



Agenda for Standards Committee Tuesday, 16th April, 2019, 10.00 am

Members of Standards Committee

Councillors: A Moulding (Chairman), S Bond, G Godbeer,
S Hughes and D Hull

Venue: Blackdown House, Honiton

Contact: Christopher Lane;

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(or group number 01395 517546)

Monday, 8 April 2019

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1 Public speaking

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

2 Minutes of previous meeting (Pages 3 - 6)

3 Apologies

4 Declarations of interest

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

5 Matters of urgency

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

6 Confidential/exempt item(s)

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

7 Code of Conduct Complaint Form (Pages 7 - 12)

8 Complaint update (Pages 13 - 16)

9 Monitoring officer to update Committee on Standards training planned for post May 2019 election. Verbal Report

10 Forward Plan (Page 17)

Under the Openness of Local Government Bodies Regulations 2014, any members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

Members of the public exercising their right to speak during Public Question Time will be recorded.

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of a meeting of the Standards Committee held at Knowle, Sidmouth on Tuesday, 22 January 2019****Attendance list at the end of the document**

The meeting started at 10.00am and ended at 11.15am

7 Public speaking

There were no questions asked.

8 Minutes

The minutes of the meeting of the Standards Committee held on 14 August 2018, were confirmed and signed as a true record.

9 Declarations of interest

There were none.

10 Review of Members Code of Conduct and Complaint Procedure

The Committee considered the report of the Monitoring Officer, which reviewed the suitability of the Member's Code of Conduct and the Complaint Procedure.

Discussion included the following points:

- Did the Monitoring Officer have training on the way cases were interpreted? Yes there was regular training for Monitoring Officers.
- Concern that electronic communication was not specifically mentioned in the Members Code of conduct. It was noted that the Code covers social media, but it was accepted that a reference should be made in the Code which made it clear that it also covered social media. This would be actioned in May's annual changes.
- There was also some concern expressed over the use of private email addresses for town/parish council business.
- Gifts & Hospitality would form part of the introduction of Modern.Gov, whereby Councillors would be able to update their own Gifts & Hospitality online. The Monitoring Officer would make an annual report to the Committee on Gifts & Hospitality.
- It was not possible to require Councillors to complete a DBS check, but it should be good practice for all Councillors to complete a form after the May elections.
- There had been inconsistent messages from the Crown Prosecution Service about whether there had been criminal conduct and so this was still a matter for interpretation by the Monitoring Officer as to whether to refer matters. It was noted that individuals could still refer matters even where the Monitoring Officer had chosen not to.
- A question regarding how to deal with misinformation given out on social media.
- Councillors close family members were still included within the Code of Conduct scheme.
- Changing the title to make it clearer that it was Councillor complaints.
- A procedure form for dealing with complaints as a standard way of proceeding would be completed and referred to the Committee for their discussion at a future meeting.

The Chairman thanked the Monitoring Officer for his report.

RESOLVED:

1. that the Member's Code of Conduct remains fit for purpose but noting the need to include reference to social media in the changes to the Constitution presented to Annual Council.
2. that the revised Complaints Procedure at Appendix A be adopted, subject to the points raised above.
3. that the issue of Gifts & Hospitality be the subject of an annual report to the Committee by the Monitoring Officer.
4. that the Monitoring Officer prepare a new complaints form and report it to a future meeting of the Committee for approval.

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

Members noted that the Council regularly reviews the policies, codes and procedures that govern the way it operates. The report focused on two such documents being 1. The Code of Conduct for Employees and 2. Protocol for Relationship between Members and Officers. As both of these documents form part of the council's Constitution they could 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 was 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 was following recommendations from the Serious and Organised Crime Audit (Sept 17). Requirements in respect of register of interests had also been updated to reflect current practice. There had been no reported issues which would suggest that the Code was 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 had been no reports issues or incidents that would suggest that this protocol was ineffective or defective at this time.

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

RESOLVED: that Members agree that the Code of Conduct for Employees and Protocol for Relationship between Members and Officers are considered fit for purpose.

12 **Code Complaints update (1 May 2018 – to date)**

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.

13 **Increasing Town and Parish Council Engagement on the Code of Conduct**

The Committee considered the report of the Monitoring Officer, which addressed the issue of whether it was possible to improve engagement on Code of Conduct matters and whether they would be effective and a good use of resources.

Members accepted that the following would be good steps to undertake in future:

- a. Training to be offered after each regular election- this repeats what has been done previously. As preparation is carried out any way 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.
- d. Identify 'problem' councils and target training – this 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.

Discussion included the following points:

- Code of Conduct training was not mandatory for town/parish councillors.
- Improving training for Clerks was also a good way forward.
- Ward members organising a biannual conference amongst their parish councils could also be a good way forward.
- It was considered that Step c, which was attending town/parish meetings after the election/throughout the 4 year period, would not be a good way of using scarce staff resources and could not be recommended as a way forward.

RESOLVED:

1. that the content of the report be noted
2. that steps a, b, d, e and f, as above be taken to increase engagement on Code of Conduct matters.

14 **Forward Plan**

The Committee noted the contents of the Forward Plan and future meeting dates.

Attendance list

Present:

Councillors:

Andrew Moulding (Chairman)

Susie Bond

Graham Godbeer

Co-opted non-voting members:

Martin Goscomb, Co-opted Independent member

Frances Newth, Co-opted Parish/Town Council member

Bob Nelson, Co-opted Parish/Town Council member

Also present:

Alison Willan, Independent Person

Councillors:

Roger Giles

Apologies:

Councillors:

Douglas Hull

Stuart Hughes

Dawn Manley

Tim Swarbrick, Co-opted Independent member

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: 16th April 2019

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 7

Subject: **Councillor Code of Conduct complaint form**

Purpose of report: At its January meeting, the Committee discussed the benefit of using a standardised form for the making of complaints that councillors (both district and town / parishes) had breached the code of conduct. Other authorities do so and it was agreed that this was a sensible way to proceed. The Committee requested that the complaint form was brought back for review and agreement prior to being used.

Attached is a copy of the form which has been drafted, drawing on (the former) West Dorset form. It highlights where to find EDDC's code and also explains that town / parish councils may have their own version. It requires complainants to identify the relevant sections of the code which have been breached and to identify how a councillor was acting in official capacity and, when the councillor is dual-hatted, which official capacity. Details of the circumstances of the complaint are required to be provided in Section 5.

Given the paucity of sanctions available Section 5 requests the complainant to consider what they are looking to achieve from complaining and whether an apology would be sufficient. The intent is to make complainants think about whether complaining will give them the satisfaction they are after and if not, whether they want to make a complaint at all. Equally, by highlighting that an apology will suffice, this may facilitate early resolution of complaints.

The complaint form will sit on the councillor conduct page of the website (link in the background link section) and complaints will not be progressed unless a completed form is provided.

Recommendation: **That Members consider the complaint form and agree to its use following the May elections.**

Reason for recommendation: To enable a more robust complaint process to be administered.

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:

- [Members' Code of Conduct](#)
- [Link to councillor conduct page of the website](#)

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



Making a Code of Conduct complaint against a Councillor

Use this form to make a complaint about the behaviour of a parish, town or district councillor where you believe they have breached the councillor's Code of Conduct.

East Devon District Council's Code of Conduct is available online [here](#) or by telephoning 01395 516551. Complaints against parish / town councillors should reference the Code of Conduct for the councillor's town / parish council as it could be different from the district council's. Where a councillor is both a parish / town councillor and a district councillor you should identify which role they were acting in when the behaviour complained of occurred.

A link to the complaint process which will be followed can be found [here](#).

(for office use only)

Case reference number:

1. Your details

Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Mobile telephone:	
Email address:	

2. About you

Please tell us which of the following best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament

- District council, town or parish council employee
- Other – please specify

Where you are an East Devon District councillor please tick the box to confirm that you have consulted the Monitoring Officer prior to making this complaint.

3. Details of subject member

Please provide us with the name of the councillor(s) you believe have breached the Code of Conduct and the name of their authority:

First name	Last name	Council name

4. Details of complaint

Please explain in this section (or on separate sheets) what the councillor has done that you believe breaches their Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account. For example:

- You should identify what made you think the councillor was acting in official capacity (i.e. that he was acting as a councillor rather than as a private individual).
- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You must specify which sections of the relevant Code of Conduct you consider have been breached.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information including documents and correspondence if relevant to the complaint.

Details of complaint – continue on a separate sheet if necessary.

5. Remedy

The complaint process (link at the beginning of the form) details the sanctions available if a breach is found. Please consider them and indicate what action / outcome you are looking for or hoping to achieve in pursuing this complaint.

Details of remedy / outcome sought.

Please tick the box if you are willing to accept an apology from the councillor(s) who you are complaining about.

Only complete Section 5 if you are seeking for your identity to be kept confidential from the subject member.

5. Confidentiality

When we receive a complaint, the councillor who is being complained about will, in normal circumstances, be told who has complained about them. You can however ask for your identity to remain confidential.

If you ask for your identity to be kept confidential, the monitoring officer will consider your request before telling the councillor that a complaint has been made.

If the monitoring officer doesn't think it is appropriate to grant a request for confidentiality you will be offered the opportunity to withdraw the complaint rather than proceed with it.

Details of why we should withhold your name and/or the details of your complaint:

6. Please sign and date this form

Signed: _____

Date: _____

When you have completed this form, please return it to:

The Monitoring Officer
East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

Email: monitoringofficer@eastdevon.gov.uk

Data Protection

Any personal information which you provide will be held and used by East Devon District Council for the purpose of processing your complaint that a councillor has breached their Code of Conduct. Your information may also be shared within East Devon District Council for the purposes of carrying out our lawful functions. Otherwise your personal information will not be disclosed to anybody outside East Devon District Council without your permission, unless there is a lawful reason to do so, for example disclosure is necessary for crime prevention or detection purposes. Your information will be held securely and will not be retained for any longer than is necessary. There are a number of rights available to you in relation to our use of your personal information, depending on the reason for processing. Further detail about our use of your personal information can be found in the relevant Privacy Notice which can be accessed [here](#).

Standards Committee, 16 April 2019

Item 8- Code of Conduct complaints update

This paper provides an update for the Committee on Code related cases since the 1st May 2018 to 31st March 2019:

Case #	TC/PC or EDDC member	Relevant paragraphs in Code of Conduct and outcome following consultation with Independent Person	Detail of complaint
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. Resignation received. Case closed.	Failed to treat the complainant with courtesy and respect by acting in a rude and aggressive manner towards an 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. Finding of no breach. Case closed.	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. Informal resolution - apology given. Case closed.	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 councillor's 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 Complaint withdrawn. Case closed.	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. Complaint withdrawn. Case closed.	Failed to treat the complainant with courtesy and respect by implying the complainant was involved in financial irregularities.
2019-C01	Town Councillor	Complaint regarding; <ul style="list-style-type: none"> - Failing to promote and support high standards of conduct, - It failed to treat others with respect, - It could not be justified to the public, - Brought office into disrepute Breach found – formal apology and censure. Case closed.	Tweet posted criticising a business for bad mouthing the individual and requesting the public not to use it.

2019-C02	Town Councillor	Complaint regarding failure to disclose DPI (linked to C03). Investigated, no breach found. Case closed	Allegation that councillor failed to disclose DPI in respect of their involvement in a Limited Company.
2019-C03	Town Councillor	Complaint regarding failure to disclose DPI in respect of partner's involvement in a Limited Company (linked to C02). Investigated minimal breach of failure to disclose a personal interest found. No further action and case closed.	Allegation that councillor failed to disclose DPI in respect of their partner's involvement in a Limited Company.
2019-C04	Town Councillor	Complaint regarding failure to treat member of the public with courtesy and respect. Awaiting discussion with subject member to explore behaviour.	Allegation regarding conduct in a meeting.
2019-C05	Town Councillor	Complaint that councillor didn't treat employee with courtesy and respect and bullied and harassed them. Awaiting more information from complainant	During the course of employment the councillor continually harassed and bullied the individual by making disparaging comments and undermining their work. Also didn't treat them with courtesy and respect in front of others.
2019-C06	Town Councillor	Complaint regarding failure to treat member of the public with courtesy and respect. Awaiting further information and discussion with subject member	Allegation regarding conduct in a meeting.
2019-C07	District Councillor?	Complaint that councillor was Awaiting determination on whether subject member was acting in official capacity	Allegation regarding conduct in a meeting in that they used a bullying tone and made frequent interruptions and dominated the discussion.

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 the 1st May 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.

Agenda Item 11



Standards Committee

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Standards Committee

Forward Plan 2018/19

16 April 2019

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