

# COUNCIL

CHAIRMAN: Cllr Tim Golder

**DATE:** 22 February, 2018

**REPORT OF:** Chairman of Standards and the Monitoring Officer

**SUBJECT:** UPDATE FROM THE CHAIRMAN OF THE STANDARDS COMMITTEE

## PART I

### RECOMMENDATION

**A** That the Council is asked to receive this interim update on Standards matters prior to a final report in May at the end of the review process.

**B** That the Council adopt the following terms of reference for the Committee.

#### 1. PURPOSE

This report is to update members on the current position regarding the work of the Standards Committee and the Code of Conduct.

#### 2. BACKGROUND

A brief resume of the history to the current arrangements would be helpful.

Prior to 2012 the National Standards Board for England was in existence but in 2010 the coalition government considered it a quango, with the power to suspend a member, and it was felt to be inconsistent with the principles of localism. The government was concerned it provided a regime for vexatious or politically motivated complaints.

A DCOG paper issued in 2010 said the government would remain committed to maintaining high standards and in the absence of a centrally prescribed statutory Code of Conduct would ensure councillors did not abuse their office for personal gain by putting their personal interests before the local area or community they represented.

The government considered the national standards board regime with the power to suspend the member inconsistent with the principles of localism. The requirement to have a Standards Committee and the right to suspend or disqualify council members was removed with the Localism Act 2011. In its

place local authorities were given a discretion to adopt arrangements they chose but would have to include general provisions of principles of behaviour based on the Nolan principles but also statutory elements regarding the requirement to register and declare interests. These elements of the code would carry the threat of criminal sanction.

The Council considered the arrangements it wished to replace the former Standards Board for England arrangements at a council meeting on the 29 June 2012.

The main outcomes were:

The Council decided to have a light touch code based on the National Association of Local Councils template and that members should leave the meeting if they declared an interest. The national regulations do not require a councillor to do this but the requirement to remove oneself from the meeting was adopted by the Council.

The Teignbridge code is adopted by the majority the town and parish councils in Teignbridge and so applies to approximately 450 parish councillors as well as the 46 Teignbridge councillors.

The Council chose to have a separate Standards Committee rather than assume its business into another committee although it could have done so. The regulations prevented the optional members of the Standards Committee, Teignbridge Association of Local Councils representatives and the Independent Committee member, having a vote but their membership was retained on the Standards committee.

The Monitoring Officer was given delegated powers to process complaints up until hearing stage, having consulted the Independent Person. The emphasis was on a local resolution although where this was not possible the case would go before the Standards Committee for a hearing.

Since 2012, 24 Code of Conduct complaints have been submitted across the near 500 councillors. This is average 4 cases per year. There have been 2 cases dealt with by formal action by way of local resolution. The local resolution was provided by the Monitoring Officer in conjunction with the Independent Person and the complainants following formal investigation. Both cases involved retraining and one involved an apology and undertaking about future behaviour.

Quite often complainants seek disqualification or suspension of the councillor. There is no power to do so.

Often complaints relate to an issue of local concern and are about conduct of the parish council themselves in terms of their own processes or the merits of their decisions. It is important to point out that the Code of Conduct is about the behaviour of individual councillors and not the Parish Council as a body. Teignbridge District Council does not govern the activities of the Parish Councils.

There also appears to be an increasing trend for allegations of bullying and intimidatory behaviour.

### **3. CURRENT ACTIONS**

The Standards Committee met in December 2017 and embarked on a review of the current Code of Conduct and processes.

This review will need to include consultation with the town and parish councils and a workshop is to be held on the 14 February, 2018 to remind them of the provisions of the code and discuss its application in their parishes.

The Standards Committee also identified a number of considerations it wished the Council to consider as part of its review.

They are:

1. Appendix A Interests – whether the local requirement should continue for a District Councillor to leave the room having declared an Appendix A Interest?
2. Complaints. Currently the provisional sifting process is suggested to take around 14 days and the reality is that this is a short timescale to determine if a complaint should be investigated. Should this period be extended?
3. Voting rights for the optional TALC members/Independent Co-opted Committee Member – not legally permitted at the moment
4. The political balance of the committee – currently it is politically balanced but should it be?
5. Monitoring Officer – should the Monitoring Officer be a solicitor?
6. Local resolutions – how long should a local resolution committee report remain on the Council's website?

I propose a workshop for all members to feed into the review of the Code of Conduct.

#### The National mood

The national mood is also changing. This has been noted and for some little while and a review of the provisions has been anticipated for some little while. The committees for standards in public life has recently issued a consultation paper – Review of Local Government Ethical Standards. The consultation is open until Friday 18 May 2018 and this will be discussed at the next Standards Committee, and at the proposed workshop for all members.

The terms of reference for the national review are to:

- examine the structures, processes and practices in local government in England for:

- maintaining codes of conduct for local councillors
  - investigating alleged breaches fairly and with due process
  - enforcing codes and imposing sanctions for misconduct
  - declaring interests and managing conflicts of interest
  - whistleblowing
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
  - make any recommendations for how they can be improved
  - note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

These are wide ranging questions.

The suggestion to review Whistleblowing has been passed to the Council's Auditor for consideration.

#### Recruitment to Independent Person Posts

I thought I should also update members on the latest position regarding the appointment of an additional Independent Person, as instructed by Council, and the replacement of the interim Independent Committee Member, as authorised by Council.

Information packs for prospective candidates have been considered by the Standards Committee and the advertisements are now live on the Council's website. Applications will be considered by a panel of the Head of Paid Service, Monitoring Officer and the current Independent Person.

It is proposed that a report will come to the May Council meeting along with the review of the final proposals for review of the Council's own Code of Conduct and processes.

#### **4. TERMS OF REFERENCE OF THE CURRENT STANDARDS COMMITTEE**

The Terms of Reference for the current Standards Committee were also discussed at the Standards Committee meeting in December. It was proposed that the following Terms of Reference be adopted and that the previous matters regarding complaints and whistle blowing and be dealt with by the Overview & Scrutiny Committee and the Audit Committee respectively.

Any other subsequent changes to the Standards Committee terms of reference required as part of the current review would be submitted to Council in May.

Recommended

That Article 11 of the Council's Constitution be amended so that the Committee's role and function is as follows:

- (i) To promote and maintain high standards of conduct by Councillors and co-opted members.
- (ii) To advise the Council on the adoption or revision of the Members' Code of Conduct.
- (iii) To advise or train Councillors and co-opted members on matters relating to the Members' Code of Conduct.
- (iv) To deal with the local filtering of complaints and dispensation requests (where these are not dealt with by the Monitoring Officer under delegated powers).
- (v) To conduct local hearings and determination of sanctions should a breach of the code of conduct be found.
- (vi) The exercise of (iii) above in relation to the Parish Councils wholly or mainly in its area and (iv) and (v) in relation to complaints about the members of those Parish Councils.

**Cllr Rosalind Prowse**  
Chairman

**Neil Aggett**  
Monitoring Officer

<b>Wards affected</b>	All
<b>Contact for any more information</b>	Cllr Prowse/Neil Aggett
<b>Background Papers (For Part I reports only)</b>	Previous committee reports <a href="https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation">/https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation</a>  government/uploads/system/uploads/attachment_data/file/6280/1785879.pdf
<b>Key Decision</b>	N
<b>In Forward Plan</b>	N
<b>In O&amp;S Work Programme</b>	N
<b>Community Impact Assessment attached:</b>	N
<b>Appendices attached:</b>	None