

Agenda for Standards Committee

Tuesday, 22 January 2019; 10.00am



[Members of the Committee](#)

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

[View directions](#)

Contact: [Chris Lane](#), 01395 517544 (or group number 01395 517546): Issued 11 January 2019

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- 1 [Public speaking](#)
- 2 Minutes for 14 August 2018 (page 3 - 5)
- 3 Apologies
- 4 [Declarations of interest](#)
- 5 [Matters of urgency](#) – none identified
- 6 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Part A Matters for Decision

- 7 **Review of Members Code of Conduct and Complaint Procedure** (pages 6 -13)
Strategic Lead – Governance and Licensing & Monitoring Officer
- 8 **Review of Employee Code of Conduct and Relationships between Members and Officers Protocol** (pages 14 – 15)
Strategic Lead – Governance & Licensing & Monitoring Officer
- 9 **Code Complaints update (1 May 2018 – to date)** (pages 16-18)
Strategic Lead – Governance & Licensing & Monitoring Officer
- 10 **Increasing Town and Parish Council Engagement on the Code of Conduct**
Strategic Lead – Governance & Licensing & Monitoring Officer (pages 19 – 21)
- 11 **Forward Plan** (page 22)

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EAST DEVON DISTRICT COUNCIL

Minutes of a meeting of the Standards Committee held at Knowle, Sidmouth on Tuesday, 14 August 2018

Attendance list at the end of the document

The meeting started at 10.00am and ended at 10.45am

- *1 Public speaking
There were no questions asked.
- *2 Minutes
The minutes of the meeting of the Standards Committee held on 23 January 2018, were confirmed and signed as a true record. With regard to the online Gifts & Hospitality Register, it was noted that changes still had to be made through Democratic Services and that a new online system was being investigated which would enable Councillors to add their Gifts & Hospitalities online themselves.
- *3 Declarations of interest
There were none.
- *4 Annual Report 2017-18
The Committee considered the report of the Monitoring Officer, which reviewed the 2017/18 year in the life of the Standards Committee and outlined the work done.

Discussion included the following points:

- The briefing note on starred or unstarred minutes had been written but not yet signed off due to officer workload;
- The recruitment process for the vacant parish council representative had started and it was anticipated that interviews for those on the shortlist would be held in September;
- The number of complaints had increased, but this was due to particular problems at one Town Council;
- There had been Code of Conduct training made available to both district and town/parish councillors. Following the next election all district councillors must have compulsory Code of Conduct training before they would be allowed to sit on Committees;
- The Committee considered what steps would be required to improve training for both district and parish councillors

The Chairman thanked the Monitoring Officer for his report.

RESOLVED: that the review of the 2017/18 year be noted;

- *5 Code of Conduct Complaints update
The Committee considered and noted the report of the Monitoring Officer, which provided an update for the Committee on new Code related cases received since 1 May 2018.

RESOLVED: that the report be noted.

*6 Forward Plan

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

Discussion included the following points:

- Possibility of getting town/parish councils more involved in Code of Conduct training;
- Monitoring Officer to attend the Annual Meeting with Town Clerks to update them on the Code of Conduct;
- Recording meetings would be a positive step forward for all town/parish councils as this could help improve behaviour and also provide a record of what was said for local council clerks to use.
- It was acknowledged that some of the smaller parish councils could be concerned about the cost of recording equipment, but the cost had reduced significantly and could be done on a laptop and not necessarily added to the website.

Councillor Susie Bond raised the issue of the Register of Land Interests and that she had found some inconsistencies amongst Councillors entries in this. She asked whether a note could be added to the Register saying that Councillors needed to provide full details of their land interests. It was noted that full details of political party membership also needed to be added. The Monitoring Officer agreed to provide a guidance note to go with the Register of Interests.

RESOLVED: 1. that the Monitoring Officer provide a report to the next meeting on how engagement on the Code of Conduct within the town/parish councils (both in terms of training and general understanding) can be improved and this be added to the Forward Plan;
2. that the Monitoring Officer provide a guidance note to go with the Councillors Register of Interests to highlight what Councillors should include in the Register.

Attendance list

Present:

Councillors:

Andrew Moulding (Chairman)

Susie Bond

Graham Godbeer

Douglas Hull

Stuart Hughes

Co-opted non-voting members:

Martin Goscomb, Co-opted Independent member

Tim Swarbrick, Co-opted Independent member

Frances Newth, Co-opted Parish/Town Council member

Also present:

Alison Willan, Independent Person

Councillors:

Dawn Manley – substitute Committee member

Roger Giles

Officers:

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

Chairman Date

Report to: **Standards Committee**

Date of Meeting: 22nd January 2019

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: 7

Subject: **Review of the Member's Code of Conduct and the Complaint Procedure**

Purpose of report: To review the suitability of the Member's Code of Conduct and the Complaint Procedure

Recommendation: **That the Committee;**
(i) agree that the Member's Code of Conduct remains fit for purpose and that there is no need to make any amendments;
(ii) adopt the revised Complaint Procedure at Appendix A.

Reason for recommendation: To ensure that the Member's Code of Conduct and Complaint Procedure are up to date and fit for purpose.

Officer: Henry Gordon Lennox, Strategic Lead Governance and Licensing & Monitoring Officer hgordonlennox@eastdevon.gov.uk 01395 517401

Financial implications: There are no direct financial implications.

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

Equalities impact: Low Impact

Risk: Low Risk

Links to background information:

- [Member's Code of Conduct \(Part 5.1 of the Constitution\)](#)
- [Current Complaint Procedure](#)

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

Background

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

2. This Council's Member Code of Conduct is contained within Part 5 of the Council's Constitution (see background information). It was last reviewed by this Committee in October 2016 where it was agreed that it was fit for purpose.
3. Any complaint that a Member has failed to comply with the Council's Code of Conduct is considered in accordance with our adopted Complaint's procedure. The current procedure was adopted by this Committee following a review of the process at its January 2016 meeting. There is a link to the procedure in the background information.
4. The Committee receives regular updates on complaints throughout the year as a separate item on each agenda.

Review of Code of Conduct

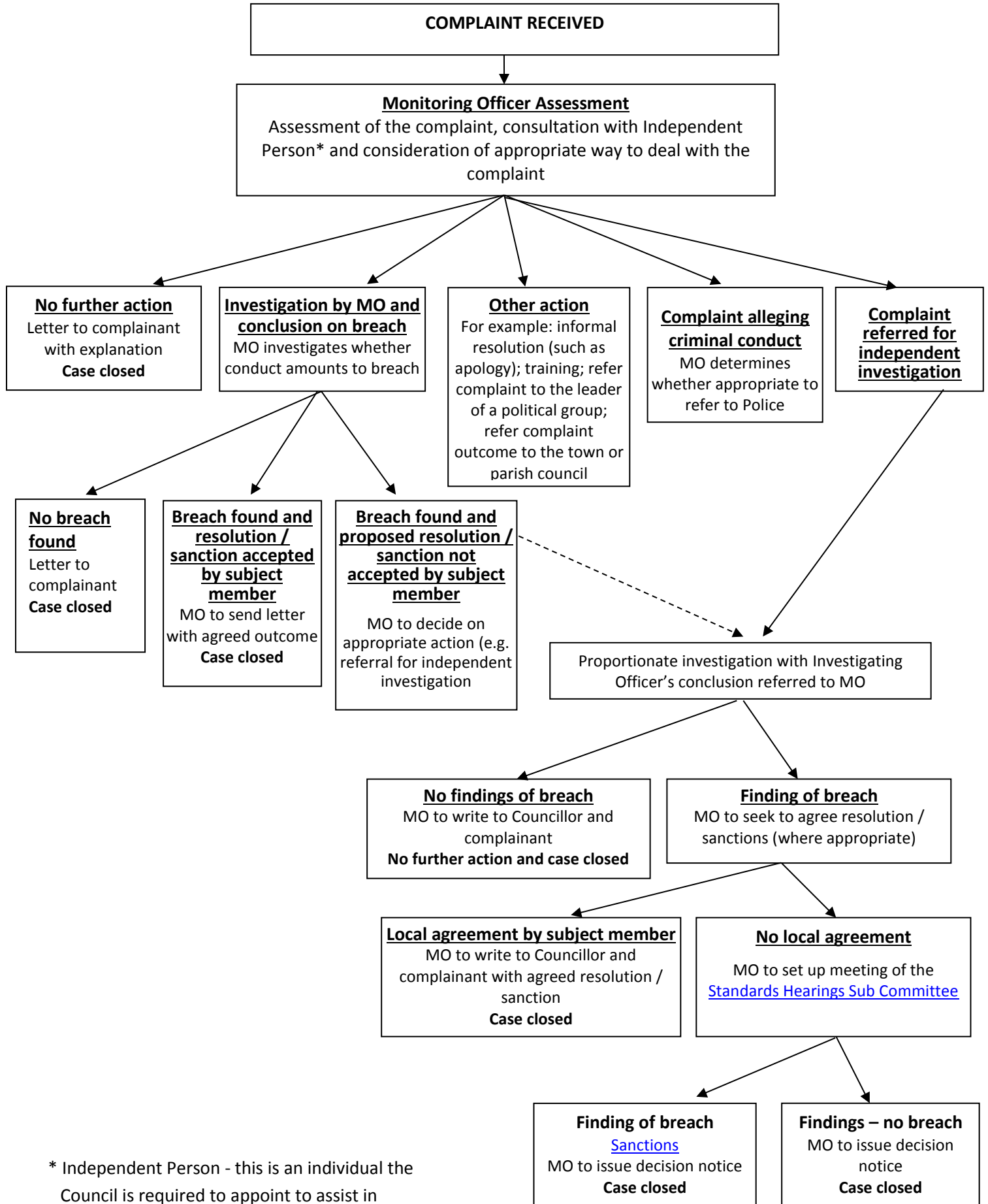
5. As stated at the last review, there is no doubt that the current conduct regime (when compared to the previous regime) has less teeth in terms of formal sanctions that can be applied where a breach of the Code of Conduct is found to have occurred. However, this is not a reflection on the suitability of the Code of Conduct itself. The nature of the complaints usually fall within one or two areas ('treat others with courtesy and respect' and 'not bring office into disrepute' being the two main ones) but others are necessary to ensure that the wide range of circumstances in which an issue could arise are covered (such as preclusion on bullying or intimidating behaviour for example). As far as I am aware, there has not been a circumstance where a complaint has been raised about behaviour that ought to be covered by the Code of Conduct, but which is not satisfactorily covered, meaning a complaint could not be progressed.
6. Members will recall that they reviewed the nature of interests that Members should be declaring and the sufficiency of the Code of Conduct in that regard at its meeting in October 2017. Similarly, Members considered the receiving of and declarations in relation to gifts and hospitality at its meeting in January 2018. While Members were satisfied with the nature of interests to be declared and the process in relations to gifts and hospitality, the Code of Conduct was revised at Annual Council in May 2018 to make it clearer on what needs to be declared and when. The revisions also included the requirement for all Members to undertake mandatory Code of Conduct training following election.
7. There have been no legislative changes that would necessitate changes being made to the Code of Conduct.
8. Therefore it is my view that the Code of Conduct remains up to date with legal requirements and is fit for purpose. To reiterate, the suitability / effectiveness of sanctions is not related to the content of the Code of Conduct itself. For the above reasons the recommendation is that no amendments are required to the Code of Conduct and that, subject to any changes to legislation which would require the Code to be changed, it is set to be reviewed again in three years' time.

Review of complaint procedure

9. Since the last review it has become apparent that the process is not entirely clear in terms of the process when the complaint is received by the Monitoring Officer and the initial stages and what that can lead to in terms of outcomes.
10. Under the current process there is an assessment stage which can lead to five outcomes. They are;
 - That there is no further action
 - That there is informal resolution
 - The complaint is referred for investigation (by an independent investigator)

- The complaint is referred to the Police due to allegation of criminal conduct
- Other action

11. The current procedure revolves around the MO 'assessing' the complaint. It is not expressly stated that this includes the MO carrying out their own investigation into the matter. Further the process does not specifically say that the MO can make a determination on whether a breach has occurred or not. It is implicit, in that it permits the MO (together with the complainant and subject member) to agree an informal resolution – such as an apology. While agreement is desirable, there may be cases where the complainant remains unhappy with the recommendation / determination of the MO. It makes sense therefore that where the MO has determined a breach and recommended a way of resolution and / or sanction, and it is accepted by the subject member, that this should be the end of the matter, irrespective of the views of the complainant. Of course it will be desirable to achieve a mutually acceptable outcome with the complainant but it would be best to ensure that the flexibility to conclude complaints at all stages is enabled.
12. Therefore it is my view that this part of the procedure needs to be made clearer and more robust in that it should identify that the MO, following the initial assessment, is able to investigate and make a determination on the issue of whether there is a breach or not. Where a breach is found to have occurred then provided the subject member agrees with the recommended sanction / resolution (and this applies equally to the stage following independent investigation if that is the way the complaint progresses) then this is the end of the matter.
13. In relation to referrals to the Police, the way the procedure reads makes it mandatory for the MO to refer the matter if the allegation is that there has been a criminal offence (breach of the disclosable pecuniary interests rules predominantly). There have been examples in the past few years where a complaint has been made that a DPI has not been declared which is completely frivolous and without merit and / or politically motivated. In essence, a complainant has wanted someone else to make the complaint rather than do it themselves. One can see in the political environment that there is a benefit to saying that the Monitoring Officer referred the matter to the Police rather than the individual concerned. The revised procedure now gives the MO a discretion whether to refer the matter to the Police – in essence it permits an assessment of whether or not there is any substance to the allegation and whether it is appropriate to refer the matter. This is not designed to preclude referrals, rather to ensure that the Police are not burdened unnecessarily and that the position of MO is not abused. It is important to understand that any individual can refer a matter to the Police irrespective of the views / decision of the MO. Equally, it would not preclude consideration of whether or not a Member has breached the code of conduct in relation to non-declaration of a DPI, bearing in mind particularly the different evidential burden that would apply and relevant tests that the MO versus the CPS may have to apply to the consideration of the matter.
14. The revised procedure taking into account the above points, together with an updated flowchart, is attached at Appendix A and the Committee are requested to adopt the same. Otherwise the procedure is effectively unchanged.



* Independent Person - this is an individual the Council is required to appoint to assist in dealing with complaints.

Guidance on how the Monitoring Officer (MO) will deal with your complaint

Complaints may be made to the Monitoring Officer by;

Telephone: 01395 517408

Email: monitoringofficer@eastdevon.gov.uk

Writing to: Monitoring Officer, EDDC, Knowle, Sidmouth EX10 8HL

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

After a complaint is received by the MO, we will:

- acknowledge the complaint by email or letter
- write to the subject member (councillor complained about) to let them know that a complaint has been made against them and by whom (unless there are good reasons for the complainant's name not being disclosed).

Please note the Council has no powers to suspend or disqualify councillors or to withdraw members' or special responsibility allowances.

What happens next?

MO Assessment stage – at this stage the complaint is confidential and the complainant and subject member are asked not to disclose information about the complaint to anyone else.

What are we trying to achieve in the assessment phase?

- What is the action/behaviour complained about?
- What aspect of the Code is breached?
- What evidence is there to support the complaint?
- Is there a straightforward way to resolve the complaint?
- Help the complainant to understand the limited [sanctions](#) available
- A response to the complainant in 4 weeks

What does the MO take into account during the assessment stage?

- Independent Person view and comments
- Severity of the complaint
- Attitude of the complainant and subject member and the potential for informal resolution
- Circumstances and severity of the events – for example was the subject member acting in their official capacity as a councillor when the events took place

Using information gathered during the assessment stage the MO will then make a decision about how the complaint should be progressed. There are 5 options:

1. Refer to the Police - complaint alleges criminal conduct.

Where the complainant alleges criminal conduct (including failure to register or declare a Disclosable Pecuniary Interest, or voting at a council meeting where such an interest exists), this is a matter for the police and cannot be dealt with under the Code of Conduct. The MO will consider whether there is any substance to the complaint and whether it is appropriate to refer to the Police. NOTE: Complainants may refer criminal allegations directly to the Police.

2. No further action – The case is closed and a letter will be sent to both the complainant and subject member with an explanation why. The subject member has the option to request that details of the complaint and outcome be published on the EDDC website. If not, details of the complaint remain confidential

Circumstances where no further action may be appropriate:

- Behaviour not subject to the Code
- The complaint is the same or substantially the same as a complaint previously dealt with
- The period since the alleged behaviour is so significant that it is considered to be inequitable, unreasonable or otherwise not in the public interest to pursue
- The complaint is trivial
- The complaint discloses such a minor or technical breach of the Code that it is not in the public interest to pursue
- The complaint is or appears to be malicious, politically motivated, tit-for-tat or otherwise submitted with an improper motive and the complaint is not considered to disclose sufficiently serious potential breaches of the Code to merit further consideration
- The complaint is covered by the Council's persistent and vexatious complaints policy and the complaint is not considered to disclose sufficiently serious potential breaches of the Code to merit further consideration
- The councillor has provided a satisfactory remedy to the complaint
- The complaint is about a person who is no longer a member of a relevant council
- There is evidence to suggest a potential breach of the Code but the circumstances do not warrant further action.

3. MO Investigation - the MO carries out an appropriate investigation into the complaint.

If no breach is found there is no further action and the case is closed and parties notified why.

If a breach is found then the MO seeks to agree an appropriate resolution and / or sanctions with the parties. Where it cannot be agreed, the MO will determine appropriate resolution and / or sanctions and if the subject member accepts them then the matter is concluded. A letter will be sent to the complainant and the subject member stating the outcome. The subject member has the option to request that details of the complaint and outcome be published on the EDDC website. If not, details of the complaint remain confidential.

Where the subject member does not agree the resolution and / or sanctions, the MO will make a decision on what, if any, further action should be taken. This could include referral for independent investigation (see No.5 below).

4. Other action – Where action such as training or referral to the political group leaders or parish/town council would be the most appropriate way to address the issues raised by the complainant or where the councillor has already provided or expressed a willingness to offer a satisfactory remedy to the complaint.

Where other action may be appropriate:

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

Where other action is taken a letter is sent to the complainant and the subject member setting out the action taken with an explanation. The subject member has the option to request that details of the complaint and outcome be published on the EDDC website. If not, details of the complaint remain confidential.

5. Referral to independent investigation - Where the complaint has raised an issue that the MO, in consultation with the Independent Person, decides cannot be resolved by local settlement and / or is serious enough to warrant investigation, he will appoint an investigator. This could be an appropriately skilled council officer from this or another council, or an external investigator. The investigation will be proportionate and include interviews with everyone the investigator decides will help them assess the complaint and reach a conclusion on whether there has been a breach of the Code of Conduct. In exceptional circumstances, we may keep the identity of the complainant confidential if we agree it is necessary, or we may delay notifying the councillor of the investigation where this may prejudice the investigation.

What happens when the investigator issues their final report?

Where the Investigator finds that the councillor hasn't breached the Code of Conduct, the MO will write to the subject member, the complainant and the Town/Parish Council if relevant to end the matter. The subject member is given the option of whether they wish for details of the complaint and outcome to be published on the EDDC website. If not, details of the complaint remain confidential.

Where the Investigator concludes that there has been a breach of the Code, the MO will try to seek agreement with the subject member on resolution and / or sanction. If this is not appropriate or possible, he will arrange a Hearings Sub Committee. This will be a public meeting in which the Investigator and the councillor concerned will be able to make representations to the Sub Committee members before the Committee decides what, if any, sanction is appropriate. In cases where the councillor persuades the Hearing that there are legitimate reasons for holding the Hearing in confidential session, the public will be excluded from all or part of the Hearing. There is a written procedure for the hearing itself.

What action can the Standards Hearings Sub Committee take where a councillor has breached the Code of Conduct?

The Council has delegated to the Hearings Sub Committee powers to take action to promote and maintain high standards of conduct. Sanctions available to the committee:

- a. Censure or reprimand the councillor
- b. Publish its findings in respect of the councillor's conduct
- c. Report its findings to Council [or to the Parish Council] for information
- d. Recommend to the councillors' Group Leader (or in the case of un-grouped councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council
- e. Recommend to the Leader of the Council that the councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities
- f. Recommend to Council that the councillor be replaced as Executive Leader
- g. Instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member
- h. Remove [or recommend to the Parish Council that the councillor be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council]

- i. Withdraw [or recommend to the Parish Council that it withdraws] facilities provided to the councillor by the Council, such as a computer, website and/or email and Internet access
- j. Exclude [or recommend that the Parish Council exclude] the councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Please note that in relation to complaints about parish and town councillors the Hearings Sub Committee, if they are minded to require steps to be taken in relation to the Councillor, they can only recommend these to the relevant parish/town council – the Committee and the MO do not have any power to enforce compliance.

Report to: **Standards Committee**

Date of Meeting: 22nd January 2019

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 8

Subject: **Review of Code of Conduct for Employees and Protocol for Relationships between Members and Officers**

Purpose of report: The Council regularly reviews the policies, codes and procedures that govern the way we operate. This report focuses on two such documents, being (1) the Code of Conduct for Employees, and (2) Protocol for Relationship between Members and Officers. Links to both documents are in the background information section. As both of these documents form part of the Council's Constitution they can only be amended, if required, by Full Council.

The Code of Conduct for Employees governs how staff must conduct themselves when working for the Council. It is a condition of employment that they adhere to this Code. The employee code was updated in May 2018 to include reference to the Nolan principles and to make the requirements in respect of gifts and hospitality clearer and more robust. This is following recommendations from the Serious and Organised Crime Audit (Sept 17). Requirements in respect of register of interests have also been updated to reflect current practice. There have been no reported issues which would suggest that the Code is defective or ineffective at this time.

The Protocol for Relationship between Members and Officers governs the way Members and Officers interact when carrying out their respective roles and governs a fairly wide range of topics. As with the Code of Conduct for Employees there have been no reported issues or incidents that would suggest that this protocol is ineffective or defective at this time.

There have not been any national changes (legislation or guidance) that would necessitate any changes being made to either the Code or Protocol. Accordingly the recommendation is that the Code and Protocol are agreed as fit for purpose and left unchanged with a further review in three years' time, unless required earlier.

Recommendation: **That Members agree that the Code of Conduct for Employees and Protocol for Relationship between Members and Officers are considered fit for purpose and no changes need to be recommended.**

Reason for recommendation: The report explains that there have been no identified issues to suggest that either the Code of Conduct for Employees or Protocol for Relationship between Members and Officers are anything other than fit for purpose.



Officer:	Henry Gordon Lennox, Strategic Lead Governance and Licensing & Monitoring Officer hgordonlennox@eastdevon.gov.uk 01395 517401
Financial implications:	There are no financial implications contained in the report
Legal implications:	There are no legal issues arising.
Equalities impact:	Low Impact
Risk:	Low Risk
Links to background information:	<ul style="list-style-type: none">• Code of Conduct for Employees (Part 5.2 of the Constitution)• Protocol for Relationships between Members and Officers (Part 5.4 of the Constitution)
Link to Council Plan:	Encouraging communities to be outstanding and Continuously improving to be an outstanding

Standards Committee, 22 January 2019

Item 9 - Code of Conduct complaints update

This paper provides an update for the Committee on Code related cases since the 1st May 2018 to date:

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct and outcome following consultation with Independent Person	Detail of complaint
2018-C01	District Councillor	Complaint regarding a failure to disclose a personal interest. Finding of no breach. Case closed.	Failed to declare a personal interest at a Development Management Committee Meeting
2018-C02	Parish Councillor	Complaint regarding the lack of courtesy and respect shown to others. 4a – you must treat others with courtesy and respect Complaint withdrawn. Case closed.	Failed to treat the complainant with courtesy and respect by using foul and abusive language and making untrue remarks against the complainants actions and character.
2018-C03	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. Relevant paragraph of the code; 4a – you must treat others with courtesy and respect. Informal Resolution – apology sent. Case closed.	Failed to treat the complainants with courtesy and respect by not controlling his temper and brought a personal issue directed at how people feel about their business which he had no right to do.
2018-C04	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. Relevant paragraph of the code; 4a – you must treat other with courtesy and respect 5h – you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office into disrepute. Breach found. Resignation received. Case closed.	Failed to treat the complainant with courtesy and respect by acting in a rude and aggressive manner towards the complainant and another employee.

2018-C05	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. Relevant paragraph of the code; 4a – you must treat other with courtesy and respect No supporting evidence provided. Case closed.	Failed to treat the complainant with courtesy and respect by not giving a formal apology to an employee about their conduct.
2018-C06	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. Passed to MO for assessment	Failed to treat the complainant with courtesy and respect by arranging an unrecorded disciplinary meeting with the complainant and the Clerk
2018-C07	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. Passed to MO for assessment	Failed to treat the complainant with courtesy and respect by reading out an anonymous letter at a council meeting which criticised the complainant and other councillors actions. The complainant had not been informed of this letter in advance of the meeting.
2018-C08	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others Passed to MO for assessment	Failed to treat the complainant with courtesy and respect by not providing a written response to the complainant about a statement made at an Extraordinary Meeting.
2018-C09	Town Councillor	Complaint regarding the lack of courtesy and respect shown to others. Passed to MO for assessment	Failed to treat the complainant with courtesy and respect by implying the complainant was involved in financial irregularities.

Complainants who have made more than 2 complaints

None

Subject Members who are subject to more than 2 complaints

2018-C08 & 2018-C09

An update for the Committee on Non-Code related cases since August 2018 to date:

Case #	TC/PC or EDDC member	Details of non-code complaint	Outcome
2018-NC6	Parish Council	Complaint regarding how the parish council conduct their meetings and also the conduct of their clerk.	The complainant was advised the parish council was a sovereign body and their actions could only be challenged in a court. The actions of the clerk did not fall under the MO jurisdiction.

Report to: **Standards Committee**

Date of Meeting: 22nd January 2019

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: **10**

Subject: **Increasing town and parish council engagement on the Code of Conduct**

Purpose of report: To address the issue of whether it is possible to improve engagement by town and parish councils in code of conduct matters as requested by the Committee at its August 2018 meeting.

Recommendation: **That the Committee note the content of report and consider whether steps could be taken to increase engagement on Code of Conduct matters and whether they would be effective and a good use of resources.**

Reason for recommendation: To determine whether increased engagement can be achieved and if so at what resource implication.

Officer: Henry Gordon Lennox, Strategic Lead Governance and Licensing & Monitoring Officer hgordonlennox@eastdevon.gov.uk 01395 517401

Financial implications: There are no direct financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Links to background papers: None

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

Background

1. At the Committee's August 2018 meeting, Members expressed an interest in understanding whether it is possible to increase the engagement of town and parish councils in relation to code of conduct matters.
2. Under the Localism Act 2011 it is a requirement for a town / parish council to have adopted a code of conduct which deals with the conduct that is expected of its members and co-opted members when acting in their official capacity. It is permissible for a town / parish

council to adopt the code of conduct of its principal authority, rather than have its own. In this district there is a mix of those town / parishes that have adopted East Devon District Council's code and those that have their own. In general terms the principles that the codes cover are broadly the same, although there are variations within them.

3. The legislation requires members to complete a register of interest and to declare interests at meetings. The codes usually covers this requirement too. It is a member's responsibility to ensure that they fully complete their register of interests in accordance with the rules and also that they declare interests when it is relevant to do so.
4. While our code of conduct now has a mandatory requirement for training in it, this is limited in effect to district councillors, and so the committee will appreciate that neither this committee nor the Monitoring Officer have any powers to compel any town or parish council or councillor to act in any particular way or to undertake, as an example, training in relation to code of conduct issues.

Engaging on the Code of Conduct

5. As will be clear from the above, it is the responsibility of an individual member to ensure that they understand and comply with the legislative requirements and their own code of conduct. Following the last regular election (May 2015), and as part of the district council's approach to helping new councillors understand their role, a couple of sessions were run which covered training on both planning and the code of conduct. It wasn't limited to new councillors but the aim was very much to help equip those who were unfamiliar with these areas to become more aware and to help them fulfil their duties. There was a fairly positive response to the training in terms of numbers, but as a proportion of the overall number of town / parish councillors it was very low. Outside of this, there has been little to no active steps taken to help town / parish councillors in a wider training sense to become more aware of code of conduct related issues, at least from the Monitoring Officer / district council level.
6. Of course, each town / parish council or indeed councillor may well of their volition undertake training on the code of conduct. There are a number of organisations (including NALC / DALC) who can and regularly do provide training. It is also fair to say that there are a good number of councillors who, having been a councillor for so long, consider that they fully understand the code of conduct and what is expected of them. There are also those who are ambivalent to the code of conduct or simply see it as a hindrance to 'doing the job' (there has been a recent example of this). It is anticipated that one of the issues is also simply time – everyone having busy lives – and priorities.
7. The Monitoring Officer provides advice to town / parish clerks on a fairly regular basis (albeit not particularly frequently) when they have particular issues on which they require further guidance / assistance. Equally parish / town councillors contact the Monitoring Officer directly, although this is certainly less frequently.

Looking forward

8. In essence this is always going to be a balancing exercise between ensuring that any time spent trying to increase awareness and engagement is time well spent. For example, the Returning Officer has previously been to a number of community based events with a view to increasing the awareness of members of the public about the role of councillors in local authorities and promoting democratic engagement with a view to potentially encouraging more candidates at election times. The general view is that there has been little interest in people coming to the stand and overall it has been of little benefit in the goal of securing more people wanting to be a councillor.

9. It is a similar issue with regard to the code of conduct. Given the voluntary nature of any steps to be undertaken, it is likely that a good number of councillors will simply not be interested in engaging, for reasons identified earlier as well as no doubt other reasons. So whatever steps might be considered to be beneficial must be considered in the context of the cost v benefit of undertaking them.
10. Looking at steps that could be undertaken;
- a. Training to be offered after each regular election – this repeats what has been done previously. As preparation is carried out anyway for the training to be provided to the district councillors, this is a relatively easy route to deliver training to those who are new and / or who want to better understand their role. The time spent is relatively small. It would be possible to consider further training on a biannual basis so that there is effectively a ‘refresher’ half way through but which also provides an opportunity for councillors elected / co-opted after the regular election to attend.
 - b. Attending the annual meeting of clerks. This was mentioned at the last meeting and it is agreed that this would be a useful way of liaising with the clerks to raise the profile of the code of conduct and to answer questions and seek their views on what they consider could be done to improve engagement. Unfortunately the annual meeting this year (2018) did not go ahead and is intended to be held in June / July after the election.
 - c. Attending town / parish meetings after the election / throughout the 4 year period. This would be a good way of ensuring a significant coverage of councillors as they would already be attending meetings. Attendance would be at the discretion of the town / parish council and effectively at their request, albeit it would be offered to them. Given the large number of town / parish councils and with some, the relatively small number of councillors, this would in all likelihood be a very poor use of resources if delivered by the Monitoring Officer or Deputy Monitoring Officer. Money could be budgeted for an external provider, either to attend councils or to hold regular, possibly annual, training sessions to which councillors could attend. With the budget position as it is and the need to have to take some tough decisions, it is likely that this would not be seen as a priority.
 - d. Identify ‘problem’ councils and target training – this would be a similar approach to c. above but specific approaches would be aimed at those councils where there are issues in relation to the behaviours of their councillors. This is likely to be a more beneficial use of resources and will target those where clearly there are issues that need to be addressed.
 - e. Regular communications to the town / parish councils and clerks – this could include recent examples of cases considered by the Monitoring Officer (on a ‘no-name’ basis) and the issues they raised, identify good practice, highlight interesting cases from the courts and provide general useful tips and guidance.
 - f. Liaising with other Monitoring Officers to share experiences and to learn what engagement tools they use, if any.
11. It will be useful to hear from Committee members, particularly the town / parish representatives, as to whether any of the above are likely to succeed in increasing engagement and any other ideas that could be considered in addition to or instead of those identified.

Agenda Item 11



Standards Committee

22 January 2019

Standards Committee

Forward Plan 2018/19

22 January 2019

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