

## STANDARDS COMMITTEE

CHAIRMAN: Cllr Rosalind Prowse

**DATE:** 27 February 2019

**REPORT OF:** Solicitor to the Council and Monitoring Officer

**SUBJECT:** Review of Standards

### RECOMMENDATION

The Standards Committee is recommended to resolve that:

- (a) A task and finish group (as outlined in the report) is established to undertake a review of the Council's Code of Conduct for Members and the associated complaints procedure;
- and
- (b) A programme of standards training / member development is established for 2019/20 which all District Councillors are expected to attend.

### 1. PURPOSE

- 1.1 To consider steps which the Committee might wish to pursue in support of its duty to promote and maintain high standards of conduct.

### 2. BACKGROUND

- 2.1 The Committee will be aware that the current Code of Conduct has been in place since 2012. In line with the Council's statutory duty to promote and maintain high standards of conduct, it is advisable for the Committee to regularly review the effectiveness of the Code of Conduct; whether the associated complaints procedure might be improved; and what training might be appropriate. A review of the current code is also timely given the recent publication of a report on standards of conduct in public, which includes best practice recommendations for local authorities (see previous agenda item).
- 2.2 Nationally, the current statutory regime which has been in place since 2011, has been criticised for being ineffective and 'too light' touch, having removed sanctions especially the power to suspend. Within this 'light touch' regime and in general comparison to other codes across the country for principal local authorities, one might also view the Council's current code as of even 'lighter touch', the Council's code being based upon a model which was recommended for parish and town councils. This model does not, for example, include a provision covering what might be described as more

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general unacceptable behaviour contrary to the Nolan Principles, namely a requirement upon councillors not to act in a manner which brings the office of councillor or the Council into disrepute. Further although the rules regarding interests are clear, they are limited and do not cover the range of interests (other than DPs which are statutory) where there are conflicts between private and public lives and as such when one might expect a member to refrain from participating in the consideration of a matter. It is also considered that there is a lack of clarity in the current code and investigations procedure as to the relevance of the Nolan Principles, resulting in situations where complaints are made purely with reference to those principles rather than the provisions of the Code which are not as comprehensive as they could be.

### **3. COMPLAINTS IN 2018**

- 3.1 Whilst the light touch standards regime was intended in part to reduce costs in administering standards in local government and to discourage complaints which might be viewed for example as frivolous, political or a result of dissatisfaction with decisions made by authorities, in practice this did not prove to be the case for all councils. Consistent with such, a good proportion of the complaints received by the Council's Monitoring Officer appear to have fallen into these latter three categories.
- 3.2 Over the last 12 months it is understood a total of 17 formal complaints have been received of which nine concerned town and parish councillors and the remainder district councillors. Excluding four complaints which remain outstanding at the date of this report, the complaints were either (i) withdrawn, (ii) dismissed (as not amounting to a breach) or (iii) no further action was taken as for example the matter was resolved informally due to the breach being accepted, voluntary action being taken to readdress the matter, or the issues concerned amounting to personal disputes. In addition, concerns about member standards which have not amounted to complaints, have been raised and resolved informally.
- 3.3 The principal themes of standards issues appear to concern failure to declare interests in the case of parish and town councils; and for all councils in the area generally, disrespect. Although a concern has also been raised about a possible breach of confidentiality, within the District Council allegations of disrespect appear to arise most frequently; with the disrespectful behaviour alleged largely being directed towards officers and other members. Concern has been raised that even though formal complaints have not always been made, the conduct of some members in high profile public meetings towards each other and officers has been poor on occasion. Although many comments between members might reasonably be viewed as political banter, similar comments directed to individual officers (particularly when they cannot respond to the member on an equal footing in public meetings) are not. Given the poor conduct of individual members in meetings adversely affects the image of the Council as a whole, it is important that collectively, all members (not simply those chairing meetings or the Standards Committee) discourage and if needed, challenge poor conduct at the time.

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- 3.4 Irrespective of any changes which are made to the Code of Conduct as a result of a possible internal review, it is recommended that regular updates and training on conduct issues are provided on behalf of the Committee to all Council members. Training events could include officers as well as members to help encourage more respectful behaviour towards each other and secure a better understanding of their different roles and perspectives on what is said or done.
- 3.5 Complaints in recent months regarding Parish and Town Councils have often concerned the administration or decision making of the councils as opposed to the behaviour of individual members. Also enquiries received indicate that there is a misplaced view that the Monitoring Officer is an adjudicator between parishioners and town / parish councillors regarding local disputes. This may be indicative of an historical approach to parish issues, but does highlight a lack of clarity as what is a code of conduct complaint and the limited standards role the District Council has in respect to parish / town councils. Further work is needed with parish and town councils in this regard over the coming months. Consideration should also be given by the Standards Committee in due course (whether as part of its proposed review or subsequently) to training for these authorities and how the complaints procedure is presented and publicised.

### **4 TASK & FINISH GROUP**

- 4.1 It will be appreciated by members that whilst changes to the standards regime as a result of the recent report of the Committee on Standards in Public life are probable, it is most unlikely that Parliament will be directing its attention to standards legislation for some months. Consequently, the report writer recommends that the Committee should in line with its current statutory duty proceed to undertake a review of the Council's current code of conduct and its complaint process. By commencing such now, it may be possible for the Committee to make recommendations to full Council on an amended code for implementation from the start of the next council term.
- 4.2 Regarding the review of the existing code as previously indicated, consideration should be given to strengthening the provisions. As for the complaints procedure (which includes the hearings process), a review could be directed to simplifying the explanation of the complaints process but also to enable complaints to be assessed more quickly and allegations which warrant investigation to be referred to a specialist standards sub-committee (rather than the whole Committee) for determination. In the latter regard complaints could be determined 'on paper' rather than there always being a formal hearing which can be intimidating and unnecessarily adversarial.
- 4.3 In any event, the review group should specifically consider the good practice recommendations particularly in view of any comments made by the Standards Committee as part of the debate on the preceding agenda item.

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- 4.4 It is proposed that the Committee appoints a small cross party task & finish group of up to five persons to undertake the review. It is suggested that subject to their availability, both independent members be invited to take part in the group and that there be three other members comprising one from each political group including the Chair of Standards. Group Leaders have each been invited to nominate a member from their political group.
- 4.5 The group would not be making decisions but consider in detail as part of its examination, views on the standards of members; the current level and type of code of standards complaints which have been made; and the appropriateness of applying some / all of the best practice recommendations. The group could for example, interview officers and members on existing standards as well consider approaches taken by other authorities which are relevant to the standards applied within the Council.
- 4.6 A group of the nature proposed should consider the key issues informally and thus frankly with a view to making recommendations to Committee for formal consideration as soon as possible. Although the District Council's Code has been adopted by parish and town councils within Teignbridge, for the avoidance of doubt, it is not suggested that they should adopt any new version which the Committee might subsequently recommend to Council following the review. Instead, consideration might be given in due course to providing training to parish and town councils on how they might go about reviewing their existing code in the light of the good practice recommendations and / or any changes in the law.

## 5. CONCLUSION

- 5.1 It is important to ensure that the complaints system and the Code are fit for purpose (i.e. to promote and maintain high standards of member conduct) and not used for ulterior motives particularly given the resources involved in dealing with complaints. Whilst there has been a backlog in complaints to address in recent months, in the last 3 months' costs involved are in the region of £14,200 of officer / investigator time alone. Clearly this only serves to detract from core business. Furthermore, poor conduct does not reflect well on the Council as a whole.
- 5.2 In summary, the recommendations in this report are intended to secure that the Committee undertakes a positive role over the coming months and is seen to deal with unacceptable behaviour robustly so far as the existing law permits.

**Officer Name: Karen Trickey**

**Officer Designation: Solicitor to the Council and Monitoring Officer**

Wards affected	All
Contact for any more information	<a href="mailto:karen.trickey@teignbridge.gov.uk">karen.trickey@teignbridge.gov.uk</a>
Key Decision	N
In Forward Plan	N
In O&S Work Programme	N
Community Impact Assessment attached:	N/a