



STANDARDS COMMITTEE

ANNUAL REPORT

2010/11



Copies of this Report may be obtained from the Committee Secretariat & Members Services Unit at County Hall, Topsham Road, Exeter, Devon, EX2 4QD or by ringing 0845 155 1015 and is also available on the County Council's website at:

http://www.devon.gov.uk/index/councildemocracy/decision_making/full_council/standards.htm

Foreword by the Chairman, Professor Bill Forsythe

As an Independent Member and, since 2003, the Chairman of Devon County Council's Standards Committee I am grateful, once again, to have the opportunity to place on record how honoured I am to have the opportunity to serve the people of Devon.

There are now five independent members on the Committee working with the Council to promote the importance of high standards of behaviour and systems of governance so as to create a climate where complaints or problems rarely arise. The Committee was joined in May of this year by two new Independent Members – Anne Mayes and Ruth Saltmarsh - who have not only brought fresh blood and a new perspective to our work but have fitted in seamlessly, spreading the burden upon the Committee in an unassuming, quietly efficient, manner.

I believe not only have we again successfully undertaken our task during the previous 12 months but that this has again been reflected in the low level of complaints made about members conduct since the Committee was first established.

It is my firm belief that the job of a Standards Committee is to confront corruption and oppression through assiduous consideration of complaints, annual reports of the Local Government Ombudsman about us, reports from the County Council's own Directorates and allegations from the media. Members of the Standards Committee carefully study these possible sources of evidence at each of their meetings. Our firm conclusion is that councillors and officers of Devon County Council consistently apply high ethical standards in their work with the public.

I have been very ably supported by a number of County Councillors appointed to the Committee by the Council and would like to thank all of my fellow members for their dedication and hard work.

The attainment of high ethical standards must continue to be an essential element of the work of any public body and the transparent robust application of these is particularly important. For that reason, as previously said, it is essential to guard against complacency in defending the high reputation for integrity that Devon County Council justly enjoys and we need to go on improving our systems for monitoring our standards critically to ensure that it continues to be robust for the future.

While the Committee is responsible for the examination of any complaints made against elected members its most important task, arguably, remains that of working with them to ensure standards are maintained at the highest possible level and to avoid such complaints being generated in the first place.

Local Government as a whole undoubtedly faces difficult times ahead dealing with the effects of the recession and the much publicised public sector spending cuts. At such a time it is arguably even more important that the issues of probity, standards and ethical governance are to the fore ... and it is, in my view, regrettable that the Government has chosen, at this time, to abolish the existing Standards regime without putting anything in its place. I am nonetheless confident, given the commitment to these principles shown by the County Council in the past, that it will want to ensure that suitable arrangements are put in place to avoid jeopardising its excellent record.

Background

The need for a consistent legal framework governing standards of behaviour in local government was prompted by the work of the first Committee on Standards in Public Life, chaired by Lord Nolan.

The Nolan Report (*Third Report of the Committee on Standards in Public Life – Standards of Conduct in Local Government – Cm3702-1*) recommended that local authorities should set up Standards Committees which would draw up codes of conduct for councillors and take action over any breaches of the code. The Government in the White Paper “*Modern Local Government – In Touch with the People*” (July 1998) took forward the Nolan Committee’s recommendations and proposed that Standards Committees should include independent persons as full members.

Under the Local Government Act 2000 local authorities were subsequently required to establish Standards Committees with the duty to:

- advise the Council on the adoption of a local code of conduct for elected members;
- monitor the effectiveness of the code;
- provide training for members on the code;
- promote and maintain high standards of conduct for members;
- help members follow the code of conduct; and
- consider and determine allegations against members in respect of misconduct or potential breach of the Code of Conduct

Devon County Council’s Standards Committee was established in 1999 for the purposes originally identified by Nolan but the County Council subsequently asked the Committee to take on the wider roles of securing and maintaining high standards of conduct by members and officers throughout the organisation. Those wider responsibilities reflected the guidance issued by the then Standards Board for England (subsequently Standards for England) and the need for a Standards Committee to involve itself in promoting robust arrangements for governance within the County Council.

However, radical change appears to be in the offing. The Coalition Government’s Programme for Government of 20 May 2010 contained a commitment to abolish the Standards Board regime. Primary legislation would be needed to abolish Standards for England (SfE) provision for which has been included in the Localism Bill, published in the latter part of 2010. Royal Assent is anticipated between July and October 2011, likely to lead to final closure of SfE between 30 December 2011 and 31 March 2012. While there is now some clarity about the future of Standards Committees and the content of the Bill what exactly will be put in its place, locally, is less clear – assuming always of course that the Bill receives Royal Assent as it is currently drafted.

Notwithstanding this approach, Government is, apparently, still committed in the absence of a statutory code to maintaining high standards of conduct in office and ensuring that councillors do not abuse their office for personal gain by putting their own interests before those of the general community or the area they represent. Members will still be required to continue to declare interests at committee meetings and complete their Register of Interests and to the best of the Monitoring Officer's knowledge, continue to adhere to the Code of Conduct. Government has also said that wilful failure to comply with those requirements will constitute a criminal offence.

The Standards Committee recognise the importance of retaining a structure which will not only uphold public confidence and contribute to the maintenance of high standards, but also protect members themselves by providing an authoritative means of testing allegations made against them.

Against that background this, the second, annual report provides an update into the work of the County Council's Standards Committee covering the period 1 April 2010 to 31 March 2011 and the way forward.

Membership of the Standards Committee

A Standards Committee must comprise at least three persons, at least two of whom must be elected members and the other must be a person who is independent of local government.

Where a Standards Committee exceeds three people, Independent Members must comprise at least 25% of the membership. The Chairman of the Standards Committee must, by law, be one of those Independent Members.

Devon County Council has long recognised the added value brought by Independent Members and the importance of having a balance between elected and independent members. There are currently a total of twelve persons serving on the committee of whom five are independent persons who are neither employed by nor elected members of the County Council. The other seven members are councillors (but not Cabinet Members) representative of the membership of the County Council as a whole.

As previously indicated, the Council increased the number of Independent Members to five from the beginning of this municipal year, recognising the demands upon members of the Standards Committee of increased responsibilities in relation to local determination of complaints and proposed enhanced monitoring of the Council's ethical governance framework. It is also worth acknowledging here the very high level of interest shown by prospective candidates in those two additional places, ably demonstrating that reports of the death of the public service ethos are greatly exaggerated!

To be eligible to become an independent member of the Standards Committee a person must:

- be of good character;
- bring qualities of impartiality and independence to the committee's proceedings;
- possess sound judgement, together with an ability to form a view on complex questions relating to the conduct of councils and their councillors;
- possess skills and experiences which sustain and broaden the expertise available to the County Council;
- possess good communication skills together with a willingness to listen to other views;
- be able to demonstrate the ability to challenge accepted views in a constructive way;
- be able to represent the standards required in public life and apply them in a practical way to the decisions to be made
- live, work or have a close connection with the County of Devon;
- be over the age of 21 (as in the case of elected Councillors).
- not have any close links with councillors or officers which might lead people to question their independence;
- not be a member of the County Council or any other relevant Council or have been a County Councillor or have been employed by the County Council in the last 5 years
- not be actively engaged in local party politics;
- not have personal, legal or contractual links with the council.
- not have any current criminal convictions.

The councillors on the Standards Committee comprise the Chairman of the County Council (who is also the Vice-Chairman of the Standards Committee) and nominees from each of the main political groups on the Council. The political balance rules do not apply. Independent members are entitled to vote at meetings.

Meetings of the Committee cannot proceed unless at least one Independent Member is present.

The membership of the Committee in 2010/11 was:-

Independent Members:	Professor Bill Forsythe (Chairman) Alderman Ken Turner Mike Bull Anne Mayes Ruth Saltmarsh
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County Councillors:	Christine Marsh (Vice-Chairman) Polly Colthorpe Sir Simon Day Anne Fry Gordon Hook Jill Owen Barry Parsons
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Officer Support

The County Council's Monitoring Officer has overall responsibility for ensuring that there is due regard to the law and high standards of probity within the Council and advises the Standards Committee, ensuring it exercises its responsibilities firmly and fairly and that public servants exercise their responsibilities properly, within accepted mores of behaviour and do not act oppressively, unjustly or corruptly.

The Monitoring Officer, Jan Shadbolt, who took up office in January 2010 has demonstrated both enthusiasm and rigour in building on the work of previous years and ensuring the continuing delivery of the high standards of ethical governance that prevail in the County Council. Her skill and efficacy in resolving disputes has, in at least one case, prevented a formal complaint being made.

The Deputy Monitoring Officer, Tony Sweeney, also has a role in investigating and advising Assessment and Review Sub-Committees on any formal complaints about County Councillors' conduct and it is pleasing to note that the County Council's expertise in this field generally has also been recognised though his being appointed to act as Monitoring Officer for the Exmoor National Park Authority.

The Standards Committee and its Assessment and Review Sub-Committees are serviced and supported by the County Council's Committee and Member Services Unit.

The Role of the Standards Committee

The main role of the Standards Committee is to act as champion and guardian of the County Council's ethical standards and to be responsible for promoting and maintaining high standards of conduct by elected members and co-opted members of the Council. Its main roles and functions may best be summarised as:

- promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- assisting through advice and training councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- advising the Council on the revision of the Members' Code of Conduct;
- monitoring the operation of the Members' Code of Conduct;
- granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- considering complaints that a councillor may have breached the Code of Conduct for Members, in line with guidance from Standards for England (formerly the Standards Board for England) (i.e. local determination of complaints).
- dealing with any reports from the Standards for England and any report from the Monitoring Officer on any matter.

In addition to the statutory functions described above, the County Council empowered this Committee to exercise a wider role in relation to the governance of the Council and in ensuring standards are as high as possible.

In outlining what the people of Devon may expect from the County Council, Article 3 of the Council's Constitution makes it clear that any member of the public may complain to the Standards Committee about a breach of the Members' Code of Conduct. The Code of Conduct is set out in Part 6 of the County Council's Constitution and is available on the County Council's website at:

http://www.devon.gov.uk/index/your_council/decision_making/constitution.htm

The Committee's full terms of reference, set out in the Council's Constitution, are reproduced below for ease.

Local Determination of Complaints

Until May 2008, complaints relating to members' conduct (where an alleged breach of the Code of Conduct may have occurred) were made to the then Standards Board for England, although at any point in an investigation the Standards Board could refer the complaint to the relevant council for investigation. The Council's Standards Committee would then have the responsibility for the determination of complaints during a formal hearing.

After May 2008 however, and in line with the Local Government & Public Involvement in Health Act 2007, responsibility for considering complaints that a councillor may have breached the Members' Code of Conduct was transferred from Standards for England to Standards Committees of individual local authorities. Standards for England will then only investigate complaints in rare circumstances where, for instance, there may be a conflict of interest.

It is a truism that the impact of these arrangements have not, by and large, been as keenly felt by the County Council as elsewhere. There were no formal complaints made in 2010/11 (one in 2009/10) which required either an Assessment and a Review Sub-Committee being convened.

Without being complacent this is pleasing and reflects well, both on the Standards Committee and Members of the County Council, and maintains the Council's previously unblemished record over the proceeding 11 years of having no findings against members for breaches of the code since the establishment of the Standards Board for England.

It is important however, that the Council continues to publicise how complaints may be made and are dealt with. The Council has published appropriate guidance for those wishing to make a complaint about the conduct of a Devon County Councillor or if it is felt that they may have breached the Code of Conduct for Members. This guidance is available from the County Council's Committee and Member Services Unit and is also available on the Council's website at:

http://www.devon.gov.uk/index/your_council/county_councillors.htm

or

http://www.devon.gov.uk/index/councildemocracy/county_councillors/councillorcomplaints.htm

The Work of the Standards Committee in 2010/11

The Standards Committee met on three occasions. There were no meetings of either Assessment Committees or Review Sub-Committee.

The Agenda, Minute and Reports of the Standards Committee may be accessed on the County Council's website at:

http://www.devon.gov.uk/index/your_council/decision_making/committee_minutes.htm

The Committee received regular reports on compliments, representations and complaints received by Directorates through 2010/11 and on the operation of the County Council's formal complaints procedures. While the number of complaints continues to increase this is as much a reflection of the general societal trend to complain and the positive work being undertaken by the Council to encourage feedback from members of the public; it does not necessarily follow that any increase is actually an increase in wrongdoing, rather it may be attributable to improved understanding of and access to and responsiveness of the customer service process. Progress with the development of common systems and integrated electronic systems for monitoring complaints etc., was welcomed.

The Standards Committee examined the Ombudsman's Review for the year ending 31 March 2010 (the successor practice to the Ombudsman's Annual Letter). While the Ombudsman had not raised any significant areas of concern in relation to the handling of cases by the Council he had commented upon the demands being placed upon that office with the increasing number of complaints and, by extension, the implications for the County Council.

The ever increasing pressures and demands being made upon public servants was an issue that the Standards Committee acknowledged was common to all public bodies and not an issue for the Ombudsman alone. The Committee nonetheless welcomed the comments of the Ombudsman in praising the County Council on the way it dealt with complaints generally and its hard work in this area of activity.

In May, the Standards Committee endorsed a comprehensive Annual Return to Standards for England. This may well prove to be have been the last one it was required to submit because subsequently, and following the announcement by Government of its intention to abolish the standards regime, the requirement upon Councils to submit annual and quarterly returns to Standards for England on complaints received and on its work generally was suspended. While the removal of unnecessary bureaucracy is to be welcomed, this may also deprive Standards Committees, Monitoring Officers and others of an effective tool to compare activity in their area against those of a like nature.

Also in May of 2010, the Committee delivered a training event for Members on the Code of Conduct and ethical governance featuring, in particular, sessions on the role of the Standards Committee and Independent Members, ethical governance and the Council's governance framework, declaration of interests, access to information and bias and predetermination. Members of the Council were also given the opportunity to view a DVD produced by Standards for England entitled *The Code Uncovered* which was intended to help Monitoring Officers, Councillors and Standards Committees understand the process for assessing complaints. .

The Standards Committee also considered the outcome of an ethical governance and self assessment survey undertaken by Members to help it assess, inter alia, how the Council met the ethical agenda, what it meant to the way in which the Council worked, how the Council complied with ethical standards and whether or not any improvements might be needed. Questionnaires had been distributed to all Members of the Council and, in general, the responses received had been by and large positive. A number of detailed points were identified which have been taken up as appropriate and dealt with relating, for example, to the auditing of member's expenses where the Council's Audit Committee were reassured that the current process for checking claims was robust and effective. The Standards Committee agreed that a further survey should be undertaken in 2012 which should, on that occasion, also include senior officers of the Council.

The Standards Committee had introduced new, innovative, arrangements for Independent Members to attend meetings of the Council, the Cabinet and Committees on an ad-hoc basis to observe and monitor compliance with the Council's ethical governance framework, in line with the protocol set out below. The Committee received regular reports on this new process - copies of which can be accessed from the County Council's website at: http://www.devon.gov.uk/index/councildemocracy/decision_making/cma/index_std.htm).

While a number of detailed practical issues were raised by Independent Members through this process and their observations there were, pleasingly, no indications of any significant actions or behaviours that might be felt to have resulted in a potential breach of the Code or that might have warranted action by the Council's Monitoring Officer.

There was one particular instance relating to the conduct of a meeting where persons directly affected by the discussions and present at the meeting were not, it was felt, treated consistently or dealt with in an appropriate manner, reflecting poorly on the Council in the eyes of those individual and others present at that meeting. The procedural failings in this, albeit isolated case, had been completely avoidable and had caused unnecessary distress to those involved. The Monitoring Officer had, as soon as the matter had been drawn to her attention, taken firm and speedy action to ensure that the issues were dealt with and steps taken to ensure a clearer understanding of procedures to be followed in future to obviate the risk of any recurrence.

Also pleasing to note is that there was no significant difference of opinion or divergence of view as to general conduct observed at a range of meetings by different Independent Members, demonstrating a degree of consistency of conduct by Members and Officers alike.

The audibility of speakers at meetings was a recurring issue raised by Independent Members and whether or not this was simply a matter of the acoustics of the Council Chamber and/or Committee Rooms or related more directly to the use by Members of the audio systems it was felt that an improvement would be for the benefit of the public attending the meeting or listening to events through a webcast.

The Standards Committee endorsed the need for the County Council's Audit Committee to review separately, and on a regular basis, progress with and implementation of any recommendations made in Audit Reports into specific areas of activity to ensure they had been adhered to and appropriate management action taken.

The Chairman of the Standards Committee met regularly with the Monitoring Officer over the period of this Report to discuss relevant issues and also, as is now an annual occurrence, met the Leader and Chief Executive of Devon County Council to review performance and also to discuss in particular what structures and arrangements the Council might put in place with the abolition of the Standards for England and the existing standards regime as referred to at the beginning of this Annual Report.

Work Programme for 2012/13

Subject, of course, to any future arrangements that may be made by the County Council for the discharge of the functions of a Standards Committee in light of anticipated structural changes now being proposed by Government, and in addition to routine matters such as the monitoring of the Council's complaints procedures, local determination of complaints, granting of dispensations etc., it is suggested that any Standards Committee or successor body should also:

- undertake a second ethical governance audit and self assessment survey - by both members and senior officers - with a view to determining, inter alia, how the County Council meets the ethical agenda, how it and members and officers conform to the Council's ethical standards and whether or not any improvements might be needed;
- continue monitoring of elected members performance at meetings of the Council, Cabinet and its Committees and adherence to the Council's ethical governance framework;
- support and provide regular training and refresher events for elected members of the Council on the importance of the Code of Conduct and high standards of ethics and probity and highlighting, in particular, the need to take account all relevant considerations such as equality issues and risk assessments before coming to any decisions;
- advise the Council on the impact of the Government's Localism Bill on the Council's ethical governance framework particularly, for example, on the proposed revised legislation and guidance on predetermination where Government has said it intended to free councillors from restrictions that prevent them from championing local issues or declaring a view on a particular issue.

Devon County Council's Governance Framework

Devon County Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards.

In discharging this overall responsibility, the Council is responsible for putting in place proper arrangements for the governance of its affairs so as to facilitate the effective exercise of its functions and manage risk. The County Council has approved and adopted a code of corporate governance which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. The governance framework comprises the systems and processes and culture and values by which the Council is directed and controlled.

The County Council's Constitution is the Council's Code of Corporate Governance. It is fundamental to the working of the County Council and transcends the core principles of corporate governance in the CIPFA/SOLACE having been framed in accordance with statute and Government guidance and evolved in the light of experience and subsequent legislation. The Constitution is the guarantor of the continuing openness, accountability and integrity of the Council's decision-making processes and sets a series of exacting standards against which the Council's actions – and those of individual members and officers - can be judged and, if necessary, challenged.

In addition, the County Council, through its Audit Committee, also reviews that governance framework annually, including the system of internal controls and reports on this through the Annual Governance Statement. The Audit Committee also ensures that the Council has robust risk management processes which are embedded in all its operations. The Audit Committee works as an effective audit committee and the County Council's internal audit service provides robust internal audit challenge. The County Council's Audit Committee in June 2010 endorsed the Governance Statement for 2009/10.

As illustrated elsewhere in this Report, the Standards Committee is responsible for the oversight of professional standards and requires probity and propriety in the conduct of its business, ensures appropriate codes of business practice are in place and that the council, its members, officers and agents exhibit high standards of personal conduct at all times.

Independent Member Ethical Governance Framework Monitoring Protocol

Purpose:

To provide feedback to the Standards Committee annually (in November of each year) and identify any issues that may need to be addressed by the Council in its ethical governance framework or through Member training and development or by the Standards Committee in its Annual Report.

Process:

The Chairman of the Council/Cabinet/Committee will, at the beginning of the relevant meeting, formally acknowledge the presence of the Independent Member attending that meeting; indicating that he/she is there to observe and monitor compliance with the Council's ethical governance framework.

The attendance of the Independent Member will be recorded in the minutes of that meeting as a visible means of demonstrating the Council's commitment to improving the public's perception of compliance with its governance arrangements.

All observations made by an Independent Members will, normally, be non-attributable and anonymised and remain confidential until considered by the Standards Committee.

Unless a potential breach of the Code or other event has occurred that may warrant immediate action and/or need to be brought to the attention of the Council's Monitoring Officer, all feedback will be considered annually by the Standards Committee.

The Standards Committee's Terms of Reference

To undertake such other functions as the Secretary of State may by regulation confer upon a Local Authority Standards Committee.

To exercise all the functions of a Standards Committee under the Ethical Framework established by the Local Government Act 2000, as amended and all Statutory Instruments and Regulations made by the Secretary of State thereunder.

To advise the County Council on the adoption of a Members' Code of Conduct with any appropriate local provisions and on its subsequent monitoring and updating.

To implement the Code of Conduct including the training of members and officers.

To advise members as to the declaration of interests and the grant of dispensations where appropriate to allow members to participate in matters in which they have interests.

To supervise the Registers of Members' and Officers' Interests and of politically restricted officers.

To receive reports from the Standards Board or ethical standards officers following investigations and to advise the Council on the implications of any disciplinary sanctions imposed by the Board or condign action within the Council's own competence.

To oversee the Council's policy on the Proper Conduct of Business.

To keep up to date the Council's Code of Practice on relations between members and officers.

To be responsible for the Council's procedures for investigating and responding to complaints.

To adopt contract conditions to apply the Council's complaints procedure to contractors.

To approve a Local Planning Code.

To consider Findings of Maladministration by the Local Government Ombudsman.

Professor Bill Forsythe
April 2011

Jan Shadbolt



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