

Title of Report:	Standards Committee Annual Report 2012/13
Report to be considered by:	Council
Date of Meeting:	14 May 2013
Forward Plan Ref:	C2508

Purpose of Report: To present the Annual Standards Committee report to the Council.

Recommended Action:

1. Members are requested to note the content of the report.
2. Report to be circulated to all Parish/Town Councils in the District for information.

Reason for decision to be taken: There is no decision. The Council is encouraged to produce an annual report.

Other options considered: None

Key background documentation: Quarter 2 and Quarter 3 Monitoring Officer's Reports to the Standards Committee

The proposals will help achieve the following Council Strategy principle:	
<input checked="" type="checkbox"/>	CSP7 - Empowering people and communities
The proposals contained in this report will help to achieve the above Council Strategy principle by:	
Ensuring that the activity of the Standards Committee be reported back to all District/Town and Parish Councillors	

Member Details	
Name & Telephone No.:	Councillor Dominic Boeck
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Date Portfolio Member agreed report:	02 April 2013

Contact Officer Details	
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Implications

- Policy:** Revised policy and changes to processes adopted at Council in May 2012
- Financial:** There are no financial issues arising from this report. All costs associated with the investigation of complaints are met from within existing budgets.
- Personnel:** There are no personnel issues associated with this report
- Legal/Procurement:** There are no legal issues arising from this report, The matters covered by this report are generally requirements of the Local Government Act 2000 in so far as appropriate and the Localism Act 2011 and its supporting regulations.
- Property:** None
- Risk Management:** The benefits of this process are the maintenance of the Council's credibility and good governance by a high standard of ethical behaviour. The threats are the loss of credibility of the Council if standards fall.
- Equalities Impact Assessment:** The report is to note only. The subject of this report is not a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input checked="" type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The Localism Act 2011 was enacted on 15th November 2011 and it made fundamental changes to the system of regulation of the standards of conduct for elected and co-opted members of Councils and Parish Councils.
- 1.2 In order to ensure that the process was working effectively it was agreed that the Monitoring Officer would make quarterly reports to Standards Committee which set out the number and nature of complaints received and draw the Committee's attention to areas where training or other action might avoid further complaints in the future. It also provides a means of updating the Committee on the progress of investigations together with any costs incurred.
- 1.3 The Quarter Four report has been incorporated into the Annual Report which will raise awareness of activity undertaken by the Standards Committee over the previous year.

2. Proposals

- 2.1 Members are asked to note the content of the report.

3. Equalities Impact Assessment Outcomes

- 3.1 There is no decision to be made and therefore no Equality Impact Assessment has been undertaken.

Executive Report

1. Introduction

- 1.1 The Localism Act 2011 was enacted on 15th November 2011 and it made fundamental changes to the system of regulation of the standards of conduct for elected and co-opted members of Councils and Parish Councils.
- 1.2 In order to ensure that the process was working effectively it was agreed that the Monitoring Officer would make quarterly reports to Standards Committee which set out the number and nature of complaints received and draw the Committee's attention to areas where training or other action might avoid further complaints in the future. It would also provide a means of updating the Committee on the progress of investigations together with any costs incurred.
- 1.3 The Quarter Four report has been incorporated into the Annual Report which will raise awareness of activity undertaken by the Standards Committee over the previous year.

2. Governance

- 2.1 The Council adopted a new Standards Regime to implement the requirements of the Localism Act 2011 and the Regulations made under that Act. This included the following documents which were approved at Full Council on the 10 May 2012:
 - New Terms of Reference for the Standards Committee and Advisory Panel;
 - A new Code of Conduct for West Berkshire District Councillors;
 - New outline complaints procedures for breaches of that code;
 - A new dispensations procedure.
- 2.2 The Council agreed to appoint a Standards Committee subject to the proportionality arrangements comprising six District Councillors together with two co-opted Parish Representatives.
- 2.3 The Council also agreed to appoint an Advisory Panel to deal with complaints and processes and report to the Standards Committee. The Advisory Panel would comprise two independent members, four District Councillors (not subject to proportionality arrangements) and two Parish Councillors. The Advisory Panel would also appoint two substitute Parish Councillors to ensure continuity and to build experience amongst the Parish Councillors.
- 2.4 Under Section 28 of the Localism Act 2011 the Council also had to ensure it appointed at least one Independent Person who would be consulted before any decision was made to investigate an allegation against any Member of the Council or any Parish Councillor. It was agreed at the Full Council meeting on the 27 September 2012 that the Independent Person may be consulted directly either by the person who has made the complaint or the person the complaint has been made about. Two Independent Persons were therefore appointed in order to ensure that a conflict situation did not arise.

3. Independent Persons

3.1 Interviews were held on 6th August 2012 with the interview panel comprising the Chairman and Vice-Chairman of Standards Committee and the Monitoring Officer. Following receipt of satisfactory references the Panel resolved to appoint Mr James Rees and Mr John Bingham as Independent Persons for the next 12 months in accordance with the Localism Act (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012.

3.2 James Rees

James Rees has many years' experience of business in a variety of roles. The majority of these have been in general management both at national and international level.

Originally a pharmacist, organic chemist and pharmacologist he then entered the pharmaceutical industry. After wide experience with several multinational companies he became a Corporate VP with Syntex responsible for total business activities in a large group of markets including the U.K., Benelux, Scandinavia, Eastern Europe, Greece, Turkey and Israel, Anglophone Africa and the Indian sub-continent.

With his wealth of experience in science based and other enterprises James Rees offers a broad range of management and business skills.

He also has extensive experience as a management consultant specialising in business performance improvement.

Assignments have included:

- Chairmanships of various companies.
- Company acquisitions and sales.
- Market investigation and development.
- Public Relations.
- Strategic Planning.
- General business guidance.

James is a Fellow of the Royal Pharmaceutical Society, a Fellow of the Chartered Institute of Management, a Fellow of the Institute of Directors and a graduate of the Harvard Business School.

James Rees was the former Chairman of the West Berkshire Council Standard's Committee.

3.3 John Bingham

John Bingham joined the Standards Committee in 2006 as an Independent Member. John previously was the Town Centre Manager for Wokingham in East Berkshire following many years owning and running a restaurant in the town. He was also very active locally being a member of the Wokingham Society and very involved with the Winter Carnival in the town. John Bingham was the former Vice-Chairman of the Standards Committee.

4. Standards Committee

4.1 *Role and Function*

The Standards Committee has the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) assisting the Councillors and co-opted Members, to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption and subsequent revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted Members on requirements relating to interests set out in the Members' Code of Conduct;
- (g) ensuring arrangements are in place under which allegations of misconduct in respect of the members' Code of Conduct can be investigated and to review such arrangements appropriately;
- (h) the exercise of (a) to (g) above in relation to the Parish / Town Councils wholly or mainly in its area and the Members of those Parish / Town Councils;

4.2 The District Councillors on the Standards Committee are representatives of both political groups within the Council but are subject to the proportionality rules. The Standards Committee is however politically neutral. The Standards Committee is expected to operate above party politics and its Members have the respect of the whole authority, regardless of their political party.

4.3 During 2012/13 the Standards Committee comprised the following Members:

- Dominic Boeck (Chairman) (Conservative)
- Adrian Edwards (Conservative)
- Mollie Lock (Liberal Democrat)
- Gwen Mason (Vice-Chairman) (Liberal Democrat)
- Garth Simpson (Conservative)
- Virginia von Celsing (Conservative)

4.4 The Standards Committee has a special responsibility to the 56 Town and Parish Councils within the District. It is responsible for ensuring that high standards of conduct are met within the parishes and that all Parish and Town Councillors are aware of their responsibilities under their Codes of Conduct.

4.5 The District Councillors are therefore supported on the Standards Committee by two co-opted Parish Councillors who are elected in a non-voting capacity. During 2012/13 the Standards Committee comprised the following Parish Councillors:

- Chris Bridges
- Richard Hudspith (who resigned as a Parish Councillor during 2012)
- Mauline Akins (who replaced Richard Hudspith)

5. Advisory Panel

- 5.1 The Advisory Panel is responsible for dealing with complaints where evidence of breach of the Code has been identified and reports its findings to the Standards Committee for formal decision.
- 5.2 The District Councillors on the Advisory Panel are representatives of both political groups within the Council and are not appointed in accordance with the proportionality rules. During 2012/13 the Advisory Panel comprised the following District Councillors:
- David Allen (Liberal Democrat)
 - David Holtby (Conservative)
 - Geoff Mayes (Liberal Democrat)
 - Andrew Rowles (Conservative)
- 5.3 During the 2012/13 Municipal Year the following Parish Councillors were appointed to the Advisory Panel:
- Tony Renouf
 - Peter Iveson
 - Mauline Akins (sub – who later replaced Richard Hudspith on the Standards Committee)
 - David Russell (sub- who later resigned as a Parish Councillor and therefore from the Committee)
 - there are currently two vacancies for substitutes on the Panel.
- 5.4 During the 2012/13 Municipal year the following Independent Member was appointed to the Advisory Panel:
- Mike Wall
 - There is also a vacancy for a second Independent Person.

6. The Monitoring Officer

- 6.1 In West Berkshire Council the role of the Monitoring Officer is a statutory post and rests with the Head of Legal Services. The Monitoring Officer has a key role in promoting and maintaining standards of conduct.
- 6.2 As well as acting as legal adviser to the Standards Committee and Advisory Panel, the Monitoring Officer carries out the following functions:
- reporting on contraventions or likely contraventions of any enactment or rule of law and reporting on any maladministration or injustice where the Ombudsman has carried out an investigation;
 - establishing and maintaining registers of Members' interests and gifts and hospitality;
 - maintaining, reviewing and monitoring the Constitution;

- advising Members and Parish Councillors on interpretation of the Code of Conduct;
- supporting the Standards Committee and Advisory Panel;
- conducting or appointing an external investigator to look into allegations of misconduct;
- performing ethical framework functions in relation to Parish Councils;
- acting as the proper officer for access to information;
- undertaking an initial assessment , in consultation with the Independent Person, when complaints relating to alleged breach of the Code of Conduct are received;
- making arrangements for relevant matters to be considered by the Standards Committee and Advisory Panel;
- advising whether Executive decisions are within the policy framework; and
- advising on vires issue and maladministration, and in consultation with the Section 151 Officer financial impropriety, probity, and budget and policy issues to all Members.

7. The Work of the Committee 2012 – 2013

- 7.1 The Standards Committee continues to develop, revise, promote and monitor the Council's new Code of Conduct. One of the other roles of the Standards Committee is to promote and maintain high standards of conduct within the Council. The Committee has to that end started to assess and amend its policies and procedures to take cognisance of revised legislation and best practice.
- 7.2 During the 2012/13 Municipal Year the Standards Committee hosted one training event for District and Parish Councillors in July 2012 on the New Standards Arrangements. Training for the Standards Committee and Advisory Panel members is ongoing.
- 7.3 The Department for Communities and Local Government issued some guidance for Councillors on personal interests in August 2012 and this was circulated to all District Councillors as well as to the clerks to the Town and Parish Councils.
- 7.4 Since June 2012 Part 3 (Scheme of Delegation), Part 4 (Council Rules of Procedure), Part 5 (Executive Rules of Procedure), Parts 9 (Budget and Policy Framework), 10 (Financial Rules of Procedure), Part 11 (Contract Rules of Procedure) and Part 13 (Codes and Protocols - Appendices A and G (Codes of Conduct for Planning and Licensing)) of the Constitution have been updated.
- 7.5 The Standards Committee Assessment Criteria and Protocol for Dealing with Requests for Confidentiality have also been updated during the course of the year.

8. District Council

- 8.1 All elected Members of West Berkshire Council have completed the new declaration of interests forms and copies of those forms have been published on the Council's website as required by the legislation.
- 8.2 All Members had, in accordance with the Localism Act 2011, applied for and had been granted a dispensation to consider any matter which had a bearing on the setting of the council tax.
- 8.3 A new Code of Conduct and process for dealing with requests for dispensations for West Berkshire District Councillors has been adopted and applied during the year to date.

9. Parish/ Town Councils

- 9.1 All Parish/Town Councils were also required to adopt a new Code of Conduct and new procedures for dealing with dispensations. Parish/Town Councillors are also required to declare their interests under their respective codes.
- 9.2 The Monitoring Officer wrote to all Parish/Town Councils to provide copies of documents to assist Parish Councils with the development of their revised Codes of Conduct. A significant amount of time was spent on advising the Parishes on how to proceed with introducing the new regime.
- 9.3 All Parishes have submitted their Registers of Interest for their councillors. A verification process had been undertaken and Officers had asked for a number of issues to be clarified. The information had been posted on the Council's website or where Parishes had their own websites links had been set up on the Council's website.
- 9.4 The majority of Parishes have adopted the West Berkshire model Code of Conduct and the rest have opted for the National Association of Local Councils (NALC) version. Three have a hybrid version.

10. Local Assessment of Complaints

10.1 Quarter One April 2012 – June 2012 (under the previous Standards Regime)

During Quarter 1, five complaints were received by the Monitoring Officer. Three complaints pertained to District Councillors ((DC7/12, DC8/12 and DC9/12) and two to Parish Councillors (PC2/12 and PC3/12). The Assessment Sub-Committee determined that in respect of complaints DC7/12, PC2/12, PC3/12 and DC9/12 no further action should be taken.

In respect of DC8/12 it was decided that if the allegations were substantiated a minor breach of the Code of Conduct would have occurred. The Monitoring Officer was asked to write to the subject member to reiterate the relevant sections of the Planning Code of Conduct. The Monitoring Officer was also asked to write to all Members reminding them of the relevant sections of the Code of Conduct for Planning and to write to the Head of Planning and Countryside and request that the Pro Forma for Calling an Application to Committee be amended to include a section where Members would be able to declare an interest when calling an application in.

10.2 *Quarter Two July 2012 – September 2012*

During Quarter 2 three complaints were received by the Monitoring Officer. Two complaints pertained to District Councillors (NDC1/12 and NDC2/12) and one to a Parish Councillor (NPC1/12).

The Monitoring Officer, in consultation with the Independent Person, concluded that no further action should be taken in respect of complaints NDC2/12 and NPC1/12.

In the case of NDC1/12 the Monitoring Officer in consultation with the Independent Person decided that it would be appropriate for the matter to be investigated by an external investigator. The investigator concluded that there was no evidence of a breach of the Code of Conduct in this case. The investigator's report was discussed at an Advisory Panel meeting on the 23 January 2013 and they recommended to the Standards Committee that no further action should be taken on this matter. This decision was upheld by the Standards Committee when they met later that month.

As some complaints, submitted prior to the changes to the Standards regime, were still outstanding the Review Sub-Committee had to meet once in Quarter 2 to review a decision to take no further action in respect of complaint PC3/12. The decision to take no further action on this complaint was upheld.

The Monitoring Officer also received two draft reports from the external investigator in respect of breaches of the old Code of Conduct. These were reviewed by Members and appropriate action agreed. Costs associated with investigations have been met from existing resources.

Under the previous regime if the complainant disagreed with this finding they could ask for the item to be reconsidered by a Review Sub-Committee. The Localism Act does not provide any appeals mechanism. However the decision could be open to Judicial Review by the High Court should the complainant wish to take up this option. In one case the complainant has submitted two letters before action which are being addressed by Legal Services.

10.3 *Quarter Three October 2012 – December 2012*

During Quarter 3 one complaint was received by the Monitoring Officer. The complaint pertained to a Parish Councillor (NPC2/12).

The Monitoring Officer, in consultation with the Independent Person, concluded that no further action should be taken in respect of NPC2/12.

10.4 *Quarter Four January 2013-March 2013*

During Quarter 4 nine complaints have been received although three of these were subsequently withdrawn. Of the remaining six complaints four pertained to Parish Councillors (NPC1/13, NPC3/13, NPC5/13 and NPC6/13) and two to District Councillors (NDC1/13 and NDC3/13).

The Monitoring Officer, in consultation with the Independent Person, concluded that no further action should be taken in respect of complaints NPC3/13, NDC3/13, NPC1/13 and NPC6/13. In the case of NDC1/13 it was agreed that informal

resolution (in this case the subject member should write a letter of explanation to the complainant) was the most appropriate action. It was agreed that NPC5/13 should be investigated and the independent investigator has been appointed and has produced a draft report which is being taken through the revised procedures.

11. Year on Year Comparison of Complaints

11.1 Table 1 Number of District and Parish Councillor Complaints Received 2009/10 to 2012/13

	2009/10	2010/11	2011/12	2012/13
District Councillors	4	4	5	8
Parish Councillors	7	5	6	10
Total	11	9	11	18

No of complaints received over three year period

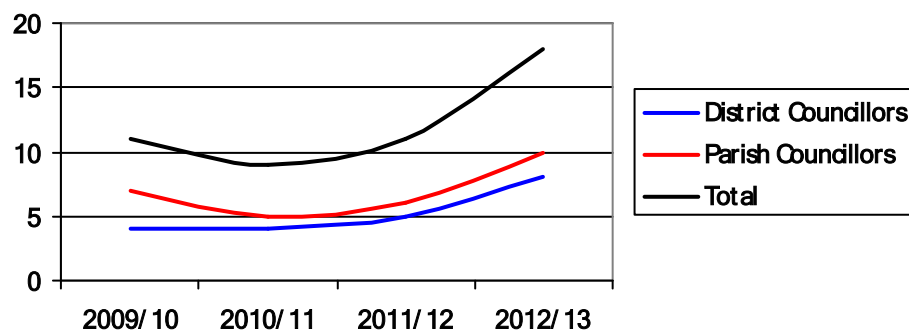


Table 2 Action Taken on Complaints Received 2009/10 to 2012/13

	2009/10	2010/11	2011/12	2012/13
No Further Action	1	3	6	11
Other Action	5	2	3	2
Investigation	5	4	2	2
Withdrawn	0	0	0	3
Total	11	9	11	18

11.2 Table 3 Outcome of Items Investigated 2009/10 to 2012/13

	2009/10	2010/11	2011/12	2012/13
Breach	2	1	2	0
No Breach	3	3	0	1
Result awaited	0	0	0	1
Total	5	4	2	2

12. Conclusion

- 12.1 The transition to the new Standards arrangements has not been straight forward mainly due to the speed at which the changes were introduced by Government and the fact little or no consultation was carried out with local authorities who are responsible for maintaining ethical standards.
- 12.2 The new processes are in their infancy and as suggested in the original report the procedure and ways of working will need a thorough review after 12 months of operation to reflect on its operation. Members may wish to raise any concerns they have at this stage and subsequently keep a note of potential changes they feel would enhance the arrangements.
- 12.3 Although the number of complaints at this stage remains relatively low, it should be noted that during Quarter 4 of 2012/13 there has been an increase in the number of complaints and this will need to be monitored closely.
- 12.4 The range of matters recently complained about has varied somewhat. The most likely area for a complaint to arise for District Councillors relates to Planning meetings (five complaints received). For Parish Councillors there are two significant areas that have generated concerns firstly behaviour at Parish Council meetings and secondly where conflict has arisen between Parish Planning Groups and Parish Councils.
- 12.5 It is suggested that to help mitigate complaints being made in the planning arena that the Member Development Session covering this function should incorporate a short refresher session on the new code and its processes.
- 12.6 It is also suggested that an item be added to the October District Parish Conference to discuss a ranges of issues arising at meetings including dealing with planning applications for the Parish Councils.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: N/a

Officers Consulted: Andy Day, Sarah Clarke, Moira Fraser, Corporate Board

Trade Union: N/a