that discussions centred on staff issues and therefore unlikely that there was a requirement for the public and press to be excluded.

5) Following the outcry from the public at the lack of consultation over the council's proposal to purchase Willoughby House and the resulting withdrawal of that proposal, a motion was put to the Council at their meeting of 21 September:

"Now that Willoughby House is not available, it is proposed that this Council sponsor a study into the feasibility of taking ownership of the Town Hall in order to enhance its suitability as a centre point for a range of social and community activity. The enhancements would include expanded Council facilities. The study will include full financial assessment of the cost of improvements, running and borrowing costs and impact on the Council precept, which could become a key factor in any decision making process".

The minute of that meeting reads:

RESOLVED – that a sub-committee be created consisting of the Town Mayor, Cllr P Burrows, Mrs P Collins, G Jones and Miss S O'Connell, to investigate the viability of acquiring ownership of the Town Hall. The sub-committee will have the delegated authority to commission a structural survey and a professional business plan.

However, despite this sub-committee being open to the public and press, no details of when it meets is provided on the Town Council's website, nor do the minutes. The agenda for their first meeting was displayed outside the Town Hall only a few hours before the meeting. It read:

1. *To authorise a building survey report*
2. *To commission a feasibility study including business plan scenario from an appropriate qualified source.*

These proposals involved expenditure and although in theory the proposal was contained in an agenda, with only a few hours' notice the public could not possibly have had an opportunity to attend the meeting or comment on the proposal.

A second meeting of the sub-committee took place with a day's notice of the agenda outside the Town Hall. Again, there is no mention of this meeting on the Council website, nor minutes.

I reiterate my first statement that I believe that it should be brought to the attention of the Standards Committee that Seaton Town Council is not conducting its business in the public interest to ensure openness, accountability and leadership, and that in some instances their process of decision-making may not be lawful.

Yours sincerely,

Mrs H Sanham

Email received 14 December 2009

Dear Denise,

Thanks for letting me know. I appreciated Jill's message last week too. *(note from Denise Lyon: these comments refer to updates we made to Mrs Sanham to explain why this complaint was still outstanding – the Audit Commission were still considering their position)*

The Town Council continues to operate in a secretive way, making decisions behind closed doors and refusing to consult on matters that affect the public. Complaints continue to be submitted about lack of information on their website regarding agendas and minutes of meetings. A meeting of the Amenities committee was called on a Thursday (3 December) instead of the normal Tuesday as stated on their website. No notice of the meeting was posted on the website - only on the board outside the Town Hall. It is unknown how many other meetings of this committee have been held that no-one knows about unless they chance to pass the Town Hall on a daily basis to check. The last date advertised on their website is July this year. A number of items were discussed after the press and public had been excluded; one concerned the future maintenance of the Seaton Labyrinth. It is debatable whether such a discussion could be deemed to be prejudicial to the public interest.

It is accepted that to post a notice of meetings on the town hall noticeboard meets the *minimum* legal requirement, but good practice advises councils to advertise their meetings as widely as possible to enable the public to attend if they wish.

There have been a number of personnel meetings during the last few months concerning the future of the TIC but according to their website, that committee hasn't met since 7th August. The Council has, however, made significant decisions about the TIC which affect the town's businesses, tourist providers, tourists and public, and without reference to any of those stakeholders, I understand that the staff received redundancy notices 2 days ago. Minutes of meetings where these major decisions have been reached have not been published. It is unclear when the full council agreed such decisions as there is no mention of approval of recommendations of the Personnel committee in their October agenda and as far as the November agenda is concerned, it appears to be blank.

A public protest at the decision to close the current TIC premises without consultation was held last Friday. Although the clerk and the chairman were in the clerk's office, they refused to meet the protesters, claiming that the office was not open that morning. The clerk and chairman published a press release which was full of inaccuracies. I have submitted a response to the papers on behalf of the Seaton Visitor Centre Trust which has a direct interest in the TIC, because the statements that are made by the clerk and chairman of the council to the public are not just misleading but untrue.

Councillors have apparently been instructed by the clerk and chairman not to respond to letters from the public, particularly in respect of the town council's decision to close the current TIC premises. The excuse given is that the decision was taken without the public and press present and is therefore confidential. However, the clerk and chairman have issued two press releases and have therefore brought the matter and the decision into the public domain. The chairman of the council appears to be assuming executive powers which she is not entitled to have, and the public are being refused the right to speak to the people they voted to represent them.

I do hope there is some way of investigating all this which is causing so much disquiet in the town.

Kind regards, Heather

REPORT AND RECOMMENDATIONS OF THE MEETING OF THE INFORMAL WORKING GROUP OF EDDC STANDARDS COMMITTEE HELD ON TUESDAY DECEMBER 1 2009 9.30AM IN DENISE LYON'S OFFICE, THE KNOWLE, SIDMOUTH.

The Group (E Butt (Chair/Convener), Cllr C Richards, Cllr, S Pollentine, R Davison, A Willan) met 'to examine various ways of enhancing awareness and the profile of the Committee amongst the public and all Councillors' (draft minutes of October 2009 SC Meeting). Suggested areas for discussion were provided both by the Committee itself (see attached email November 30 p2 from Jill Sentance and, at the request of the Chair, by Ray Davison (also attached).

The Chair recommended that we discuss matters at this stage without reference to any financial implications and that we look for consensus in our proposals. He asked R Davison to introduce the discussion, as his report on the 2009 Standards for England Annual Conference had been instrumental in the decision to set up the Group. After much constructive dialogue and exchange, in which all members of the Group were fully and constructively engaged, the following recommendations were agreed. R Davison yielded to the invitation to write these up in draft form and submit them to amendment by the Group in time for circulation to the next SC meeting in March.

- to ensure continuity of focus and purpose, SC meetings should be quarterly, possibly scheduled in January, April, July and October. A piece of training should be provided in one of the sessions.
- to enhance Cllr awareness of our procedures, a report of each meeting should be made to the Council and be included possibly as a newsletter in The Knowledge. There should also be regular and possibly quarterly meetings between our Chair, CEO, the Leader of the Council and the Members' Champion. A proposal was entertained that we could possibly use a specific coaster, but not a beer-mat, (for example 'EDDC Standards Committee, Maintaining Standards in East Devon') to designate and promote our presence among Cllrs.
- to enhance further general awareness of our existence, purpose and procedures, the Committees should have a designated, autonomous section of the EDDC website with an independent click-on facility.
- to improve and strengthen further public awareness and understanding of our work and function, EDDC could prepare a mailing to the electorate and this could also serve as an information leaflet to be distributed in libraries and Cabs etc., but NOT Health Centres as patients might consider it to be a Health Service complaints procedure.
- To facilitate, improve and strengthen liaison with the parish councils, the Committee should compose a letter to clerks defining our purposes and emphasising the import of the register and declarations of interests. We could

also declare our willingness to be present by invitation at their Annual Meeting to explain our work.

- to improve communications between Democratic Services and Standards Committee members, the Group resolved, as an annex to the work of the Group, to suggest that a better practice of information distribution, timing and timetabling could be achieved, so that members always knew what was happening, where and when.

RAY DAVISON, ON BEHALF OF THE GROUP,
FEBRUARY 2010

