

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	
	Cllr S EDDC	Cllr S – 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	<p>Training for all members of the Development Management committee on the process of dealing with planning applications in the public domain</p> <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