

Title of Report:	Standards Committee Annual Report 2013/14
Report to be considered by:	Council
Date of Meeting:	15 May 2014
Forward Plan Ref:	C2690

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:

- Localism Act 2011
- Reports to Council 10 May 2012 and Special Council on the 16 July 2012
- New Terms of Reference for the Standards Committee and Advisory Panel;
- A new Code of Conduct for West Berkshire District Councillors (Full Council December 2013).
- Quarter 1, 2 and Quarter 3 Monitoring Officer's Reports to the Standards Committee

The proposals will help achieve the following Council Strategy principle:
 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	
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Date Member agreed report:	21 March 2014

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Implications

- Policy:** Revised policy and changes to processes adopted at Council in May 2012 and reviewed in December 2013.
- 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. The annual report is presented to Council in May each 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. The annual report is presented to full Council in May each 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 At the time the new Code was adopted it was agreed that the Code of Conduct would be reviewed a year after its inception. A small task group was set up in the summer of 2013 to consider the Council's existing Code and to suggest amendments in line with good practice. The Task Group comprised Councillors David Allen and Peter Argyle, James Rees (Independent Person) and Tony Renouf (Parish Councillor). The Task Group concluded that overall the revised Code and underpinning processes had worked well. Therefore only a number of minor amendments to the existing Code of Conduct and existing procedures were suggested. The revisions were discussed and agreed at the December 2013 Council meeting and copies of the documents were sent to all Town and Parish Councils.

3. Independent Persons

- 3.1 Under Section 28 of the Localism Act 2011 the Council also has to ensure it has appointed at least one Independent Person who is consulted before any decision is 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 have therefore been appointed in order to ensure that a conflict situation does not arise.
- 3.2 James Rees and John Bingham were appointed as the Councils Independent Persons for the 2013/14 Municipal Year and it is not proposed to make any changes to this appointment during the forthcoming Municipal Year.

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 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 2013/14 the Standards Committee comprised the following Members:

- Peter Argyle; (Chairman) (Conservative);
- Adrian Edwards (Conservative);
- Virginia von Celsing (Conservative);
- Garth Simpson (Conservative);

- Mollie Lock (Liberal Democrat);
- Gwen Mason (Vice Chairman) (Liberal Democrat).

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 appointed in a non-voting capacity. During 2013/14 the Standards Committee comprised the following Parish Councillors:

- Mauline Akins (Resigned from the Committee during the year)
- Barry Dickens (replaced Mauline Akins);
- Chris Bridges

5. Advisory Panel

5.1 The Advisory Panel is responsible for dealing with complaints where evidence of a 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 2013/14 the Advisory Panel comprised the following District Councillors:

- Quentin Webb;
- Andrew Rowles;
- Geoff Mayes;
- David Allen;

5.3 During the 2013/14 Municipal Year the following Parish Councillors were appointed to the Advisory Panel:

- Tony Renouf
- Peter Iveson
- Darren Peace (Parish Council Representative – Substitute)
- Lee Dillon (Parish Council Representative – Substitute)

5.4 During the 2013/14 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 vices 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 2013 – 2014

7.1 In addition to revising the Council's Code of Conduct and underpinning processes it was also agreed that it would be useful for the Council to produce a Social Media Protocol for Members. A draft protocol was discussed at the 14 October 2013 Standards Committee meeting and was referred to Full Council in December 2013 where it was adopted. The Standards Committee continues to promote and maintain high standards of conduct within the Council.

7.2 One of the functions of the Standards Committee is to oversee the Council's Constitution. The Committee was therefore asked to note that since May 2013 Part 3 (Scheme of Delegation), Part 4 (Council Rules of Procedure), Part 5 (Executive Rules of Procedure), Part 6 (Overview and Scrutiny Management Commission Rules of Procedure), Part 7 (Regulatory and Other Committees Rules of Procedure) and Part 13 Appendix (Codes and Protocols in the Council's Constitution) have been amended.

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 are encouraged to check their forms to ensure that all relevant information is included and that any changes made since the form was completed are updated.

9. Parish/ Town Councils

9.1 All Parish/Town Councils are 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. All Parishes have submitted their Registers of Interest for their councillors. The information has been posted on the Council's website or where Parishes have their own websites links have been set up on the Council's website.

9.2 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

Quarter 1 (April to June 2013)

10.1 During Quarter 1 three complaints were received by the Monitoring Officer. All three complaints pertained to Parish Councillors (NPC7/13, NPC8/13, NPC9/13). It was subsequently noted that NPC7/13 did not meet the agreed Assessment Criteria and the complaint was therefore not progressed. The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC8/13 and NPC9/13 no further action should be taken.

10.2 The Advisory Panel met once during this period to consider a report from an independent investigator into complaint NPC5/13. (a complaint made during the previous Financial Year). The Panel concurred with the investigator's finding of no breach and recommended to the Standards Committee that they accept this finding. The Standards Committee (at a meeting on the 01 July 2013) accepted the recommendation of both the Investigator and the Advisory Panel that no breach had occurred.

Quarter Two (July 2012 to September 2013)

10.3 During Quarter 2 one complaint (pertaining to two councillors) was received by the Monitoring Officer (NPC10/13). The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC10/13 no further action should be taken.

Quarter Three (October to December 2013)

10.4 During Quarter 3 two complaints were received by the Monitoring Officer: NPC11/13 and NDC4/13. The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC11/13 informal resolution would be the most appropriate course of action. The subject member was asked to write to the complainant and set out the circumstances surrounding the comments that she had made and explain that they were made in her private capacity and that she had not sought to cause any offence.

10.5 In respect of complaint NDC4/13 the complainant had asked for their identity to be kept confidential. Despite several attempts to contact the complainant no response has been received and therefore the complaint was not progressed.

Quarter Four (January to March 2014)

10.6 During Quarter 4 one complaint was received (NDC1/14) but it was unclear which District Councillor(s) the complainant wanted to complain about and despite several attempts to contact him to seek clarity no response has been received. The matter has therefore not been progressed.

11. Year on Year Comparison of Complaints

11.1 Table 1 Number of District and Parish Councillor Complaints Received 2009/10 to 2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
District Councillors	4	4	5	8	2
Parish Councillors	7	5	6	10	5
Total	11	9	11	18	7

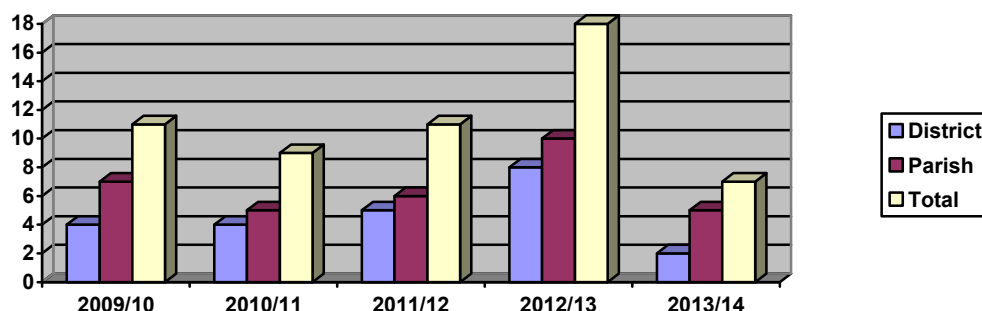


Table 2 Action Taken on Complaints Received 2009/10 to 2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
No Further Action	1	3	6	11	3
Other Action	5	2	3	2	1
Investigation	5	4	2	2	0
Withdrawn/ not progressed	0	0	0	3	3
Total	11	9	11	18	7

11.2 Table 3 Outcome of Items Investigated 2009/10 to 2013/14

	2009/10	2010/11	2011/12	2012/13	2013/14
Breach	2	1	2	0	0
No Breach	3	3	0	2	0
Total	5	4	2	2	0

12. Dispensations

- 12.1 During the course of the year the Monitoring Officer has granted a dispensation to all Councillors to speak and vote on any items pertaining to Council Tax.
- 12.2 The Standards Committee has granted two dispensations to dual and triple hatted District Councillors to allow them to speak and vote on items affecting the budgets of Town and Parish Councils.

13. Gifts and Hospitality

- 13.1 Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors) to Part 13 of the Constitution (Codes and Protocols) states that 'Regular updates of declarations will be reported to the Standards Committee as part of the quarterly performance monitoring reports'. A copy of the register for 2013/14 is therefore attached at Appendix A to this report.
- 13.2 Appendix D to Part 13 of the Constitution (Codes and Protocols) has been amended during the 2013/14 Municipal Year. In essence it requires Members to:
- Register *every* individual gift or item of hospitality received, in their capacity as a Councillor, that is over £25 in value;
 - Prior to accepting any hospitality with a value of £25 or more, a Councillor must seek authorisation from the Monitoring Officer;
 - Members should be aware of serial givers or repeat offers of hospitality;
 - registration of the gift or hospitality must be made *within 28 days of the date you received*;
 - Failure to comply with the rules is a breach of the Members' Code of Conduct and could lead to a complaint being reported to the Monitoring Officer or the Standards Committee;
 - The press and public have the right to inspect your gift and hospitality declaration forms;
 - Where the spouse/partner of a Councillor is also a recipient of any gifts or hospitality the Councillor must ensure that the combined value is also recorded by the Monitoring Officer in accordance with the procedures.

14. Conclusion

- 14.1 Despite the speed at which the changes to the Standards arrangements were introduced the Standards Committee and Officers worked hard to get the revised processes in place and these appear to be well imbedded now. The Code of Conduct and the underpinning processes were reviewed during the year and only relatively small amendments were required. These processes will continue to be monitored and once the whole process has been tested (no complaints have reached the Standards Committee for final determination since the system was introduced) further adjustments may be required.

- 14.2 In line with other principal Local Authorities a Social Media Protocol has been adopted to ensure that Councillors make use of social media effectively whilst avoiding potential accusations that they may be breaching the Council's Code of Conduct. It is also designed to ensure that the reputation of the Council and Members is not adversely affected and that the Council is not subject to legal challenge as a result of information posted on social networking sites or blogs.
- 14.3 The number of complaints at this stage remains low. In fact there has been a significant decrease in the number of complaints received during 2013/14 (the fewest number of complaints since the Standards Committee was first introduced). The reasons for this are unclear. It could be as a result of improved behaviour amongst District and Parish Councillors or that complainants are less willing to instigate a complaint given the reduction in severity of sanctions that the Standards Committee are able to impose.
- 14.4 What is less uncertain is that the new regime has resulted in a significant reduction in the number of complaints that are investigated (no complaints were referred for investigation this year). This can be directly ascribed to the fact that the Monitoring Officer is able to request information from both the complainant and the subject member prior to deciding on the appropriate course of action to take which enables a more complete assessment of the circumstances to be undertaken at an early stage in the process.
- 14.5 As the number of complaints at this stage remains low no specific training needs have been identified for either District or Parish Councillors.

Appendices

Appendix A – Register of Members Gifts and Hospitality for 2013/14

Consultees

Local Stakeholders: N/a

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

Trade Union: N/a