

**Title of Report:** **Standards Committee Annual Report 2014/15**

**Report to be considered by** Council on 19 May 2015

**Forward Plan Ref:** C2858

**Purpose of Report:** To present the Annual Standards Committee report to Full 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:**

- 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 of 2014/15 Monitoring Officer's Reports to the Standards Committee

**Published Works:**

- Localism Act 2011

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

#### **2014/15 Standards Committee Chairman**

**Name & Telephone No.:** Councillor Peter Argyle – Tel (0118) 9376853

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**Date Member agreed report:** 11 March 2015

Contact Officer Details	
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## Implications

<b>Policy:</b>	Revised policy and changes to processes adopted at Council in May 2012 and reviewed in December 2013.
<b>Financial:</b>	There are no financial issues arising from this report. All costs associated with the investigation of complaints are met from within existing budgets.
<b>Personnel:</b>	There are no personnel issues associated with this report
<b>Legal/Procurement:</b>	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.
<b>Property:</b>	None
<b>Risk Management:</b>	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.
<b>Equalities Impact Assessment:</b>	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.

<b>Is this item subject to call-in?</b>	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

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## 1. Introduction

- 1.1 Following the enactment of the Localism Act 2011 the Council made a number of amendments to the Standards Regime. As part of the process it was agreed that quarterly update reports would be produced for the Standards Committee and that an annual report would be presented to full Council.

### *Membership*

- 1.2 Membership of the Standards Committee and Advisory Panel has remained stable over the previous Municipal Year. The only adjustment was that following the resignation of Councillor Peter Iveson as a Parish Councillor he was replaced on the Advisory Panel by Councillor Darren Peace.
- 1.3 In accordance with the regulations the Authority will need to re-consider the nominations for Independent Persons for the forthcoming Municipal Year.

### *Complaints*

- 1.4 During the 2014/15 Municipal Year 9 complaints about potential breaches of the Code of Conduct were submitted to the Monitoring Officer. Of these 9 complaints 7 pertained to Parish Councillors and 2 pertained to District Councillors. The table below sets out Action Taken on Complaints

<b>No Further Action</b>	<b>2</b>
<b>Other Action</b>	<b>3</b>
<b>Investigation</b>	<b>3</b>
<b>Withdrawn/ not progressed</b>	<b>1</b>
<b>Total</b>	<b>9</b>

- 1.5 Three complaints were being investigated. The findings of the investigator in relation to NPC4/14 were reported to the Advisory Panel on the 23 March 2015. Due to the fact that new information came to light after the agenda was published the matter was deferred to a later meeting so that further clarity could be sought. The other investigations in respect of NPC5/14 and NPC1/15 are still underway.
- 1.6 The number of complaints at this stage remains low.

## 2. Proposals

- 2.1 Members are asked to note the report and agree that it be circulated to all Town and Parish Councils for information once its been adopted by Full Council in May 2015.

## 3. Equalities Impact Assessment Outcomes

- 3.1 The report does not require a decision and therefore no EIA is required.

# Executive Report

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## 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 locally 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 inform Members of any other activity that was taking place around the Standards regime. It would also provide a means of updating the Committee on the progress of investigations.
- 1.3 It was also agreed that an annual report would be presented to Full Council at the Annual meeting and that the year end report would be circulated to all Town and Parish Councils. The annual report would include the quarter four activity. This report also includes a look forward to the forthcoming Municipal 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. A number of minor amendments to the existing Code of Conduct and existing procedures were suggested and the revisions were agreed at the December 2013 Council meeting.

## 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 Council's Independent Persons for the 2014/15 Municipal Year.
- 3.3 In accordance with the regulations the Authority will need to re-consider the nominations for Independent Persons for the forthcoming Municipal Year. The Independent Persons must be appointed through the process of public advertisement, application and appointment by Full Council. If required an interview process will be undertaken.
- 3.4 A person is not considered to be "independent" if:-
  - (i) They are or have been, within the last five years, an elected or co-opted Member or officer of the Council or of any Parish Council's within this area. This also applies to committees or sub-committees of the various Councils.
  - (ii) They are a relative or close friend of a current elected, or co-opted, Member or officer of the Council or any Parish Council within its area, or any elected or co-opted member of any committee or sub-committee.
  - (iii) The definition of relative includes the candidate's spouse, civil partner, grandparent, child etc.
- 3.5 In addition The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have recently been enacted which require the Council to make changes to the Constitution to include certain provisions relating to the potential dismissal or disciplining of the Head of Paid Service, Monitoring Officer or S151 Officer. As part of the procedural changes required a panel needs to be set up to advise on matters relating to the dismissal of these Officers. The Act requires at least two Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 to be appointed to the panel. The roles of the Independent Persons therefore need to be updated for 2015/16.

#### **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 2014/15 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 2014/15 the Standards Committee comprised the following Parish Councillors:

- Barry Dickens (co-opted non voting Parish Councillor)
- Chris Bridges (co-opted non voting Parish Councillor)

## **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 by an independent investigator 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 2014/15 the Advisory Panel comprised the following District Councillors:

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

5.3 During the 2014/15 Municipal Year the following Parish Councillors were appointed to the Advisory Panel:

- Tony Renouf
- Peter Iveson (resigned during quarter 4)
- Darren Peace (replaced Peter Iveson in quarter 4)
- Lee Dillon (Parish Council Representative – Substitute)

During Quarter 4 Peter Iveson decided to stand down as a Parish Councillor and therefore from the Advisory Panel. The Monitoring Officer wrote to both of the substitutes on the Panel and it was therefore agreed that Darren Peace would replace him.

5.4 During the 2014/15 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 2014 – 2015**

- 7.1 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 2014 Part 3 (Scheme of Delegation), Part 7 (Regulatory and Other Committees, Part 9 (Budget and Policy Framework), Part 10 (Finance Rules of Procedure), Part 12 (Personnel Rules of Procedure), Part 13 (Codes and Protocols) Appendices C, I and J, have been amended.
- 7.2 No dispensations were requested or granted by the Standards Committee during the Municipal Year. The Monitoring Officer has granted a dispensation to Councillor Rick Jones to speak and vote on any items pertaining to Council Tax and a previously granted dispensation to the same effect remains in place for all Councillors.
- 7.3 No specific training needs were identified during the Municipal Year. Training on the Code of Conduct has been factored into the District Councillor's Member Induction Programme post the May 2015 elections. In addition Officers have contacted all town and parish councils to notify them that a training session for all new Town and Parish Councillors has been arranged for the 17 June 2015.

## **8. District Council**

- 8.1 All elected Members of West Berkshire Council have completed the register 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.
- 8.3 New interests paperwork will be issued to all Members post the May 2015 election.

## **9. Parish/ Town Councils**

- 9.1 Parishes have continued to provide the Monitoring Officers with updates to parish councillors' Registers of Interest and changes to their membership which are fed through and posted on the relevant websites.

## **10. Local Assessment of Complaints**

### ***Quarter 1 (April to June 2014)***

- 10.1 During Quarter 1 of 2014/15 two complaints were received by the Monitoring Officer. Both complaints pertained to Parish Councillors (NPC1/14 and NPC2/14).
- 10.2 The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC1/14 no further action should be taken.



- 10.3 Further clarity was sought in relation to complaint NPC2/14. Despite numerous requests the complainant did not stipulate which of the Parish Councillors he wished to complain about and as a consequence the matter could not be progressed

***Quarter Two (July to September 2014)***

- 10.4 During Quarter 2 of 2014/15 three complaints were received by the Monitoring Officer. Two complaints pertained to Parish Councillors (NPC3/14 and NPC4/14). The other complaint, while referring to a single incident, pertained to two different District Councillors (NDC2/14)
- 10.5 The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC3/14 a potential breach of the Code of Conduct had occurred and as a consequence an advertisement was placed in a newspaper local to the Parish Council concerned. The outcome was also reported to the Parish Council and they were asked to notify all councillors of the outcome at the next Parish Council meeting and make a reference to the announcement in the minutes of that meeting.
- 10.6 The Deputy Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC4/14 a potential breach of the Code of Conduct might have occurred and the matter was referred to an independent investigator to investigate. The initial findings of the investigator were reported to the Advisory Panel on the 23 March 2015. New information came to light after the agenda was published and as a result of this the panel agreed to defer consideration of that item until the matter could be more fully investigated.
- 10.7 In relation to NDC2/14 the Monitoring Officer, in consultation with the Independent person, concluded that no further action should be taken in respect of the allegations made against one of the District Councillors. They did find, however, that the second Councillor had breached the District Council's Code of Conduct and as a consequence an advert was placed in a local newspaper, on the Council's website and the Councillor was asked to write a letter of apology to another Councillor.

***Quarter Three (October to December 2014)***

- 10.8 During Quarter 3 of 2014/15 one complaint was received by the Monitoring Officer. The Monitoring Officer in consultation with the Independent Person concluded that in respect of NPC5/14 the matter should be referred for investigation.

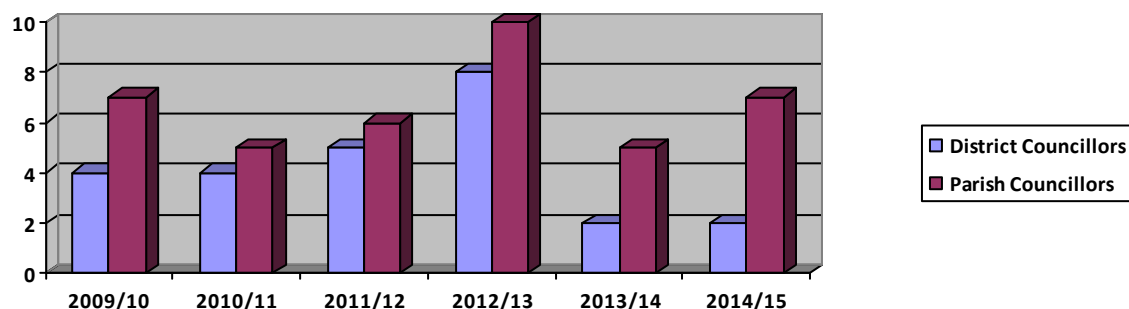
***Quarter Four (January to March 2015)***

- 10.9 During Quarter 4 of 2014/15 two complaints were received by the Monitoring Officer. The Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC1/15 a potential breach of the Code of Conduct might have occurred and the matter was referred to an independent investigator to investigate. The matter is currently being investigated.
- 10.10 The Deputy Monitoring Officer, in consultation with the Independent Person, concluded that in respect of NPC2/15 that, based on the facts available there did not appear to be a breach of the Code of Conduct. However, on the facts, it was also considered appropriate for the Monitoring Officer to write to the clerk of the Council concerned to offer some guidance.

## 11. Year on Year Comparison of Complaints

11.1 Table 1 Number of District and Parish Councillor Complaints Received 2009/10 to 2014/15

	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>District Councillors</b>	4	4	5	8	2	2
<b>Parish Councillors</b>	7	5	6	10	5	7
<b>Total</b>	11	9	11	18	7	9



11.2 With the exception of 2012/13 the number of complaints has remained relatively stable. The slight decline in numbers might be attributable to the changes to the sanctions which could be imposed as a result of the implementation of the Localism Act.

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

	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>No Further Action</b>	1	3	6	11	3	2
<b>Other Action</b>	5	2	3	2	1	3
<b>Investigation</b>	5	4	2	2	0	3
<b>Withdrawn/ not progressed</b>	0	0	0	3	3	1
<b>Total</b>	11	9	11	18	7	9

11.3 Table 3 Outcome of Items Investigated 2009/10 to 2014/15

	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
<b>Breach</b>	2	1	2	0	0	0
<b>No Breach</b>	3	3	0	2	0	0
<b>Outcome awaited</b>	0	0	0	0	0	3
<b>Total</b>	5	4	2	2	0	3

## 12. Gifts and Hospitality

12.1 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 2014/15 is therefore attached at Appendix A to this report.

12.2 In essence Members are required 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.

## 13. Conclusion

13.1 The number of complaints at this stage remains low. 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.

13.2 What is less uncertain is that the new regime has resulted in a significant reduction in the number of complaints that are investigated. 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.

13.3 As the number of complaints at this stage remains low no specific training needs have been identified other than post May 2015 election induction training for new District and Parish/Town Councillors. Corporate Board has requested that the governance arrangements for the Standards Committee be revisited during the forthcoming Municipal Year.

## **Appendices**

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Appendix A – Register of Members Gifts and Hospitality for 2014/15

### **Consultees**

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**Local Stakeholders:** N/a

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

**Trade Union:** N/a