

<b>Title of Report:</b>	<b>Update on Ethical matters – Quarter 1 of 2015/16</b>
<b>Report to be considered by:</b>	Governance and Ethics Committee
<b>Date of Meeting:</b>	24 August 2015
<b>Forward Plan Ref:</b>	GE3031

**Purpose of Report:** To provide an update on local and national issues relating to ethical standards and to bring to the attention of the Committee any complaints or other problems within West Berkshire.

**Recommended Action:** To note the report.

**Reason for decision to be taken:** The Governance and Ethics Committee is responsible for ensuring that District and Town/Parish Councillors in West Berkshire are aware of the standards of conduct expected of them and that they observe those standards.

**Other options considered:** None

**Key background documentation:**

- Localism Act 2011
- Reports to Council 10 May 2012 and Special Council on the 16 July 2012
- Terms of Reference for the Governance and Ethics Committee and Advisory Panel;
- A new Code of Conduct for West Berkshire District Councillors.

The proposals will help achieve the following Council Strategy aim:	
<input checked="" type="checkbox"/>	<b>CSA5 – Become an even more effective Council</b>
The proposals contained in this report will help to achieve the above Council Strategy aims and priorities by: Ensuring that high ethical standards are maintained by District, Town and Parish Councillors	

<b>Member Details</b>	
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<b>Date Member agreed report:</b>	13 July 2015

Contact Officer Details	
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### Implications

- Policy:** Revised policy and changes to processes adopted at Council 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 Localism Act 2011 and regulations made under it.
- 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.

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Not relevant to equality			<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
Report is to note only		<input checked="" type="checkbox"/>

# Executive Summary

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## 1. Introduction

- 1.1 Following the introduction of the Localism Act 2011 it was agreed that quarterly reports would be provided to the Governance and Ethics Committee. This report sets out the number and nature of standards complaints received, progress made with complaints submitted and highlights any areas where training or other action might avoid further complaints in the future.

## 2. Key Issues Identified in the report:

- 2.1 Following the 02 July 2015 Council meeting the Standards Committee and Governance and Audit Committee were merged and a Governance and Ethics Committee was formed. Revised Membership of the Committee has now been agreed with the political groups.
- 2.2 Three Independent Persons have been appointed to support the standards regime. They are: Lindsey Appleton, James Rees and Mike Wall.
- 2.3 The following Parish Councillors have also been re-appointed: Chris Bridges and Barrie Dickens (Non-voting Parish Council representatives on the Governance and Ethics Committee) and Tony Renouf and Darren Peace (Parish Council Representatives on the Advisory Panel).
- 2.4 During Quarter 1 of 2015/16 one formal complaint (NPC3/15) was received by the Monitoring Officer. This complaint was later withdrawn by the complainant.
- 2.5 The investigation into complaints NPC4/14, NPC5/14 and NPC1/15, which are all related, has concluded. The independent investigator's report will be submitted to the Advisory Panel on the 13<sup>th</sup> August 2015 who will make a recommendation to the Governance and Ethics Committee (special meeting on the 03<sup>rd</sup> September 2015).
- 2.6 No dispensations were granted during Quarter 1 of 2015/16.
- 2.7 No declarations of gifts and hospitality have been made by District Councillors during Quarter 1 of 2015/16.
- 2.8 Training on the Code of Conduct for District, Town and Parish Councillors was undertaken in June 2015 and a further session has been arranged for October 2015.
- 2.9 The number of complaints remains low.

## 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

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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/Town Councils.
- 1.2 As part of this process the Council set up a Standards Committee to ensure that high standards of conduct were promoted. The workload of the Standards Committee has declined over the last few years and Members therefore agreed to the merger of the Governance and Audit and Standards Committees of the Council in order to streamline governance arrangements. This decision was made at the 02 July 2015 Council meeting.
- 1.3 As part of the process of promoting and maintaining high standards of conduct by Councillors and co-opted Members it was agreed that the Monitoring Officer would make quarterly reports to the Standards Committee. This function will now be undertaken by the Governance and Ethics Committee. The reports set out the number and nature of complaints received and highlights 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.

## 2. Standards Regime

- 2.1 The Council has adopted a Standards Regime to meet the requirements of the Localism Act 2011 and the Regulations made under that Act including:
  - Terms of Reference for the Governance and Ethics Committee and Advisory Panel;
  - Code of Conduct for West Berkshire District Councillors;
  - complaints procedures for breaches of that code;
  - dispensations procedure.

## Membership

### *Independent Persons*

- 2.2 Under Section 28 of the Localism Act 2011 the Council 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/Town 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. Following the 02 July 2015 meeting three Independent Persons have been appointed and they will be used on a rotational basis to assess complaints and support the Advisory Panel.
- 2.3 The Independent Persons for 2015/16 are:
  - Lindsey Appleton
  - James Rees
  - Mike Wall

- 2.4 The role of the Independent Person has recently been expanded to include a requirement to sit on a panel where the potential dismissal or disciplining of the Head of Paid Service, Monitoring Officer or S151 Officer is discussed. This amendment was introduced to meet the requirements of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. That panel would make a recommendation to Full Council.
- 2.5 For the avoidance of doubt a person is not considered to be "independent" if:-
- a) 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.
  - b) 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.
  - c) The definition of relative includes the candidate's spouse, civil partner, grandparent, child etc.

### ***Governance and Ethics Committee***

2.6 The Governance and Ethics Committee consists of ten members, eight District Councillors, reflecting the political balance of the Council and two co-opted non voting Parish/Town Councillors. The membership for 2015/16 is as follows:

- Steve Ardagh-Walter,
- Jeff Beck,
- Graham Bridgman,
- James Cole,
- Lee Dillon,
- Rick Jones,
- Anthony Pick,
- Quentin Webb,
- Chris Bridges, (Non-voting Parish Council representative)
- Barrie Dickens (Non-voting Parish Council representative)
  
- Billy Drummond (substitute)
- Sheila Ellison (substitute)
- Tim Metcalfe (substitute)

### ***Advisory Panel***

2.7 The Advisory Panel comprises the following Members:

- Adrian Edwards
- Richard Crumly
- Mollie Lock,
- Alan Macro
- Tony Renouf,
- Darren Peace

- 2.8 Two Independent Persons will also be included on each Advisory Panel and they will be used on a rotational basis. The Independent Person consulted as part of the Initial Assessment should not sit on the associated Advisory Panel if one is required. The Advisory Panel meetings will be chaired by an Independent Person.

### **3. Parish/ Town Councils**

- 3.1 Parishes and Town Councils have been asked to provide the Monitoring Officer with their Parish Councillor's Registers of Interest forms post the May 2015 election. This information will be posted on the relevant websites or where the Parish Council does not have a website it will be published on West Berkshire Council's website. Work on collecting this information is ongoing.

### **4. Council's Constitution**

- 4.1 Since April 2015 Part 2 (Articles of the Constitution), Part 4 (Council Rules of Procedure), Part 11 (Contract Rules of Procedure), Part 12 (Personnel Rules of Procedure) Appendices F (Protocol for Use of ICT Equipment Supplied to Members) and J (Protocol for Council Representation on Outside Bodies) to Part 13 (Codes and Protocols) and Part 14 (Member Allowances Scheme) have been amended by Full Council.
- 4.2 The Monitoring Officer under his delegated authority has authorised the following changes to the Constitution since April 2015: Appendix A to Parts 5 (Executive Rules of Procedure), 6 (Overview and Scrutiny Rules of Procedure) and 7 (Regulatory and Other Committees Rules of Procedure).

### **5. Complaints Against Councillors**

- 5.1 During Quarter 1 of 2015/16 (April –June 2015) one formal complaint was received by the Monitoring Officer. The complaint (NPC3/15) was later withdrawn by the complainant.
- 5.2 In terms of existing complaints the Deputy Monitoring Officer, in consultation with the Independent Person, had concluded during quarter 2 of 2014/15 that a potential breach of the Code of Conduct might have occurred in relation to NPC4/14 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.
- 5.3 During Quarters 3 and 4 of 2014/15 two further, but related complaints, were received by the Monitoring Officer. The Monitoring Officer in consultation with the Independent Person concluded that in respect of both NPC5/14 and NPC1/15 the matters should also be referred for investigation. It was later agreed that all three complaints should be subject to a single investigation. This work has now concluded and will be referred back to the Advisory Panel (13<sup>th</sup> August 2015) who will make a recommendation to the Governance and Ethics Committee for determination (Special meeting on the 03<sup>rd</sup> September 2015).

## 6. Dispensations

6.1 No dispensations to West Berkshire Councillors were granted during Quarter 1 of 2015/16.

## 7. Gifts and Hospitality

7.1 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 Governance and Ethics Committee as part of the quarterly performance monitoring reports'.

7.2 Appendix D to Part 13 of the Constitution (Codes and Protocols) 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 of receipt* ;
- 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 Governance and Ethics 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.

7.3 No declarations of gifts and hospitality have been made by District Councillors during Quarter 1 of 2015/16. The only exception to this being the hospitality received by the Chairman whilst undertaking his civic duties.

## 8. Training or Other Action Identified to avoid Further Complaints

8.1 Training on the Code of Conduct was included in the Member Induction Programme which was arranged post the May 2015 election. The training, which was well received, was reasonably well attended. In total 18 Members attended the training. The four new Members, for whom the session was mandatory, and who were unable to attend would be invited to attend additional training being arranged for October 2015.

8.2 Parish and Town Councillors and their clerks were also invited to attend Code of Conduct Training in June 2015. An additional training session has also been arranged the 13<sup>th</sup> October 2015.

## 9. Conclusion

The number of complaints at this stage remains low. Any issues identified will be included in the training being arranged for October 2015.

### Appendices

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Appendix A – Advisory Panel Terms of Reference

Appendix B – Governance and Ethics Terms of Reference

Appendix C – Role of the Monitoring Officer

### Consultees

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**Local Stakeholders:** N/A

**Officers Consulted:** Moira Fraser, Andy Day, Sarah Clarke

**Trade Union:** Not consulted