

Joint Standards Committee

- To:** Councillors Martin Rowley BEM (Chair) Fisher, Lomas, Pavlovic and Runciman (CYC Members)
- Councillors Waudby (Vice-Chair) Rawlings and Chambers (Parish Council Members)
- Mr J Leigh and Ms R Mazza (Independent Persons)
- Date:** Tuesday, 14 May 2024
- Time:** 4.00 pm
- Venue:** West Offices - Station Rise, York YO1 6GA

AGENDA

- 1. Declarations of Interest** (Pages 1 - 2)

At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see the attached sheet for further guidance for Members.]
- 2. Exclusion of Press and Public**

To consider the exclusion of the press and public from the meeting during consideration of the following:

Annex A (ii) and Annex B (ii) to Agenda Item 11 on the grounds that it contains information which is likely to reveal the identity of an individual. This information is classed as exempt under paragraph 2 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

- 3. Minutes** (Pages 3 - 4)
To approve and sign the minutes of the meeting of the Joint Standards Committee held on 08 April 2024.
- 4. Minutes of Sub-Committees** (Pages 5 - 16)
To approve and sign the minutes of the following meetings of the Joint Standards Sub-Committees:
- Hearings Sub-Committee, 18 April 2024, 1:30pm
 - Hearings Sub-Committee, 18 April 2024, 2:45pm

- 5. Urgent Business**
Any other business which the Chair decides is urgent under the Local Government Act 1972.

- 6. Public Participation**
At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines are set as 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering at this meeting is **5:00pm on Friday, 10 May 2024.**

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill in an online registration form. If you have any questions about the registration form or the meeting, please contact Democratic Services. Contact details can be found at the foot of this agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this meeting will be webcast including any registered public speakers who have given their permission. The meeting can be viewed live and on demand at www.york.gov.uk/webcasts.

During coronavirus, we made some changes to how we ran council meetings, including facilitating remote participation by public speakers. See our updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

- 7. Officer Support Protocols** (Pages 17 - 40)
This report summarises the support available to CYC staff who are considering or who make a complaint against councillors as a result of alleged breaches of the Member Code of Conduct under the Joint Standards Committee Procedures.
- 8. Member Induction** (Pages 41 - 66)
This report provides an update to the Committee on the Member Induction programme.
- 9. Review of the Case Handling Procedure for complaints under the Member Code of Conduct (Appendix 29 of the Council's Constitution) Update** (Pages 67 - 150)
This report updates members on the review of the Case Handling Procedure for complaints under the Member Code of Conduct.
- 10. Review of Work Plan** (Pages 151 - 152)
To consider the Committee's work plan for the current year and decide whether any amendments or additions are required.
- 11. Monitoring Report on Complaints Received** (Pages 153 - 168)
To receive a routine update report on recent standards complaints.

Democracy Officer:

Jane Meller

Contact Details:

Telephone: (01904) 555209

Email: jane.meller@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

**Ta informacja może być dostarczona w twoim (Polish)
własnym języku.**

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council

Minutes

Meeting	Joint Standards Committee
Date	8 April 2024
Present	Councillors Rowley (Chair), Fisher, Lomas (from 4.06 pm), Pavlovic, Runciman (CYC Members) Councillors Waudby (Vice-Chair) and Chambers (Parish Council Members) Mr J Leigh and Ms R Mazza (Independent Persons)
Apologies	Councillor Rawlings
Officer in Attendance	Frances Harrison, Deputy Monitoring Officer

43. Declarations of Interest (4.01 pm)

Members were asked to declare any personal interests not included on the Register of Interests, or any prejudicial interests or disclosable pecuniary interests which they might have in respect of business on the agenda. None were declared.

44. Exclusion of Press and Public (4.02 pm)

Resolved: That the press and public be excluded from the meeting during consideration of the exempt versions of Annexes A (ii) and B (ii) to Agenda Item 7 (Monitoring Report in Respect of Complaints Received), on the grounds that they contain information likely to reveal the identity of individuals, which is classed as exempt under Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006.

45. Minutes (4.03 pm)

Resolved: That the minutes of the meeting of the Joint Standards Committee held on 06 March 2024 be approved and signed as a correct record.

46. Public Participation (4.04 pm)

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

47. Review of Work Plan (4.04 pm)

Members considered the committee's work plan for the current municipal year.

During the private session, Cllr Lomas and the Deputy Monitoring Officer reported that they had discussed officer support protocols with the Head of Human Resources (HR). It had been agreed that the Head of HR would report on this to the Committee at July's meeting, this was subsequently added to the work plan.

Resolved: That the work plan be approved subject to the following additions:

Meeting on 14 May 2024 (and ongoing)

- Case Handling Procedure amendments, Constitution Working Group

Meeting on 23 July 2024

- Officer Support Protocols

Reason: To ensure that the committee has a planned programme of work in place.

48. Monitoring Report on Complaints Received (4.08 pm)

Members considered a report which provided an update on current business as regards complaints.

Resolved: That the report be noted.

Reason: To ensure that the committee is aware of current levels of activity.

Cllr M Rowley BEM, Chair

The meeting started at 4.01 pm and finished at 4.46 pm.

City of York Council

Committee Minutes

Meeting	Joint Standards Committee Hearings Sub-Committee
Date	18 April 2024
Present	Cllrs Lomas And Fisher (CYC Members) Cllr Chambers (Parish Council Member) Mr J Leigh (Independent Person)
Officers in Attendance	Lindsay Tomlinson (Deputy Monitoring Officer) Peter Cairns (Senior Lawyer) Ms R Mazza (Independent Person – Observing)

5. Appointment Of Chair (1:30pm)

Resolved: That Cllr Lomas be appointed as Chair of the meeting.

6. Declarations Of Interest (1:30pm)

Members were asked to declare at this point in the meeting any disclosable pecuniary interests or other registerable interests they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests.

No interests were declared.

7. Exclusion Of Press And Public (1:31pm)

Resolved: That the press and public be excluded from the meeting during consideration of the private reports at Agenda Item 4 (Code of Conduct Complaints received in respect of a Parish Councillor), on the grounds that they contain information relating to individuals and information likely to reveal the identity of individuals, which is classed as exempt under paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as

amended by the Local Government (Access to Information) (Variation) Order 2006.

[Note: following the above resolution, the Deputy Monitoring Officer confirmed that she had nothing further to add in respect of the public reports in the agenda papers, and the remainder of the meeting took place in private session.]

8. Complaint Against A Member Of A Council Covered By The Joint Standards Committee (1:32pm)

The Panel considered a complaint from an officer of the Council alleging that Cllr Mark Warters had breached the Code of Conduct by using racially discriminatory language and behaving in a manner that was disturbing, disrespectful and upsetting. The officer further alleged that Cllr Warters had shared confidential information about a customer with a third party, and that he had displayed aggressive and discourteous behaviour to the wider team over a period of time. The complainant maintained that these actions and behaviours were contrary to the City of York Council Code of Conduct. The matter had been referred to the Hearings Sub-Committee for determination following an investigation.

The investigating officer presented his report and responded to questions from the panel. The Panel members considered the evidence gathered by the Investigating Officer from the complainant.

The Investigating Officer explained that Cllr Warters had initially agreed to meet to be interviewed; having changed the date of the interview Cllr Warters then advised via email that he would not meet or correspond with the Investigating Officer.

In that email, Cllr Warters provided an explanation for his use of the term that the complainant claimed was racially offensive. The Panel accepted that the subject member had been provided with ample opportunity to contest both the alleged facts and the issue of whether those facts amounted to a breach of the Code.

The Panel noted that Cllr Warters refused to co-operate further with the investigation process, however they were prepared to accept a number of late submissions received by Cllr Warters in the days leading up to the Hearing.

The Panel adjourned for 15 minutes to allow all members the opportunity to read the submissions received. The Panel considered the submissions did not offer mitigation for the issues referred to by the complainant, and that some of the submissions strengthened the case of the complainant.

The Panel accepted the investigating officer's analysis of the facts with and concluded as follows:

- i. The use of the term referred to by the complainant can be considered a breach of the Code of Conduct due to its potential to cause distress, irrespective of its factual nature.
- ii. Councillor Warters' aggressive and discourteous communication, while rooted in frustration, is a breach of the Code of Conduct's emphasis on respectful behaviour.
- iii. While the sharing of address information might be deemed justifiable in the given circumstances, it raises concerns regarding privacy and confidentiality expectations. The Council's data breach reporting process is therefore the appropriate route to thoroughly assess and determine the implications of this issue.

Having considered the Investigating Officer's report and the Local Government Association guidance and advice of the Deputy Monitoring Officer, as well as the late submissions provided by Cllr Warters the Panel

Resolved: That the Investigating Officer's findings that Cllr Warters had breached the code on several counts be upheld;

Reason: The Panel unanimously agreed that the Code of Conduct had been breached in respect of:

- Rule 1 (Respect)
- Rule 2 (Bullying, harassment and discrimination as a Councillor)
- Rule 5 (Disrepute as a Councillor)
- Rule 8 (Complying with the Code of Conduct as a Councillor)

Sanctions

The Panel considered what, if any sanctions should be imposed for the breach. In doing so they

Resolved:

- i. That Cllr Warters will be requested to attend appropriate Equalities and Diversity training.
- ii. A restriction will be placed on Cllr Warters' ability to communicate directly with staff in the relevant team. The Monitoring Officer is delegated to determine, in consultation with the Chief Operating Officer, the level of seniority of staff within the team with whom Cllr Warters will be permitted to communicate. This restriction will be for an initial period of six months, and the Monitoring Officer is delegated to extend the restriction after the initial term, should he consider it necessary to do so.

Cllr K Lomas, Chair

[The meeting started at 1.30 pm and finished at 2.54 pm].

Meeting	Joint Standards Committee Hearings Sub-Committee
Date	18 April 2024
Present	Cllrs Lomas And Fisher (CYC Members) Cllr Chambers (Parish Council Member) Mr J Leigh (Independent Person)
In Attendance	Lindsay Tomlinson (Deputy Monitoring Officer) George Eddon (Senior Solicitor) Ms R Mazza (Independent Person – Observing)

9. Appointment Of Chair (3:11pm)

Resolved: That Cllr Lomas be appointed as Chair of the meeting.

10. Declarations Of Interest (3:11pm)

Members were asked to declare at this point in the meeting any disclosable pecuniary interests or other registerable interests they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests.

No interests were declared.

11. Exclusion Of Press And Public (3:11pm)

Resolved: That the press and public be excluded from the meeting during consideration of the private reports at Agenda Item 4 (Code of Conduct Complaints received in respect of a Parish Councillor), on the grounds that they contain information relating to individuals and information likely to reveal the identity of individuals, which is classed as exempt under paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as

amended by the Local Government (Access to Information) (Variation) Order 2006.

[Note: following the above resolution, the Deputy Monitoring Officer confirmed that she had nothing further to add in respect of the public reports in the agenda papers, and the remainder of the meeting took place in private session.]

12. Complaint Against A Member Of A Council Covered By The Joint Standards Committee (3:13pm)

The Panel considered a complaint from an officer of the Council (Officer A) alleging that Cllr Warters had breached the Code of Conduct by arranging by copying a number of members of the public and Parish Councillors into a formal complaint that he had made about the officer's conduct.

On the same day, Officer B, who is Officer A's line manager, also made a complaint to the Monitoring Officer. The complaint related to the same incident i.e. the copying of the complaint about Officer A to third parties, but gave greater detail as to why this was considered to be a breach of both the Member/Officer Protocol and the Member Code of Conduct. The matter had been referred to the Hearings Sub-Committee for determination following an investigation.

The investigating officer presented his report and responded to questions from the panel. The Panel members considered the report of the Investigating Officer and the supplementary pack comprising two additional emails presented by the subject member and one email from Officer A.

The Panel heard from the Investigating Officer that Cllr Warters had declined to contribute to the investigation and declined to attend the hearing. The subject member made no representations challenging the facts contained in the investigating officer's report and consequently witnesses were called.

The Panel accepted the investigating officer's analysis of the facts and concluded as follows:

- i. Cllr Warters intentionally copied a number of members of the public into correspondence relating to the complaint against Officer A;
- ii. In doing so, Cllr Warters acted in breach of para 4.4 of the Protocol for Officer / Member Relations;
- iii. The actions of Cllr Warters created a real possibility that the reputation of Officer A would be damaged and their working relationship with the persons copied into the email would be undermined.

Having considered the Investigating Officer's report and the Local Government Association guidance and advice of the Deputy Monitoring Officer, the panel

Resolved: That the Investigating Officer's findings that Cllr Warters had breached the code be upheld;

Reason:

- Cllr Warters is an experienced member of more than one local authority and can be taken to be familiar with the requirements in relation to officer/member relations;
- Cllr Warters has not acknowledged that there may have been a breach of the Code;
- The lack of engagement with the investigation process;
- The absence of any commitment to avoiding similar breaches in the future.

Sanctions:

The Panel considered what, if any sanctions should be imposed for the breach. In doing so they

Resolved:

- i. Formal censure; and
- ii. Restriction of communication with staff in the relevant service area to officers of Assistant Director level and above, such communication to be professional in tone and

in all other respects in accordance with the principles set out in the Protocol on Officer Member Relations.

The Panel further recommended that the Monitoring Officer should carry out a review of the information security implications of the use by Cllr Warters of his personal email address for Council business and be authorised to take such action as is necessary to manage any information security risks identified.

Cllr K Lomas, Chair

[The meeting started at 3.11 pm and finished at 4.10 pm].

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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of the Local Government Act 1972.

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Joint Standards Committee

14 May 2024

Report of the Head of Human Resources and OD

Summary

1. This report summarises the support available to CYC staff who are considering or who make a complaint against councillors as a result of alleged breaches of the Member Code of Conduct under the Joint Standards Committee Procedures.

Background

2. How officers and elected members should interact whilst working together is governed by the appropriate codes of conduct which can be found in the **Councils Constitution in Appendices 14, 15 and 16**. These are the Member Code of Conduct, the Employee Code of Conduct and the Protocol on Officer Member Relations.
3. Whilst the expectation is that both officers and members treat each other with respect, dignity and courtesy, appreciating each other's roles, occasionally relationships breakdown. Every effort will be made to resolve matters informally. However, sometimes this is not appropriate, and individuals are able to raise concerns about any action or statement relating to them or a colleague which may breach these respective codes through a formal process.
4. All such complaints raised are managed using the appropriate employment procedures for officers and through the joint standards committee procedures, for Elected members (council or parish councillors) see **Annex 1** to this report. It is important to note that the sanctions available to deal with alleged breaches of the Employee Code of Conduct and Member Code of Conduct are different. An employee (or officer) can lose their job. There is no equivalent sanction of disqualification for a Member. It should be recognised that this imbalance may potentially inhibit officers from making complaints. Reassurance that appropriate support will be given to officers who wish to raise complaints is particularly significant in this context.

5. In terms of Council Staff, as an employer, the Council has a duty to promptly address grievances through an implied term in the employees' contracts of employment. Failure to follow an appropriate procedure to do this could leave the council at risk of legal challenge through claims for constructive dismissal and /or discrimination (depending upon the complaint itself). This can, create reputational damage and impact how others may view the council as a place to work.
6. Similarly, if complaints are not appropriately investigated, and if upheld, appropriate action taken, complainants may experience harm, may have prolonged periods of sickness absence and potentially raise a claim for negligence through personal injury. As an employer, the Council has a duty of care to provide a safe place of work with both a moral and legal duty to comply with health and safety legislation in order to safeguard the health, safety and wellbeing of employees and others affected.
7. The procedures for employees and members to raise such complaints are well documented. The purpose of this report is to outline what support is available to staff when raising complaints about elected members through the joint standards committee procedures.

Support available to CYC Staff

8. As a complainant it is reasonable to expect that you will be required to give details of the matters that have given rise to the complaint and how you have perceived the behaviour. This enables everyone to understand what the complaint is which includes any other party for their response. The joint standards process is only applicable to matters which would constitute a breach of the Member Code of Conduct and does not offer a general opportunity to raise grievances. The Monitoring Officer or Deputy Monitor are able to advise on whether a particular complaint is likely to be in scope.
9. Unlike internal employment processes however, employees who raise complaints against an elected member, which following an investigation is referred to a Standard's Hearing, will be viewed as one of the parties to the process. Unless a decision has been taken at the outset to withhold the complainant's identity, they are given full access to the outcome of any investigation report, including statements from other witnesses. They are also invited to attend the hearing in full, rather than attending as appropriate to answer specific questions related to their own testimony.
10. This means that the complainant will hear the findings of the standards committee alongside and at the same time as the subject

member. This becomes especially difficult if either or both complainant and subject member disagree with the outcome and or findings of the hearing potentially leaving both parties, having heard all the evidence to continue to interact with each other in their respective roles. For reference, a list of outcomes and potential sanctions that the hearing panel can impose or recommend is noted in **Annex 2** to this report.

11. Whilst it is important to understand if any misconduct has occurred and appropriate action taken, all parties in any process must be safeguarded. Care must therefore be taken to ensure that neither party feel victimised or undermined, either before, during or after any formal process.
12. Support available to employees will be as per those available through the council's employment procedures.

These include:

- Consideration by the Monitoring Officer in discussion with the Independent Person as to whether the complainant's identity should be kept confidential if there is a fear of reprisal and /or a risk of physical harm.
- Access to the employee assistance scheme provided by Health assured.
 - o This programme is a confidential employee benefit designed to help employees deal with personal and professional problems that could be affecting their home or work life, health and general wellbeing. It offers expert advice and compassionate guidance 24 hours a day 7 days a week;
- Line Manager Support:
 - o Listening to concerns, accessing appropriate guidance, facilitating as requested assistance to help the employee resolve matters informally alongside providing ongoing health and wellbeing support to the individual throughout the process.
 - o This might require, with guidance from HR, temporary measures put in place to limit or eliminate contact between both parties during any investigation. This could include redirecting the subject member to another member of staff on matters they would normally contact the complainant for; or allowing the employee to work from a different location to reduce/ eliminate contact. Such actions would only be taken with the agreement of the employee.
 - o Ongoing monitoring of the interactions between the two individuals to ensure that future contact is appropriate, and any recommended actions are adhered to.

- As needed, carryout a stress risk assessment with the complainant to identify and put in place other measures of support that might be needed.
- Ensure any incidents involving violence, aggression, threatening behaviours, and verbal abuse are reported appropriately on the council's health and safety incident system, to ensure that the matter is appropriately reported, investigated with appropriate risk assessment put in place as required.
- Trade Union representation
 - Trade union representative will provide support to individual employees on how best to address an issue and as needed will assist employees to raise those concerns with the appropriate person. They will also accompany individuals to discussions regarding their complaint where procedures permit and provide the individual with advice/guidance on options.
- Right to be accompanied
 - Both the complainant and the subject of the allegations can request support from The Independent Person about the standards committee process prior to and/ or for the hearing itself.
 - Members might want to consider reviewing the existing procedure to enable and make explicit that the complainants who are members of staff be given a right to be accompanied by a fellow employee or TU representative in any investigatory meeting and or formal hearing. This is normal practice in internal employment procedures and will provide those employees with support during what could be a difficult process.
- HR advice and guidance
 - Provided to both the line manager and individual around appropriate procedures through which to raise concerns and other safeguards that might need to be put in place temporarily or permanently depending upon the allegations and any findings from the appropriate procedure.

Implications

13. **Financial** - Not applicable to this report.
14. **Human Resources (HR)** - Contained within the main body of this report.
15. **Equalities** – Not applicable to this report.

16. **Legal** - Section 28 of the Localism Act 2011 provides that LAs (other than parish councils) must put in place 'arrangements' that set out the process for dealing with complaints of misconduct and the actions which may be taken against a member or co-opted member who is found to have failed to comply with the Member Code of Conduct. There is local discretion in respect of these arrangements subject to minimum statutory requirements including the involvement of an Independent Person.

The Localism Act does not give the LA or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. Where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited.

The Council follows guidance produced by the Local Government Association on the handling of complaints referenced in this report as a background document.

17. **Crime and Disorder, Information Technology and Property** - Not applicable to this report.

Recommendations

13. Joint Standards Committee are recommended to;
- a. Note the contents of the report and the context of the support and obligations that are afforded to employees from their employer.
 - b. To maintain confidence in the Standards process, any review of current procedures should consider:
 - i. enabling and making explicit that complainants who are members of staff be given a right to be accompanied by a fellow employee or TU representative in any investigatory meeting and or formal hearing in line with other employment practices.
 - ii. how best to support a complainant who is an officer during and after any Standards investigation and/or Hearing.

Contact Details

Author:

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HR Manager
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Chief Officer Responsible for the report:

Helen Whiting
Head of HR & OD

Report
Approved

Date 14 April 2024

Specialist Implications Officer(s):

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

- Annex 1
 - For employees (i) Employee Grievance Procedure (ii) Dignity at Work Procedure
 - For Members
Joint Standards Committee Procedure – Council Constitution Appendix 29 ([Public Pack](#))[Agenda Document for Constitution, 19/04/2024 00:00 \(york.gov.uk\)](#) - please open section 3 appendices and then Appendix 29 in the table of contents.
- Annex 2 Outcome and Potential Sanctions ([Public Pack](#))[Agenda Document for Constitution, 19/04/2024 00:00 \(york.gov.uk\)](#) - please open section 3 appendices and then Appendix 29 para 35 in the table of contents.

Other relevant documents to this report held in the constitution can be found in:

- Appendix 14 Member Code of Conduct
- Appendix 15 Employee Code of Conduct and
- Appendix 16 Protocol on officer Member Relations



9.1 GRIEVANCE PROCEDURE

1. Introduction

1.1 The Grievance Procedure is designed to encourage good working relations across the council by;

- encouraging the settlement of grievances informally and at the lowest possible level of this procedure.
- ensuring grievances are resolved fairly
- ensuring grievances are resolved speedily
- giving employees the right to raise grievances, where necessary, with their manager
- giving employees the right to take their grievance beyond the line manager, where necessary
- giving employees the right to be represented at all stages including the informal stage

This document should be read in conjunction with the grievance guidance notes.

2. Scope

2.1 This procedure applies to all employees of CYC with the exception of employees in schools with delegated powers. The Director of Learning Culture & Children's Services (LCCS) will adapt this procedure for use in schools and recommend it to Governing Bodies.

2.2 The procedure will not be used to deal with the following processes, for which separate arrangements apply:-

- matters relating to pay or grading
- staff development and review
- Discipline) other than relating to procedural aspects
- Capability)
- Organisational Change
- Bullying, harassment or other forms of discrimination
- Sickness absence
- Collective disputes
- matters relating to serious malpractice within the Council

9.1 GRIEVANCE PROCEDURE

See separate guidance notes for details of relevant procedures.

3. Resolving grievances informally

- 3.1 The Council recognises that there will be occasions when employees need to express dissatisfaction with aspects of their employment or perceived injustice.
- 3.2 In such circumstances, you should raise such issues verbally with your line manager, telling them exactly what you are dissatisfied with and all the circumstances of your grievance.
- 3.3 The line manager will undertake to respond fully to the complaint as quickly as possible and every effort will be made to resolve the grievance through informal discussion.
- 3.4 Even before raising concerns informally, you may want to seek advice which may be obtained from a trade union representative or Human Resource Officer.

4. Stage 1

- 4.1 If your grievance cannot be resolved informally you should put your grievance in writing to your line manager, detailing all the circumstances of the grievance and the reason for your dissatisfaction with the response given so far. You should state clearly what action you feel is necessary to resolve the grievance to your satisfaction. If your grievance relates to the decisions or actions of your line manager, and the matter has already been discussed informally with your line manager then you should raise your grievance with your line manager's own manager.
- 4.2 At this stage you can raise the matter if you so wish with your trade union representative or another employee, who may take up the matter on your behalf.
- 4.3 The manager will arrange a meeting with you, and your representative if you wish, which should take place within ten working days of the receipt of your written grievance.
- 4.4 It may be possible to resolve the matter to your satisfaction at this meeting. You will be informed verbally of the decision as soon as possible, and will receive confirmation in writing within 10 working days of the meeting giving reasons for the decision. If the matter cannot be determined within 10 working days, an interim response will be provided giving a clear timescale for a decision within a further 10

9.1 GRIEVANCE PROCEDURE

working days. If this further timescale is not met, you may progress the matter to stage 2 of the procedure.

5. Stage 2

5.1 If you are still dissatisfied with the manager's decision, you can request that your grievance is considered by an appropriate Senior Manager in your directorate. This request should be in writing and sent to the Senior Manager for consideration within 10 working days of the decision being given to you in writing or after failure to comply as outlined in paragraph 4.4 above.

5.2 The Senior Manager will arrange a formal meeting with you and your representative. The meeting should take place within 10 working days of receipt of your request.

5.3 You will be given written confirmation of the Senior Manager's decision within 10 working days of the hearing of your grievance or a written explanation of why this timescale cannot be met with confirmation of when within a further 10 working days or alternatively an agreed date, the matter will be determined.

6. Stage 3 – Appeals

6.1 If you are still dissatisfied with the Senior Manager's decision, you can appeal against the decision. Your appeal will be considered by Elected Members at the Corporate Appeals Panel.

6.2 Your appeal must be in writing and forwarded to the Head of Human Resources within 10 working days of receiving the decision of the Senior Manager.

6.3 The Head of Human Resources will arrange a hearing involving you, your representative if you wish, and the appropriate Senior Manager, to consider your appeal.

6.4 You have the right to be accompanied or represented by a colleague or a trade union representative.

6.5 You will be given information on the procedure to be followed at the hearing, normally two days in advance.

6.6 You will be given written confirmation of the Appeal Panel's decision within 7 days of hearing the complaint. There is no further appeal beyond this stage.

9.1 GRIEVANCE PROCEDURE

7 General Notes

- 7.1 If the grievance relates to the decisions or actions of a Director, the Deputy Chief Executive or the Chief Executive, the complainant should contact the Head of Human Resources who will act in the role of facilitator in order to try and resolve the issue informally.
- 7.2 If you are not satisfied with the decision made, then the Head of Human Resources will arrange for the matter to be considered by the appropriate Executive Member, under Stage 2 of the procedure. If you remain dissatisfied you will have the right to appeal to an Appeals Committee of Elected member constituted specifically for this purpose.
- 7.3 Every effort will be made to resolve your grievance as quickly as possible. However, some cases take time to investigate fully. For this reason, it may be necessary, on occasion, to change the time limits of the Grievance Procedure. This will only be allowed with the agreement of all parties concerned.
- 7.4 The procedure will be subject to annual review.



CITY OF YORK COUNCIL

Dignity at Work
Policy and Procedure



1. Introduction

City of York Council is committed to the promotion of dignity at work and aims to establish a working environment which is inclusive, free from discrimination and based upon the values of dignity, courtesy and respect. It recognises the right of every person to be treated in accordance with these values.

Harassment, bullying and victimisation are unacceptable forms of behaviour which will not be tolerated by the council. Any allegation of this nature will be treated seriously, and as a matter of priority, regardless of the seniority of those involved, and anyone found to have behaved unacceptably may be the subject of disciplinary action up to and including dismissal.

This policy supports the council's commitment to carrying out its Public Sector Equalities Duty.

2. Policy

The council's policy is to:

- promote a positive working environment in which people are treated with dignity, fairness and respect;
- to clearly publicise the council's zero tolerance to bullying, harassment or victimisation of its employees by anyone;
- encourage all staff members, and others who work for the council, to play a role in creating and maintaining an environment in which harassment, bullying and victimisation are understood to be unacceptable forms of behaviour;
- provide a framework of support for staff who feel that they have been the subject of harassment, bullying or victimisation;
- provide support and training for managers, in understanding and addressing issues, and handling cases raised;



DIGNITY AT WORK POLICY

- ensure that allegations of harassment, bullying or victimisation are addressed promptly and fairly, with respect for the rights and dignity of all those involved;
- identify the appropriate formal processes by which complaints can be addressed, with the use of mediation being an option at all stages;
- to record and monitor formal complaints;
- to periodically monitor progress on how well it is creating a workplace that respects the dignity of people at work.

3. Scope of the Policy

3.1 Who is covered

This policy applies to all council employees (except those employed by schools, where an equivalent policy will exist), and to elected members.

Non-CYC workers¹ are also expected to adhere to the aims of this policy while carrying out work for the council. Where possible, this will be implied in the terms of their contract for service with the council.

3.2 What is covered

Any conduct which affects the dignity of someone at work, and which could be seen as a form of bullying, harassment or victimisation will be treated seriously and possibly as gross misconduct, which can lead to dismissal under the council's Disciplinary Procedure. In particular, some behaviour is covered by the Equality Act.

The Equality Act 2010 (hereafter referred to as 'the Act') makes it unlawful to harass an individual or group for a reason related to a relevant 'protected characteristic'.

¹ "Non-CYC workers" are all others who are working within or on behalf of the council, such as agency staff, volunteers and work placements, or who are employed by other companies, such as consultants, contractors and suppliers.



The Act protects against harassment on the grounds of the following 'protected characteristics':

- Age
- Disability
- Gender reassignment
- Race (including colour, nationality, ethnic or national origin')
- Religion or belief
- Gender
- Sexual orientation

There is further protection against victimisation on the following grounds:

- Pregnancy/maternity
- marriage/civil partnerships

While bullying, or the harassment of non protected groups are not covered by the Act, the behaviour in itself is unacceptable and will not be tolerated by the council.

Any such conduct of employees, towards other employees and also to non-CYC workers is covered by this policy. This will be regardless of seniority, reporting lines, working teams or structures.

3.3 What are bullying, harassment and victimisation?

Bullying is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.

Harassment is unwanted conduct related to any of the above protected characteristics, that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.



DIGNITY AT WORK POLICY

Victimisation is subjecting a person to a detriment because he/she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him/her or someone else, or supported someone to make a complaint, or given evidence in relation to a complaint.

Further, it is important to be aware that:

- i. Conduct may be harassment whether or not the person behaving in that way intends to offend.
- ii. A single incident can be harassment if it is sufficiently serious.
- iii. Harassment also includes circumstances where an individual is subjected to unwanted conduct from a third party, such as a client or customer.
- iv. Behaviour towards colleagues and peers may be harassment even if it takes place outside work premises on work-related social occasions.
- v. Bullying or harassment does not have to be face-to-face. It can also be through conversations on the telephone or can include the use of internal or external emails or letters, and can be through social media such as Facebook comments or text messages.
- vi. Reasonable management instructions, and the management of under-performance, will not in themselves amount to bullying, harassment or victimisation. This is provided that such instructions have been communicated in an acceptable and appropriate manner and/or procedures have been used appropriately.
- vii. Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics.
- viii. Serious bullying or harassment may amount to other civil or criminal offences, eg a civil offence under the Protection from Harassment Act 1997, or criminal offences of assault.

Additional descriptions of the terms bullying, harassment or victimisation in the context of this policy are provided in **Understanding bullying, harassment and victimisation**, together with some examples. These will help to clarify how certain types of behaviour will be viewed.



4. Implementation of the policy

The policy will be applied to all formal complaints of bullying, harassment or victimisation received by the council on or after 23rd October 2012, (including for alleged incidents occurring prior to this date.)

Complaints received prior to this date will be dealt with using the previous procedure.

5. Other related policies and documents:

- Code of Conduct
- Corporate Equality Commitment Statement
- Whistleblowing policy

Further information is available on Colin, for staff and managers.



1. Procedures to be followed

In order to allow for the situation to be resolved as quickly as possible, the process is intended to be simple and transparent. Confidentiality must be maintained wherever possible.

If an issue is raised by or involves Members of the council, the Assistant Director for Governance should be consulted on the way forward.

2. Identifying the issues

Support: If an employee feels that they are being bullied, harassed or victimised, they can first seek support from the First Contact network (FCN), who are fellow employees trained to offer confidential support and information. They can also talk to their line manager, a trade union representative or a member of the Employee Relations team in HR.

They should make records of any incidents of the type of behaviour that is causing offence, together with specific examples if possible. These should include details of where they were, dates and times when they occurred, and the names of any employees who witnessed them.

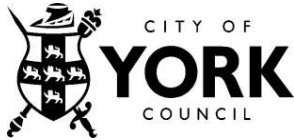
3. Informal Stage and Mediation

Unless the examples of behaviour involve blatant or obvious actions of bullying, or direct harm, then the aim is to first try to resolve the matter informally, using mediation if helpful.

If employees feel they can, they should approach the harasser or bully, telling him or her that their behaviour is unacceptable and that it must stop, and that otherwise a formal complaint will be made using the procedure outlined below.

This first approach can be done in writing or in person. Support can be sought from the FCN who can if asked accompany the employee when speaking to the harasser or bully.

It must be remembered that the person may not always have acted with the intention of causing distress. They should always be given the chance to be



DIGNITY AT WORK PROCEDURE

made aware of the way their behaviour is perceived by the employee, and allowed to change. Only if they continue with the behaviour should further action then be taken.

4. Formal Stage

Where informal solutions fail, or serious harassment or bullying occurs, employees can bring a formal complaint. Each step and action under this procedure will be taken without unreasonable delay.

Complaints will be investigated swiftly and confidentially while ensuring that the rights of both the alleged victim and the alleged harasser or bully are protected. Employees and witnesses can be assured that they will not be ridiculed or victimised for making, or assisting a colleague in making, a complaint, even if it is not upheld, as long as it is made in good faith. Everyone involved in the investigation, including witnesses, will be required to maintain confidentiality – a failure to do so will be a disciplinary matter.

Step 1: Lodging a complaint

- i. A formal complaint must be raised with a manager² and followed up in writing. A simple **Submission form** is provided to help capture the basic details. These will outline the alleged incidents, when they occurred, the harm caused, the names of any witnesses and the name of the alleged harasser or bully. Support from the FCN can be sought, to help with completing this form.
- ii. The written complaint should initially be lodged with the employee's manager. There will be times when it will not be appropriate for this to be the actual line manager, in which case the employee should approach an independent manager.
- iii. If that manager cannot deal with the matter, they will pass it on to another manager at the same or higher level.

² Where the term 'manager' has been used, this will normally be the employee's line manager. However in some cases there may be another manager outside the direct reporting line appointed by a Chief Officer to deal with the case.



Step 2: Advise the named person

The manager must inform the person against whom the allegation has been made, and if verbal this should be confirmed in writing. This must indicate who has raised the complaint and when, with brief details of the nature of the complaint.

Step 3: Conducting an investigation

If necessary, to safeguard all those involved, some interim precautionary measures should be considered.

- i. The council recognises that it may be difficult for the employees concerned to continue to work in close proximity to one another during the investigation. If this is the case the council will consider a voluntary request from either party to temporarily work in another role, from a different location or at different times. However this cannot always be guaranteed.
- ii. Suspension may also need to be considered depending on the circumstances, (but can be invoked at any time during the investigation) if it is seen to be in the interests of the individual(s) or of the council to do so. The suspension may last until the outcome meeting but could be lifted sooner if new evidence comes to light during the investigation. Suspension in these circumstances is not a punitive measure, does not constitute disciplinary action and will be on full pay.

The manager will conduct investigatory interviews with the complainant, the individual against whom the complaint has been lodged and any relevant witnesses. The right to accompaniment will be provided to the complainant and the person against whom the complaint has been made.

The manager will prepare a full report and make any recommendations for further action as necessary. This report will form the basis of the feedback to the complainant at the outcome meeting.



Step 4: Outcome Meetings

- i. The manager will meet with the complainant to inform them of the outcome of the investigation (see Step 6). This will be confirmed in writing and will advise them of the right to appeal if they are not satisfied with the outcome.
- ii. The manager will also meet with the person against whom the complaint has been lodged, to inform them of whether or not the complaint has been upheld and the next steps, if any. This will be confirmed in writing.
- iii. Both employees will be provided with the right to accompaniment at these meetings.
- iv. The timing and location of the meeting must be reasonable.
- v. The meetings will not take place until the manager has had a reasonable opportunity to consider all the information gathered and to conclude the investigation.
- vi. The employees must take all reasonable steps to attend the meetings.

Step 5: Hearing the appeal

- i. If the complainant wishes to appeal, he or she must do this within 7 working days from receipt of the outcome letter. They must inform the manager who is to hear the appeal, and who must be senior to the manager who heard the complaint. In most cases this will be a Chief Officer.
- ii. The complainant will be invited to attend a further meeting.
- iii. The complainant will be provided with the right to accompaniment.
- iv. The timing and location of the meeting will be reasonable.
- v. The complainant must take all reasonable steps to attend the meeting.
- vi. After the appeal meeting the Appeal manager will make a decision and will write to inform the complainant of this within 5 working days.



Step 6: Outcomes

- a) If the complaint has been upheld:
 - i. The matter will be passed to the next appropriate line manager. They will conduct a disciplinary hearing under the Disciplinary Procedure with the person who perpetrated the alleged harassment or bullying. The written report will constitute the Investigation Report for the Hearing Manager to use.
 - ii. If necessary, paid suspension from work will again be considered if it has not already.

- b) If the complaint has not been upheld:
 - i. If the case was raised in good faith, the manager must now arrange for support for all parties to return to work. This can include arranging for mediation, counselling or training.
 - ii. Where a normal return to work is impossible, the possibility of changes to work times or locations should be considered. The possibility of either party transferring to another post could also be considered, but only with their consent. These actions must not be done to victimise or undermine any parties in the case.
 - iii. If it is found that the employee who raised the complaint, or any witnesses who gave evidence, did so falsely or with malicious intent, then they will be subject to the disciplinary procedure.

Full records of the proceedings and copies of meeting notes will be kept. A written record of the complaint and the outcome should be given to both parties.



5. Bullying, harassment or victimisation carried out by a third party

Where the bullying, harassment or victimisation has been carried out by someone other than a council employee, the employee affected must inform their manager, who can then take actions to safeguard them, as follows:

a) A Non-CYC worker³

If the behaviour is carried out by a Non-CYC worker, then their employer/agency should be approached by the manager. That employer should carry out their own investigation and follow their internal procedures accordingly. If the allegations are serious enough, that employer should transfer or remove that worker from carrying out that work.

b) A client / member(s) of the public

If a client or known member of the public is allegedly carrying out this behaviour, then the line manager should first carry out an internal enquiry to try to establish the facts. They must then consider using some or all of these steps:

- i. Approach that person in an informal way to allow them to acknowledge and amend their behaviour.
- ii. If serious enough, or if it continues, approach them in a more formal manner, pointing out that the council can bring prosecutions if it is necessary to protect its employees. This should be followed up in writing.
- iii. Where violence from a client is threatened or has taken place, the process under the **H & S Compliance Notes - Violence & Aggression** document should be followed. This can include adding the person onto the Staff Warning Register.
- iv. If a prosecutable offence has taken place, the council should consider starting proceedings against that person.

³ “Non-CYC workers” are all others who are working within or on behalf of the council, such as agency staff, volunteers and work placements, or who are employed by other companies, such as consultants, contractors and suppliers.



DIGNITY AT WORK PROCEDURE

- v. Where it is possible, and with the employee's agreement, the employee could be moved/transferred to another location / onto another case/route. This must not be done to victimise the employee, but as a safeguarding exercise, and should be a temporary measure.

c) Unidentified member(s) of the public

Where the employee has complained of behaviour from various members of the public, not necessarily identified, the council must act to ensure that this is not able to happen again. Some steps to be taken include:

- i. There should be signs clearly stating the council's zero-tolerance to bullying or harassment, and that prosecutions can be sought where necessary.
- ii. Other managers and employees may need to be made aware, to be able to assist if such cases arise again.
- iii. Put in place or reinforce any safety procedures where necessary.
- iv. The employee could be moved/transferred to another location / onto another case/route as above.

6. Monitoring

Where harassment or bullying has been found to have occurred and the perpetrator remains in employment, regular checks will be made by the manager to ensure that harassment has stopped and that there has been no victimisation or retaliation against the victim or any witnesses.

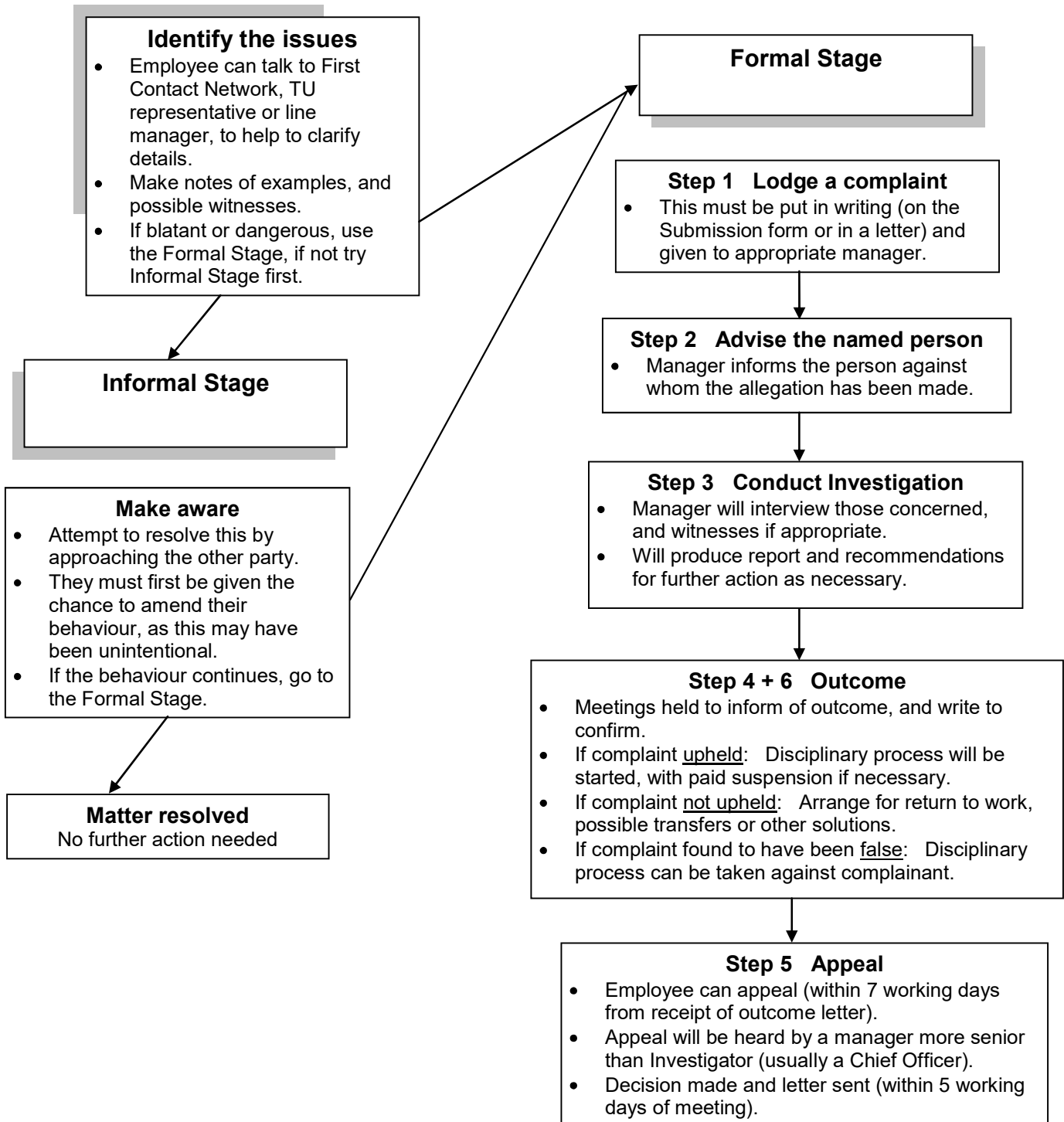
The council will also ensure that the employee who committed the act of harassment or bullying is not victimised in any way.

Anyone who does carry out victimisation will be subject to the disciplinary procedure.



DIGNITY AT WORK PROCEDURE

7. Flow Chart of Process for Internal cases





Joint Standards Committee

14 May 2024

Report of the Assistant Director Policy and Strategy and Head of Democratic Services
Portfolio of the Leader, Executive Member for Policy, Strategy, Partnerships

Member Induction

Summary

1. The member induction programme was discussed at Audit and Governance Committee on 18 January 2023 and Joint Standards Committee on 21 November 2023. It will also be discussed at Audit and Governance Committee in May 2024, following an internal audit of the programme.
2. The induction for new and re-elected members at the council has now been in place for 12 months (it launched after the May 2023 election). A comprehensive programme of sessions has taken place with LGA providing support, and external providers where appropriate. The member induction programme is in **Annex A**.

Background

3. The member induction programme aims to increase understanding about aspects of the council, its operating framework, statutory responsibilities and public sector duties. Officers facilitate or host training providing opportunity to share expertise.
4. Training has been provided online and in person, with officer, external providers and LGA facilitation depending on the subject. Training materials are published on modgov, with recorded sessions published on MyLo. All materials are available for members for future reference.
5. Training is either optional; or compulsory where members can choose whether to access the training “live” or view recorded sessions in their own time. The exception is mandatory training for

committee members where it is advised these should be attended in person.

6. The member induction programme was drafted in consultation with the LGA who are also facilitating/attending different sessions (indicated in **Annex A**).

Attendance

7. The member induction had variable engagement, with some members attending multiple sessions, and others not attending any sessions.
8. The Chair of Joint Standards Committee wrote to Group Leaders and Whips to remind them about training following the Joint Standards Committee in November 2023, and attendance by name is listed in **Annex B** for Group Leaders and Whips to note participation.

Feedback

9. Members were invited to provide feedback after the sessions which was shared at Joint Standards Committee in November 2023.
10. Feedback received directly from members noted:
 - a. at the start of the programme, it was clear the online sessions started too soon with members still setting up devices and access to the council's network.
 - b. the programme wasn't as easy to access as had been hoped, with members required to register attendance via MyLo, and the calendar of events available via Modgov.
 - c. members suggested the sessions were initially too close together and as a result the programme was re-scheduled to spread sessions more evenly across the year, better supporting working members.
 - d. Several members commented on the convenience of the video sessions which will be a format that continues.
11. Officers supported members who raised concerns and promoted the member induction programme to members in October 2023 (**Annex C**), as well as offering to provide members who were having difficulties accessing the recorded sessions direct.

12. A review with members was arranged for 4 December 2023. No one attended.
13. Veritau are currently conducting an audit into the member induction, with the outcome due to be shared with Audit and Governance Committee in May 2024.
14. The member induction was initially developed by an officer task and finish group. The group have held their own review and identified several sessions to include in the programme for the year ahead:
 - Highways Maintenance Programme
 - Members and the workforce
 - Good practice in ward work
 - Member enquiries session
 - Accessibility training
 - Social Model of Disability / Human Rights and Equalities Impact Analysis
 - Planning recap and The Local Plan
 - AI Guidance
 - Nalozone
 - Child's Voice – a session run by looked-after children
15. Following the outcome of the internal audit, the member induction programme will be reviewed to make easier for members to access and then relaunched as a member development programme, with regular updates provided to members to encourage greater attendance.

Implications

16. **Financial** A small budget is required for external training providers.
17. **Human Resources (HR)** Understanding member roles in employment issues is an additional session.
18. **Equalities** Equalities and Human Rights, accessibility and the Social Model of Disability training has been added to the programme.
19. **Legal** No implications.
20. **Crime and Disorder** No implications.

21. **Information Technology (IT)** All elected members were provided with the same devices in May 2023 to ensure they all have the same ability to access the programme. Drop-in sessions were arranged to help members become familiar with MSTeams and day 2 of the induction included time to learn about the new tech and devices pack.

Recommendations

22. Joint Standards Committee are asked to note the information shared and to provide feedback to assist in shaping future member development programmes.

Reasons for the Recommendation

23. The Joint Standards Committee has responsibility for promoting high standards of conduct which is a significant theme within the member induction programme.

Contact Details

Author:

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and Strategy
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Lindsay Tomlinson
Head of Democratic
Services

Chief Officer Responsible for the report:

Bryn Roberts
Director of Governance

**Report
Approved**

Date 19 April 2024

Specialist Implications Officer(s)

None

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

[Agenda for Audit and Governance Committee on Wednesday, 18 January 2023, 5.30 pm \(york.gov.uk\)](#) item 35

[Agenda for Joint Standards Committee on Tuesday, 21 November 2023, 4.00 pm \(york.gov.uk\)](#) item 23

Annexes

Annex A – member induction programme

Annex B – member induction attendance

Annex C – member induction promotion October 2023

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**ELECTED MEMBER
INDUCTION PROGRAMME**

May - December 2023

Dear Councillor

Congratulations on your successful election as a Member of this Council.

The first few weeks as a new, or returning, Councillor can be a little daunting. You will have to absorb a lot of information very quickly, and with this in mind, this induction programme is crucial in providing you with support and guidance.

The induction programme has been endorsed by the Audit and Governance Committee and aims to help you familiarise yourself with the council and your new role.

The programme starts Wednesday 10 May 2023. This will be followed by sessions about the services you can access as a Councillor, key introductions, the protocols and procedures you will need to follow and role specific training.

I'm sure that you will find the programme valuable and strongly advise that you attend the events planned.

You will be able to register to attend sessions and keep a learning record as you progress through the training programme with all materials and online learning available to download at your convenience.

Please note the Acceptance of Offer and your photographs will take place during the count.

If you require any further information or assistance, please do not hesitate to contact me.

Yours sincerely



Bryn Roberts
Director of Governance

Contacts

To help you settle in, the officers below are on hand and ready to answer your questions, signpost you to support or provide more information.

Governance: Bryn Roberts, Director of Governance

Council Management Team:

www.york.gov.uk/CouncilManagementTeam

Democratic Services: Dawn Steel, Head of Governance

ICT: Roy Grant, Head of ICT

Facilities Management: Ian Asher, Head of Facilities

Policy and Strategy: Claire Foale, Assistant Director Policy and Strategy

Communications: Eddie Coates-Madden, Head of Communications

Business intelligence: Ian Cunningham, Head of Performance

For more information about the member induction programme:

Robert Flintoft

t: 01904 555704 e: robert.flintoft@york.gov.uk

Democratic and Scrutiny Services

Claire Foale

t. 01904 552057 e. Claire.foale@york.gov.uk

Policy and Strategy

Accessing the member induction programme

Welcome to the new modgov members induction programme.

<https://modgov.york.gov.uk/mgCalendarMonthView.aspx?M=4&DD=2023&CID=1048&OT=R&CT=0&MR=1&ACT=Later>

Here you will find a calendar of all the sessions, together with slides and/or supporting materials to download.

You will be able to register your attendance and keep a learning and development log to refer back to during the programme.

To register, click on the relevant session on the modgov calendar and follow the link to register on MyLo.

By registering, you will also get an invitation, joining instructions and a request for feedback. We will keep the registration lists.

Once you have registered to attend a session, you can download the video of the session at your convenience. Once you have completed the live session, or watched the video, you can download a certificate and your learning and development log will be updated to show your progress through the programme.

If you have any requirements or questions, please do let us know.

Attending the member induction programme

Members are expected to attend sessions as indicated.

Sessions can be attended in real time (live) or downloaded later, when more convenient.

Mandatory sessions should be attended in real time by relevant members indicated in the programme (the session will also be available to download later for everyone else).

Members can choose whether to attend optional events, although are strongly encouraged to do so.

Reviewing the member induction programme

You will receive an email after the session requesting your feedback so we can continuously improve the programme and how it's delivered.

Feedback will be anonymised and shared in public forums.

A drop-in session has also been arranged in December to discuss the member induction programme, what you would like to see more or less of and if there are any sessions you would like repeated.

The member induction programme

Event	Date	Time	Venue	Format	Agenda • indicates item available	Councillors invited
Welcome to the Council (induction day one)	10 May 2023 Lunch provided	9.30am – 4.30pm	George Hudson Room, West Offices	In person	Welcome to the council Role of members and officers Code of Conduct Health and Safety Public Health Overview of Committees Introduction to Democratic Services Corporate parenting Human rights and equalities Disclosure of interests	All Mandatory
Welcome to the Council (induction day two)	11-12 May 2023	Allocated	West Offices	Members will be split into smaller groups of 8-10	West Office induction – tour • Badge/pass Introduction to your tech pack, how to access and use your devices (laptop and mobile) • Tech pack	All Mandatory
Code of Conduct	15 May 2023	10am - 12 noon	George Hudson Room, West Offices	In person or available to download when convenient	Case studies from LGA Equalities duty Relationship with officers (LGA)	All
Licensing sub committee	16 May 2023	1.30pm - 6.30pm	George Hudson Room, West Offices	In person (if committee member) or available to download when convenient	Liquor licensing Taxi and general licensing (external provider)	All Mandatory Members of the committee

Making the most of meetings	17 May 2023	10am - 12 noon	George Hudson Room, West Offices	In person (if committee member) or available to download when convenient	Charing a meeting (agenda management, keeping to time, inviting comment) Participation in a meeting – representation, housekeeping items Representing your group at meetings – representation of the group and as a ward councillor, agenda management Contributing to a committee if you are not a member of it (LGA)	All Mandatory for Committee members
Council strategy and policies	23 May 2023 Lunch provided	10am – 3.30pm	Snow Room, West Offices	In person	York 2032 Local Plan & Housing Delivery Local Transport Strategy and Transport Schemes Children and Young People Adults Communities Horizon scanning Strategic partnerships Financial plan Monitoring performance	Executive
Introduction to Scrutiny	26 May 2023 Lunch provided	10- 4.30pm	George Hudson Room, West Offices	In person (if committee member) or available to download when convenient	10-noon – Essentials for effective strategic scrutiny for impact and assurance 1pm – 2.30pm – planning and constructing scrutiny work programmes – setting priorities and focus 3.30-4.30pm Essentially questioning skills (LGA, Centre for Scrutiny and Governance)	All Committee members Mandatory

Being a ward councillor – council support	30 May 2023	10am – 1pm	George Hudson Room, West Offices	In person or available to download when convenient	Introduction to ward and neighbourhood working – developing ward priorities, neighbourhood action plans, citizen engagement, the use of ward budgets, community hubs, asset based community development and wider communities and prevention service - Member enquiries, case work, using MyAccount Influencing work programmes and annual reviews	All
Using your CYC laptop and mobile and MS Teams (drop ins)	30 May 2023	2.30pm – 3.30pm	Lister Training Room (F042)	In person drop-in	Using MS Teams/answering your questions	Optional
Planning Committee	1 June 2023	1-5pm	Snow Room, West Offices	In person for Planning Committee members or available to download when convenient	Predetermination The Local Plan Planning policies (PAS)	All Committee members Mandatory
Risks protections and policies	8 June 2023	5.30pm – 6.30pm	MS Teams	Online (with links to the policies) or available to download when convenient	Policies relevant to members including risk management, data protection, privacy and information security, complaints 4Cs, information governance, equalities and diversity, health and safety, personal evacuation procedures, and ICT policy	All

The budget and commercial awareness	13 June 2023	5.30pm – 6.30pm	George Hudson Room, West Offices	In person or available to download when convenient	The budget –its’ structure, it’s focus, our financial plan An overview of the commercial focus of the council, commerciality within local government (LGA)	All
Using your CYC laptop and mobile and MS Teams (drop ins)	14 June 2023	9.30am-10.30am	Lister Training Room (F042)	In person drop-in	Using MS Teams/answering your questions	Optional
Work of the Audit and Governance committee	15 June 2023	1pm – 5pm	MS Teams	Online or available to download when convenient	Audit Risk Management Corporate and council risks Fraud Reviewing financial reporting Public interest reports	All Mandatory Members of the committee
Public Health	21 June 2023	5.30pm – 7pm	George Hudson Room, West Offices	In person or available to download when convenient	Public health duties / the Health and Social care Act Health and Wellbeing Board and role in the council Local public health priorities / Healthy Child Service Improving the health of communities	All
Using your CYC laptop and mobile and MS Teams (drop ins)	29 June 2023	2-3pm	Lister Training Room (F042)	In person drop-in	Using MS Teams/answering your questions	Optional

<p>LGA regional event for councillors</p> <p>Booking a place: The event is free of charge and light refreshments will be provided. If you would like to attend, please book by emailing EMYHNE@local.gov.uk</p>	29 June 2023	10.30am – 1.30pm	George Hudson Room, West Offices	In person	<p>Induction from LGA and from lead political peers.</p> <p>It covers roles, behaviours, expectations, other sources of information and allows new Councillors to network with new ones from other councils</p>	Newly elected members
Ward profiles	11 July 2023	9am-12pm (noon)	George Hudson Room, West Offices	In person Drop-in session	<p>Ward profiles</p> <p>Deprivation indices</p> <p>Census 2022</p> <p>Using ward profile trends to make strategic decisions</p>	Optional
Personal safety	12 July 2023	5.30pm – 6.30pm	MS Teams	Online or available to download when convenient	Members personal safety and risks to be aware of in a public role, the lone working policy	Optional
Joint Standards Committee	18 July 2023	10am - 12.30am	George Hudson Room, West Offices	In person or available to download when convenient	<p>Code of conduct</p> <p>Case studies</p>	<p>All</p> <p>Mandatory</p> <p>Members of the committee</p>

York's Civic History	14 August 2023	1pm - 3pm	The Mansion House	In person	York's unique civic history The council, Lord Mayor, Waits and Aldermen Role and significance of the civic party, Lord Mayor and Sheriff and relationship with the city	Optional
Climate Change development programme: Climate Change Strategy	11 September 2023	5.30-6.30pm	Via Teams	Online or available to download when convenient	Climate Change Strategy Reducing carbon – buildings Reducing carbon – transport Role of Local Plan Carbon Literacy	All Optional
Anti Social Behaviour	13 September 2023	5.30pm – 6.30pm	MS Teams	Online or available to download when convenient	How the Safer York Partnership (including North Yorkshire Police and the Council) work together to address anti-social behaviour, and what Cllrs can do to support	Optional
Human Rights	14 September 2023	10am – 12pm (noon)	George Hudson Room,	In person or available to download when convenient	Human Rights Act and public sector duties. Human Rights City of York Council Case studies from other Human Rights Cities (HRN)	Mandatory Executive and committee members
The Local Plan	15 September 2023	12-1pm	MS Teams	Online or available to download when convenient	The opportunities and strategic sites in the Local Plan	Mandatory Executive and committee members
Climate Change development programme: Adaptation	19 September 2023	5.30-6.30pm	Via teams	Online or available to download when convenient	Climate risks in York Adaptation programme Adaptation – flood resilience	All Optional

How the council makes decisions	19 September 2023 Rearranged from 12 May	10am - 1pm	Online via Teams	Available to download	Local democracy and decision making Council and committees Standing orders Constitution and protocols Finance and procurement Public participation	All
Introduction to Safeguarding, children and domestic violence	22 September 2023	10am - noon	George Hudson Room	In person or available to download when convenient	An overview of the council's safeguarding responsibilities The Domestic Abuse and Children's Partnerships Lead will provide more information and answer questions	All Mandatory
Customer Communications	3 October 2023 Rearranged from 3 July 2023	5.30pm – 7pm	George Hudson Room, West Offices	In person or available to download when convenient	Customer communications channels and the council website	All
Communications	9 October 2023 Rearranged from 7 July 2023	5.30pm – 7pm	George Hudson Room, West Offices	In person or available to download when convenient	Working with the Communications team Publicity Code of Conduct Media protocol Social media policy	Executive Mandatory
Road Maintenance and Highways	25 October 2023	5.30pm	Online Via Teams	Available to download		Optional
Surveillance	8 November 2023	4.30pm - 5.30pm	A&G Committee room	In person in advance of an A&G Committee Meeting within first	Surveillance code of practice Covert Surveillance	Mandatory Members of the committee

				6 months Slides available for interested members after the session		
Reviewing the programme	4 December 2023	5.30-6.30pm	Snow Room, West Offices	In person drop-in	Informal discussion about what members would like to know more about and what they valued	Optional Drop-in session

Using your CYC laptop and mobile and MS Teams (drop ins)	30 May 2023	2.30pm – 3.30pm	Lister Training Room (F042)	In person drop-in	Using MS Teams/answering your questions	Optional
Using your CYC laptop and mobile and MS Teams (drop ins)	14 June 2023	9.30am-10.30am	Lister Training Room (F042)	In person drop-in	Using MS Teams/answering your questions	Optional
Using your CYC laptop and mobile and MS Teams (drop ins)	29 June 2023	2-3pm	Lister Training Room (F042)	In person drop-in	Using MS Teams/answering your questions	Optional

To be rearranged

Unitary and Parish Councils	To be rearranged		George Hudson Room, West Offices	In person or available to download when convenient	Relationships building and differences between unitary and parish councils (Sheena Spence, Yorkshire Local Council Association)	Members who work with/in parish councils
Council services In person drop in conference for all members to meet Heads of Service and learn more about their areas of expertise Optional	To be rearranged		George Hudson Room, West Offices	<p>A “speed meeting” event for members to learn more about 20 different areas of the council covering the range of statutory and corporate council services</p> <p>Members will be in groups of 1-3 and spend 15 mins meeting Heads of Service/lead officers to learn more about an area of the council.</p> <p>Every 15 mins members will move to another table.</p>		
Access (Equalities)	To be rearranged	5.30pm – 7.30pm	George Hudson Room, West Offices	In person or available to download when convenient	Public sector equalities duties Access York Access Forum (YAF)	All Mandatory Executive and Committee members
Corporate Appeals	TBC	TBC	TBC	TBC		All Committee members Mandatory

Media training	TBC	9am-12pm (noon) (earlier on a 121 basis if required)	George Hudson Room, West Offices	In person or available to download when convenient	Media training during an incident or critical reputational impact (external provider)	Executive Optional
Climate Change development programme: Waste field trip	TBC	11am-12pm	Allerton Park	In person (field trip) confirm numbers in advance	Reducing carbon – waste	All Optional
Child's voice	TBC	2pm - 5pm	TBC	In person	The training is delivered by Care Experienced People who the authority has corporate Parenting Responsibilities for. Meaningful conversations with the Children in Care Council and Care Leavers Forum (Show Me That I Matter and I Still Matter)	Mandatory (in groups of 15-20)

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Email to all members
October 2024

Many thanks to everyone who has attended a member induction session “live” or watched the sessions later at their convenience.

Below are the final few sessions which we’d be grateful if you could book onto or let me know if you are able to attend – some of you have commented that MyLo can be challenging so for those who aren’t able to, we can register you this end – note - if you watch the session at a later date you will automatically be registered !

- **Communications** – Monday 9 October at 5.30pm online – an overview by Head of Communications, Eddie Coates-Madden, outlining how communications helps the council achieve it’s objectives, manages relationships with the media and responds to emergencies
- **Road maintenance and Highways** – Wednesday 25 October at 5.30pm online – James Gilchrist, Director of Environment, Transport and Highways and Andrew Davies, Head of Highways Asset Management will update members about how York’s roads are maintained and managed, including pot holes – and are on hand to answer your questions
- **Surveillance** - Wednesday 8 November at 4.15pm –for Audit and Governance members held before the committee meeting – an overview of elected members investigatory powers and responsibilities, with a guest speaker from BLS Compliant – slides will be available after the event for any member who is not in Audit and Governance
- **Course review** – Monday 4 December at 5.30pm –a drop-in to share thoughts about the member induction programme and what next

There are a few courses to re-schedule, and we will provide an update when dates are set for these

- Waste Management

- Child's voice – a session held by children and young people who have experienced care sharing their thoughts about the council's corporate parenting responsibilities
- Unitary and Parish Councils – with guest speaker Sheena Spence, from Yorkshire Local Council Association
- Access and Equalities - with guest speakers to be confirmed
- Field Trip to Allerton Park and Harewood Wynn – one of the Climate Change sessions

In the meantime, sessions that are particularly popular that you might want to watch, if haven't already include:

- Safeguarding
- Anti-social behaviour – with guest speaker Fran Naughton from NYP
- How the council makes decisions
- The Local Plan
- Personal safety
- The budget and commercial awareness

You can find out more at the members' portal on the intranet: [Intranet | Members' portal \(york.gov.uk\)](#)



Joint Standards Committee**14 May 2024**

Report of the Deputy Monitoring Officer

Review of the Case Handling Procedure for complaints under the Member Code of Conduct (Appendix 29 of the Council's Constitution) Update**Summary**

1. This report updates members on the review of the Case Handling Procedure for complaints under the Member Code of Conduct.

Background

2. Members received a report at the November meeting of the Joint Standards Committee setting out the legal requirements in relation to the handling of complaints under the member code of conduct.
3. The report, appended, also presented some comparator information and some options for revision. Members comments on the options were noted.
4. There was significant discussion in respect of the continued role of the JSC in carrying out initial assessment of complaints against members of the Executive or Shadow Executive or a committee chair or deputy as prescribed in paragraph 5 of the current procedure.
5. Members were in favour of the JSC continuing to assess complaints against members of the Executive but not members of the shadow Executive or Committee Chairs.
6. The next steps for proposed revision of Appendix 29 is consideration at the Constitution Working Group prior to the presentation of a report requesting amendments to Full Council.
7. The Constitution Working Group has recently finished considering the Council Procedure Rules and dates for consideration of Appendix 29 can now be identified.

8. Members of JSC are invited to make any further comments on the procedure.
9. The amendments presented to the Constitution Working Group for consideration will encompass a) the comments of JSC and b) the advice of officers taking into account industry practice and resource implications.

Implications

10. **Financial** There are financial implication to processing all code of conduct complaints. It is a legislative requirement that there are arrangements in place but the nature of such arrangements are discretionary. The procedure adopted by CYC should be proportionate to the aim of upholding high standards of conduct but also deliver value for money.
11. **Human Resources (HR)** The proposed amendments set out in this report would have a marginal impact on staff resources through a reduction in committee meetings.
12. **Equalities** The arrangements required by law to deal with complaints of breach of the Member Code of Conduct must be accessible and non discriminatory to those with protected characteristics as defined within the Equality Act 2010. In addition, the Council in seeking to uphold high standards of conduct must discharge its overarching duty (the Public Sector Equality Duty) to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations under that Act.
13. **Legal** As detailed within the report and appendices.

Recommendation:

14. To note the update and provide further comment if required.
Reason: To keep the committee updated.

Contact Details

Author:

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Deputy Monitoring Officer

Frances.Harrison@york.gov.uk

**Chief Officer Responsible for the
report:** Bryn Roberts

Director of Governance & Monitoring
Officer

**Report
Approved**

 Y

Date 1 May 2024

Specialist Implications Officer(s):

Wards Affected:

All

 X

For further information please contact the author of the report

Appendices

- Appendix 1 Report to JSC of 21 November 2023 including:
 - Comparator arrangements
 - Lexis Plus Model arrangements
 - Discussion Draft (mark-up)
 - Discussion Draft (clean)

Background Papers:

- CYC webpage Councillor Conduct
<https://www.york.gov.uk/CouncillorConduct>
- LGA Guidance on Code of Conduct Complaint Handling Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association

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Joint Standards Committee

21 November 2023

Report of the Monitoring Officer

Review of the Case Handling Procedure for complaints under the Member Code of Conduct (Appendix 29 of the Council's Constitution)

Summary

1. This report sets out: (a) the statutory requirements for Standards arrangements in English Local Authorities and (b) presents options for amending the current City of York Council arrangements.

Background

2. Section 28 of the Localism Act 2011 provides that LAs (other than parish councils) must put in place 'arrangements' that set out the process for dealing with complaints of misconduct and the actions which may be taken against a member or co-opted member who is found to have failed to comply with the Member Code of Conduct.
3. There is no longer a statutory requirement to have a Standards Committee or separate Referrals, Review and Hearings sub-committees. Instead, the Council can establish its own process. Where Councils retain a Standards Committee, it is a normal committee of Council and the will be governed by proportionality, unless Council votes otherwise with no member voting against. This is the case with the Standards Committee at CYC which pursuant to Article 10 of our Constitution is not "politically balanced" in accordance with the legislative political balance rules but does comprise representatives of all political groups.
4. There is no longer a restriction that there can only be one member of the Executive on the Standards Committee.
5. Under the current statutory regime, district councils have responsibility for dealing with standards complaints against members of parish councils. City of York Council has established a

Appendix 1

Standards Committee as a joint committee with the York area parish councils meaning that the parish council representatives are voting members of the committee.

6. The LA must appoint one or more Independent Persons (“IP”) to advise the Council before it makes a decision on an allegation. The JSC terms of reference (Article 10) say that a minimum of 3 IPs will be appointed. Only 1 is currently appointed with the proposed appointment of a second being the subject of a report to Council on 23rd November 2023.
7. The functions of the IP are:
 - a. they must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member
 - b. they may be consulted by the authority in respect of a standards complaint at any other stage, and
 - c. they may be consulted by a member or co-opted member of the district council or of a parish council against whom a complaint has been made.
8. An Independent Person is not a member of the authority or of its committees or sub-committees and is therefore not a voting member of the Standards Committee.
9. The Localism Act 2011 does not give the LA or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. Where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited.
10. There is no requirement to put in place any appeals mechanism against complaint handling decisions. Such decisions would be open to judicial review if patently unreasonable, taken improperly, or if they sought to impose a sanction that the LA had no power to impose. Claimants for judicial review would ordinarily be expected to exhaust other avenues for resolution before resorting to the Courts. In this situation a person who was dissatisfied with the council’s handling of a Code of Conduct complaint could complain to the Local Government and Social Care Ombudsman.

City of York Council and Comparator Arrangements

11. The current CYC arrangements were prepared with the support of Hoey Ainscough Associates, governance consultants to local authorities. Members of the Standards Committee contributed significantly to that process.
12. It is noteworthy that the arrangements were developed in the immediate aftermath of the 2021 Public Interest Report into the early termination of the former Chief Executive's employment. That report was critical of the Council's governance arrangements and, of failure to manage conflicts of interest. It is perhaps unsurprising that a most interventionist approach was adopted.
13. The City of York Council procedure is unusual in that it involves members of the Standards Committee in the initial assessment of complaints where the subject member or complainant is a member of the Executive or Shadow Executive or a committee chair or deputy. In practice this encompasses the majority of complaints and makes complaints handling slower (due to the need to convene a sub committee) and more onerous for both officers and members. The preparation and reading of reports for committee meetings is time consuming and convening additional meetings has wider resource implications.
14. Three comparator authority case handling procedures (Leeds, Wakefield and North Yorkshire) are provided at Annex 1. A model case handling procedure from legal resource Lexis Plus is Annex 2.

Methodology

15. The Chair and Deputy Chair of Joint Standards Committee met with the Monitoring Officer and Deputy Monitoring Officer on 12th September 2023 to discuss the strengths and weaknesses of the current case handling procedure and to share broad objectives for review. In drafting proposed changes, officers have also taken into account views expressed by Members on the procedure during the course of Standards Committee meetings.

Appendix 1

16. A summary of drafting priorities and changes is set out below:

Issue	Objective	Proposed amendment
<p>Appendix 29 overall is long, wordy and in parts repetitive. It comprises:</p> <p>The procedure</p> <p>Flowchart</p> <p>Initial assessment procedure (JSC)</p> <p>What to expect</p> <p>Conflicts guidance</p> <p>Hearings procedure</p>	<p>Reduce word count, increase clarity, remove duplication and any potential for conflict (arises if you repeat something but slightly differently)</p>	<p>Throughout plain English.</p> <p>Remove section “what to expect”.</p> <p>Remove section on procedure for initial assessment by JSC (this will not have external participation so different to hearings)</p> <p>Reconfigure conflicts guidance as guidance and do not include in Constitution for flexibility</p>
<p>Consider accessibility of the case handling procedure and appropriate mechanisms for receiving complaints</p>	<p>Equality is a Council priority. The case handling procedure should not discriminate against those unable to submit a written complaint.</p>	<p>Make form available online and in West Offices together with help to complete from customer service representative if required.</p>
<p>Review involvement of members at filter & initial assessment stage to ensure committee</p>	<p>Balance member involvement & review with efficiency and trust in MO</p>	<p>Reduce committee involvement to Executive member cases only or alternatively for hearing stage alone.</p>

Appendix 1

workload is proportionate		
Clarify and expand factors to take into account on initial assessment e.g. member query on interpretation of "tit for tat"	For transparency it should be clear at outset that certain things will not be capable of constituting a breach. See Leeds list.	Addition of malicious vexatious and frivolous. Clarify non response to citizens is not disrespect (this has been a repeat unfounded allegation).
Clarify what happens if informal resolution is unsuccessful.	Retain discretion for each case to be considered on its own merits.	Role of JSC chair as final arbiter removed, this sits better with the IP and MO for political neutrality and independence.
Consider need for multiple incarnations of JSC. Would require amendment to Article 10 also.	Maximise efficiency of committee work.	Drafted so that there is just one JSC (which is quorate at 4 see Appendix 6).

17. A mark up and clean version of the proposed new arrangements are attached at Annex 3 and Annex 4 for discussion.
18. The Committee is invited to consider the amendments in the context of the legislative requirements, comparator practice, resource implications and their experience of the case handling procedure in practice.
19. As the Case Handling Procedure forms part of the Constitution, any amendments would need to be approved by full Council. Any parts of the current case handling procedure which are retained as guidance but not as part of the Constitution could be amended without reference to full Council.

Implications**Financial**

Appendix 1

There are financial implications to processing all code of conduct complaints. It is a legislative requirement that there are arrangements in place but the nature of such arrangements are discretionary. The procedure adopted by CYC should be proportionate to the aim of upholding high standards of conduct but also deliver value for money.

Human Resources (HR)

The proposed amendments set out in this report would have a marginal impact on staff resources through a reduction in committee meetings.

Equalities

The arrangements required by law to deal with complaints of breach of the Member Code of Conduct must be accessible and non-discriminatory to those with protected characteristics as defined within the Equality Act 2010. In addition, the Council in seeking to uphold high standards of conduct must discharge its overarching duty (the Public Sector Equality Duty) to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations under that Act.

Legal

As detailed within the report.

Crime and Disorder, Information Technology and Property

Any allegations of criminal conduct should specifically catered for within the case handling procedure.

Recommendations and Reasons

20. Members are invited to preliminarily review the discussion draft and take forward proposals to the Constitution Working Group. This will be convened at the request of Audit & Governance Committee and will make recommendations to Council on revisions to the Constitution. For the Case Handling Procedure and any consequential amendments to the Joint Standards Committee Terms of Reference at Article 10, the purpose of such revisions should be to improve clarity, transparency and accessibility. Members may consider that a more succinct approach would assist with these objectives.

21. Members may agree some or all of the suggested amendments in the discussion draft, propose their own amendments or resolve to recommend no changes to the current

Appendix 1

procedure. Making no revisions is not advised. This would be a missed opportunity to make improvements based on valuable experience of working under the current procedure.

22. Members are encouraged to consider whether the full suite of documents within Appendix 29 should remain part of the Constitution or whether some parts should be removed or published separately as guidance on the CYC web page relating to Member Conduct.

Author:

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Chief Officer Responsible for the report: Bryn Roberts

Director of Governance &
Monitoring Officer

Tel: 01904 555521

**Report
Approved**

Date 21
November
2023

Specialist Implications Officer(s):

Wards Affected:

All

For further information please contact the author of the report

Annexes

- Annex 1 Comparator arrangements
- Annex 2 Lexis Plus Model arrangements
- Annex 3 Discussion Draft (mark up)
- Annex 4 Discussion Draft (clean)

Background Papers:

Appendix 1

- <https://www.york.gov.uk/downloads/file/6830/public-interest-report-mary-weastell-exit-package>
- CYC webpage Councillor Conduct
<https://www.york.gov.uk/CouncillorConduct>

Annex 1

Comparator Procedures

LEEDS

Procedure for considering complaints alleging a failure to comply with a Members' Code of

Conduct

Part 4(k)

Issue 2 – 2022/23

Last amended on 20th March 2023

PROCEDURE FOR CONSIDERING COMPLAINTS ALLEGING A FAILURE TO COMPLY WITH A MEMBERS' CODE OF CONDUCT WITHIN THE AREA OF LEEDS METROPOLITAN DISTRICT COUNCIL

Introduction

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Leeds City Council and the Parish and Town Councils in the Leeds area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity and this procedure relates to all complaints relating to allegations that a Member or Co-opted Member has failed in their obligations under the Code of Conduct adopted by the relevant Authority,
 - a) Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' will not be accepted and should be directed by the complainant to the West Yorkshire Police for their consideration.
 - b) Complaints relating to an employee or which relate wholly to a service related issue, will not be accepted by the Monitoring Officer under this procedure but instead the complainant will be referred to the relevant service in order for them to respond to the complainant directly.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

Stage 1 - Initial assessment by the Monitoring Officer

4. Complaints must be submitted in writing¹, must provide substantiated information to evidence the issue complained of, and should outline what form of resolution the complainant is seeking, otherwise the Monitoring Officer shall ask the complainant to resubmit their complaint or provide further information. Ideally the complainant should use the complaint form to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
5. The Monitoring Officer will acknowledge receipt of the complaint and provide the complainant with a copy of this procedure. They will then assess the complaint² in consultation with the Independent Person. The Council will 'Take No Further Action' where a complaint appears to be intended to cause annoyance, frustration or worry (vexatious), is intended to do harm (malicious), or where it is apparent that a complaint has little or no substance (frivolous), particularly in terms of value or importance to the wider Public Interest (i.e. trivial complaints) or are politically motivated or

tit-for-tat. For any other complaint, the Monitoring Officer will assess the complaint and make a decision as to whether it is valid and whether it should be

1 Complaints about the conduct of a parish or town councillor towards a clerk should be made by the chair or the by the parish or town council as a whole, rather than by the clerk in all but exceptional circumstances.

2 Including seeking and reviewing any readily obtainable information (including observations and recollections from the Subject Member).

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

Part 4(k)

Issue 2 – 2022/23

Last amended on 20th March 2023

upheld and where the complaint is upheld, whether further action would be proportionate and/or in the public interest.

6. The following types of complaint³ will not be considered as 'valid complaints' under this procedure and will result in No Further Action being taken:

- a. Complaints which are submitted anonymously⁴;
- b. Complaints which do not identify a subject Member;
- c. Complaints which relate to a Member's personal or private life;
- d. Complaints concerning a failure to respond to a request from a constituent or other individual;
- e. Complaints which relate to the alleged actions of employees of the Council or non-voting co-optees;
- f. Complaints which relate to a decision of an employee or a Committee;
- g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council;
- h. Complaints which refer to alleged incidents which happened so long ago⁶ that there would be little benefit in taking action now;
- i. Complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests';⁷
- j. Complaints containing trivial allegations, cause annoyance, frustration or worry (vexatious), or intended to do harm (malicious), or where it is apparent that a complaint has little or no substance (frivolous), particularly in terms of value or importance to the wider Public Interest (i.e. trivial complaints), are politically motivated or tit-for-tat;

The following types of complaint will not be upheld:

³ Specified in sub-paragraph (a) – (j).

4 Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

5 Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy.

6 In general terms complaints should be submitted within 6 months of the alleged incident.

7 Such complaints should be redirected by the complainant to the West Yorkshire Police the Monitoring Officer will provide contact details to the Complainant.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

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k. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action, or are more suited for resolution through alternative means;

l. Complaints which do not evidence a failure to comply with obligations under the Members' Code of Conduct or otherwise do not relate to the Members' Code of Conduct;

m. Complaints where it is not possible to investigate, or in relation to which there is no action which could be taken which would achieve an outcome sought by the complainant in the circumstances of the case.

7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint⁸ and the name of the complainant⁹ and invited to comment.

8. In any case where the Monitoring Officer decides that the complaint cannot be progressed further under the procedure, they will write to the complainant explaining why. There is no Council appeal process for decisions taken by the Monitoring Officer at this stage, however complainants will be advised of their right to contact the Local Government and Social Care Ombudsman.

Stage 2 - Informal resolution

9. If, following assessment, the Monitoring Officer decides that the complaint should be upheld they will write to the complainant and explain that the matter is to be referred to the subject Member for the Member to seek to resolve the issue in accordance with this procedure.

10. At the same time, the Monitoring Officer will refer the matter to the subject Member¹⁰ and the relevant Group Whip¹¹ for their consideration. The Monitoring Officer will provide the subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 28 days) and will provide the subject Member with the contact details for the Independent Person¹².

11. Types of informal resolution might include:

- a. An explanation by the subject Member of the circumstances surrounding the complaint;
- b. An apology from the subject Member;

8 Information shared will include details of the complainant and their complaint. The Subject Member will receive this information as a data controller in their own right and all usual data protection controls will apply.

9 Except where the Monitoring Officer is satisfied the complainant should remain anonymous.

10 Information shared will include details of the complainant and their complaint. The Subject Member will receive this information as a data controller in their own right and all usual data protection controls will apply.

11 If the subject Member is the Group Whip, the complaint will be copied to their Group Leader. In the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

12 See Annex 1 for a summary of the role of the Independent Person.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

Part 4(k)

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Last amended on 20th March 2023

- c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
- e. Any other action capable of resolving the complaint.

12. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer or an appropriate senior person nominated by them. It may also be appropriate for the Monitoring Officer¹³ to seek the view of the complainant to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

13. The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards and Conduct Committee about the complaint at a later stage.

14. At the end of the period given to resolve the complaint, the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee and the Independent Person, seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.

15. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision.

16. Where, in the opinion of the Monitoring Officer in consultation with the Independent person, it has not been possible to appropriately address matters, the complaint will be referred to the Standards and Conduct Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision and will provide the subject Member with information regarding the Council's insurance arrangements (and how legal representation may be accessed).

17. There will be no appeal process for decisions taken by the Monitoring Officer and the Chair of the Standards and Conduct Committee at this stage.

Stage 3 – Standards and Conduct Committee

18. The Monitoring Officer will commission a report of the complaint for consideration by the Standards and Conduct Committee. This report will include readily obtainable information, a summary of the complaint, the Monitoring Officer's assessment of it and the efforts made to resolve the matter informally.

13 Or other suitable senior person as appropriate (including that Members' Whip)

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

Part 4(k)

Issue 2 – 2022/23

Last amended on 20th March 2023

19. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee¹⁴)¹⁵ to be convened to consider the report. Wherever possible the meeting will take place within 28 days of the report being finalised.

20. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Committee meeting. The Parish Member will not be entitled to vote at the meeting but will be entitled to speak, at the discretion of the Chair.

21. The following people will also be invited to attend the Committee meeting:

- a. The complainant;
- b. The subject Member;
- c. The Group Whip (if relevant); and
- d. The Independent Person.

If the complainant or the subject Member are unable to attend the meeting they will be asked for a written statement for consideration by the Committee.

22. The Monitoring Officer will attend the meeting in order to advise the Committee.

23. At the beginning of the meeting the Committee will be asked to resolve whether the complaint should be considered in private in accordance with the provisions of Rule 10 of the Access to Information Procedure Rules relating to exempt information. If the meeting is to be held in private the press and public will be excluded¹⁶.

24. After initial consideration of the commissioned report, the Committee may ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.

25. Before reaching a final decision on the complaint, the Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.

26. If the Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further

14 Such Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.

15 References to the Committee in rules 21 to 36 below shall be read as references to the Sub-Committee if such sub-committee has been appointed and is convened to hear the complaint.

16 The Committee may invite people to remain in the meeting if it is considered that they could provide information relevant to the complaint.

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information required. However, when doing so the Committee should consider whether the information will be readily available to the Monitoring Officer.

27. Once the Committee is satisfied with the information before it, it must decide on the balance of probabilities whether the subject Member has failed to comply with the Members' Code of Conduct and if so,

- a. Whether further action is warranted; and
- b. What form of action might be appropriate; and
- c. Whether to make any other general recommendation to the authority.

28. If the Committee concludes that the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.

29. If the Committee concludes that the subject Member has failed to comply with the Members' Code of Conduct, the Committee must consider whether further action is warranted in respect of the subject Member, and recommend what form of action might be appropriate.

30 The recommendations available to the Committee include but are not limited to:

- a. A formal letter to the subject Member from the Chair of the Standards and Conduct Committee setting out the conclusions of the Committee;
- b. Formal censure by a motion of full Council; or
- c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.

The Committee has no authority to disqualify or suspend the subject Member as a Councillor.

31. The Committee may make a recommendation in relation to one or more of the above to full Council or, if appropriate, the Town or Parish Council, the Group Whip or the Chair of the Standards and Conduct Committee.

32. The Committee may also make general recommendations to the relevant authority¹⁷ with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.

17 Which shall be Leeds City Council and / or the Town or Parish Council concerned as appropriate

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33. Within five working days of the Committee meeting, the Chair of the Committee will write to the complainant and the subject Member explaining the final decision of the Committee and detailing any recommendations made.

34. There will be no right of appeal against a decision of the Committee.

ANNEX 1 - ROLE OF THE 'INDEPENDENT PERSON'

Role of the Independent Person

The role of the independent person is set out in Section 28 of the Localism Act 2011.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views will be sought, and taken into account, by the authority before:-

- ☐ Making a decision at Stage 1 of this procedure;

☐ Making a decision as to whether the subject Member has appropriately addressed matters raised by the complainant by way of informal resolution at Stage 2 of this procedure;

☐ Making a decision on an allegation that it has decided to investigate under Stage 3 of this procedure.

A member or co-opted member of the authority (or of a parish council in the area) may seek the Independent Person's views on an allegation made against them.

WAKEFIELD

The Standards Committee and Standards Sub-Committee

1, Role of the Standards Committee

1.1 The Standards Committee is a key component of the Council's corporate governance arrangements. Its primary function is to advise the Council on discharging its statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct among Elected Members.

2, Membership

2.1 Six Elected Members reflecting the overall political balance of the Council. Two Co-opted Independent Members appointed from the local community.

3, Frequency of Meetings

3.1 The Committee will normally meet on two occasions during the Municipal Year. The

Chair will be able to call additional meetings should this be required.

4, Functions of the Standards Committee

4.1 To review the Member Code of Conduct on an annual basis in the light of best practice and statutory guidance.

4.2 To respond on behalf of the Council to consultations on issues relating to standards of conduct of Members under any relevant provision.

4.3 To consider complaints against Councillors and Parish/Town Councillors referred to the Council alleging breaches of local Codes, determining whether matters should proceed to investigation and making recommendations on sanctions.

5. Functions of the Standards Sub-Committee

5.1 To consider allegations of Elected Member misconduct except where the Chair of the Committee agrees that the whole Committee should be convened when a complaint merits consideration by the full Committee

6. Accountability Arrangements

6.1 To publish an Annual Report on the work of the Committee and its performance in relation to the terms of reference and the effectiveness of the Committee.

7. Arrangements for the Conduct of Business

7.1 Conduct of Meetings

Meetings are to be conducted in accordance with the Council's Procedure Rules.

7.2 Conflicts of Interest

If any Member of the Committee has a conflict of interest they must act in accordance with the Code of Conduct.

7.3 Quorum

The quorum for the Committee shall be no less than three Members of the Committee including one co-opted Member.

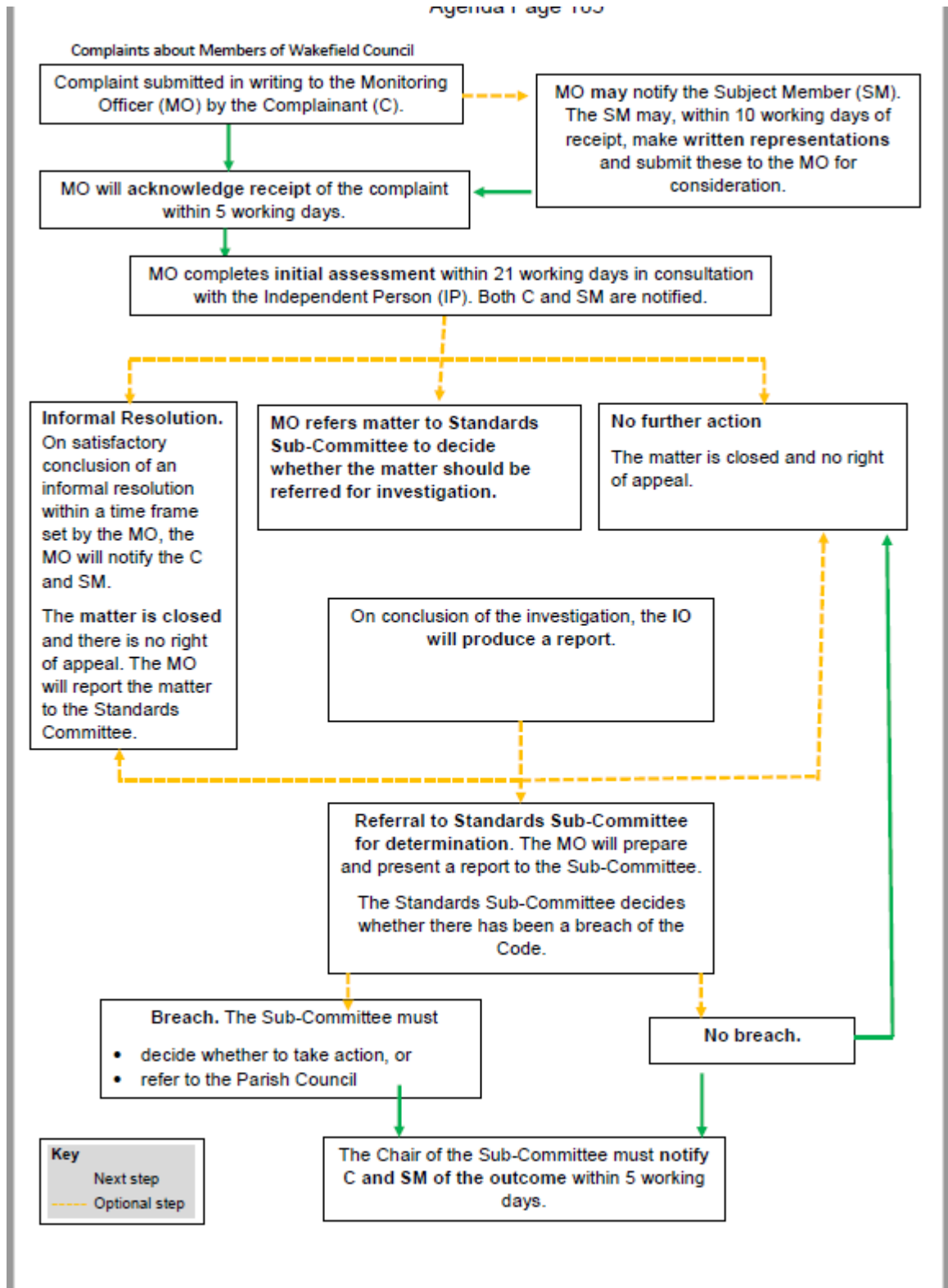
The quorum for the Sub-Committee shall be no less than 3 Members of the Standards Committee including one co-opted Member

7.4 Chair of the Meeting

The Council will appoint the Chair of the Committee. The Sub-Committee will appoint a Chair from amongst their number at each meeting.

7.5 Attendees

Rights to attend are set out in the Access to Information Procedure Rules in Part 4 of the Constitution.



NORTH YORKSHIRE

Standards arrangements

These arrangements set out how you may make a complaint that an elected or co-opted member of the North Yorkshire Council (or of a parish or town council within its area) that an elected or voting co-opted Member has failed to comply with that Council's Code of Conduct for Members.

These arrangements are made under Sections 28(6) and (7) Localism Act 2011.

1 Independent Person

The Council has appointed Independent Persons whose views must be sought by the Council before it takes any decision on an allegation which has been decided should be investigated. The Independent Person's views can also be sought by the Council at any other stage or by a Member (or member or co-opted member of a parish or town council within the Council's area) against whom an allegation has been made. In practice complaints are dealt with by the Monitoring Officer, and by the Standards and Governance Committee.

2 Members' Code of Conduct

The Council has adopted a Code of Conduct for Members, which is also published on the Council's website.

Each parish or town council is also required to adopt a code of conduct. If you wish to inspect a parish or town council's code of conduct, you should inspect any website operated by the parish or town council or request the clerk to allow you to inspect that council's code.

3 Making a Complaint

If someone considers there has been a breach of the Code of Conduct by a Member, and wants to make a complaint, they should write or send an email to:

The Monitoring Officer
North Yorkshire Council
County Hall
Northallerton
North Yorkshire

DL7 8AD

email: MonitoringOfficer@northyorks.gov.uk

Where possible, the standard complaint form should be used. It is available from the Monitoring Officer at the above address.

It is important to provide a name and contact address. Please note that the Council will not investigate anonymous complaints unless there is a significant public interest in doing so.

4 Timescales

We aim to deal with any complaint, so far as possible, within 3 months of receipt, or as soon as possible thereafter.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days and will keep you informed of progress.

5 Assessment for Investigation or Other Action

Every complaint relating to the Code of Conduct will be received by the Monitoring Officer.

The Member who is the subject of a complaint ('the subject Member') will be advised of the complaint and copied into any relevant correspondence or complaint form received from the Complainant. Where a complaint relates to a parish or town councillor, the Monitoring Officer may also inform the parish or town council of the complaint and seek views before deciding whether the complaint merits formal investigation or any other action. The Monitoring Officer will review complaints and consult with the Independent Person in doing so, and will decide whether a complaint merits formal investigation or any other action. Where there is a difference of opinion between the Monitoring Officer and the Independent Person, then the allegation will be investigated.

This assessment will take place, where possible, within 20 working days of receipt of the complaint or as soon as possible thereafter. The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

The subject Member may also be requested to provide information about the matter.

The Monitoring Officer will advise you, in writing, of their decision about whether or not the matter should be investigated.

If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as they consider appropriate.

The Monitoring Officer will not refer for investigation matters which are, in their opinion, and after consultation with the Independent Person, vexatious, offensive, trivial or politically motivated. Regard may be had to the Standards and Governance Committee Protocol for dealing with Unreasonably Persistent/Vexatious Complainants in this respect and in relation to the handling of such complaints generally.

If the Monitoring Officer has a conflict of interest or does not for any other reason consider it appropriate that they undertake initial assessment of a complaint, it will be referred to the Standards and Governance Committee.

The Standards and Governance Committee will be informed of the outcome of all complaints received. In addition, the Monitoring Officer shall, when they deem it appropriate, liaise with the Chair of the Committee regarding patterns of complaints, for example where large numbers of complaints are received against a particular

Member, a specific complaint relating to one Member is registered by more than one complainant or there is an unusually large number of complaints generally.

6 Informal Resolution

Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Standards and Governance Committee.

This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Council.

If the Member or the Council make a reasonable offer of local resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take this into account in deciding whether a complaint merits formal investigation.

7 Investigation

If the Monitoring Officer concludes that a matter merits investigation, the Complainant will be invited to submit all information they wish to submit in support of their allegation within 10 working days of request.

Once the information is received it will be sent to the Member who is subject to the complaint, who would also be invited to submit all information they wish to be considered in response within 10 working days.

Throughout the process the Monitoring Officer will ensure the subject Member and Complainant receive appropriate support and assistance.

The Monitoring Officer may also appoint a member of their staff to oversee the gathering of information relating to the matter which will comprise the investigation ('the Nominated Officer'). The Nominated Officer will consider whether any further information is needed and take steps so far as possible to secure its production.

A report containing the information provided by the Complainant and subject Member will be prepared by the Nominated Officer and copied to both parties and sent to the Monitoring Officer. The report will conclude with a recommendation as to whether it is considered that there has been a breach of the Code.

8 Conclusion of no evidence of failure to comply with the Code of Conduct

The Monitoring Officer will receive and review the report and consult the Independent Person upon it. Subsequently, if satisfied that the report is sufficient, the Monitoring Officer will write to the Complainant and the subject Member notifying them that they are satisfied that no further action is required.

9 Conclusion that there is evidence of failure to comply with the Code of Conduct

The Monitoring Officer will review the report and consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Standards and Governance Committee for consideration.

If the matter can reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing they will consult the Independent Person, with the Complainant and subject Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

As with initial assessment this can include the Member accepting that conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution the matter will be reported to the Standards and Governance Committee but no further action will be taken.

10 Hearing

If local resolution is not appropriate, or the Complainant or subject Member are not satisfied with the proposed resolution, or the subject Member is not prepared to undertake any proposed remedial action, the report will be reported to a Hearings Panel ('the Panel') of 3 Members from the Standards and Governance Committee. Where a complaint is in relation to a town or parish councillor the Panel will also include a town or parish councillor representative. The parish representative will not be from the same parish as the subject Member. The Independent Person will attend all Panel meetings and will be consulted by the Panel in making its decision about whether there has been a breach of the Code and any action to be taken.

The Panel will meet to decide whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

The report will be presented to the Panel. The Complainant and the subject Member will be invited to attend the Panel to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be present. The Panel can proceed in the absence of either the subject Member or the Complainant where it deems this to be appropriate.

The Panel shall consult with the Independent Person and be advised by the Monitoring Officer. It may conclude:

- (a) that the Member did not fail to comply with the Code of Conduct;
- (b) that the Member did fail to comply with the Code of Conduct; and, if it so concludes, the Panel may determine whether any action is necessary and, if so, what sanction is appropriate.

11 What action can the Panel take if there has been a breach of the Code of Conduct?

The Panel may:

- (a) issue a letter of censure to the Member and where appropriate require an apology to be given to the Complainant;
- (b) recommend to the Member's Group Leader that they be removed from any or all committees or sub-committees of the Council;

(c) instruct the Monitoring Officer to arrange training for the Member;

except where the Subject Member is a parish or town council Member in which case the Panel can only make recommendations to the relevant town/parish council.

The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

The Panel shall consult the Independent Person and decide what, if any, publicity should be undertaken regarding the outcome of the matter. Options for such publicity include a notice on the Council's website or a press release.

12 What happens at the end of the hearing?

The Chair of the Panel will announce the decision of the Panel as to whether the Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the subject Member and the Complainant within 10 working days. The outcome will be reported to the next meeting of the Standards and Governance Committee.

13 Revision of these arrangements

The Council may by resolution agree to amend these arrangements and delegates to the Chair of the Panel the right to depart from these arrangements where they consider it expedient to do so to secure the effective and fair consideration of any matter.

14 Appeals

There is no right of appeal for the Complainant or the subject Member against a decision of the Monitoring Officer or Panel.

If the Complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government and Social Care Ombudsman.

March 2023

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Model arrangements for dealing with standards
allegations under the Localism Act 2011

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1 Context

These 'Arrangements' set out how you may make a complaint that an elected or co-opted member of this authority [or of a parish council within its area] has failed to comply with the authority's Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

Under section 28(6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a member or co-opted member of the authority [or of a parish council within the authority's area], or of a Committee or Sub-Committee of the authority, has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.

[Localism Act 2011, ss 28\(6\), 28\(7\)](#)

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member [or a member or co-opted member of a parish council] against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix 1 o these arrangements and available for inspection on the authority's website and on request from Reception at the Civic Offices.

[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council's Code of Conduct.]

3 Making a complaint

If you wish to make a complaint, please write to:

'The Monitoring Officer

[*insert address*]

Or email: [*insert email address*]

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from Reception at the Civic Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the

complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. [Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation].

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints[which is attached as Appendix 2 of these arrangements].

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments that you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the investigating officer concludes that there is no evidence of a failure to comply with the code of conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned [and to the Parish Council, where your complaint relates to a Parish Councillor], notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

7 What happens if the investigating officer concludes that there is evidence of a failure to comply with the code of conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

7.1 Local resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution that also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee [and the Parish Council] for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

7.2 Local hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel, which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings[which is attached as Appendix 3 of these arrangements].

Essentially, the Monitoring Officer will conduct a 'pre-hearing process', requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely

to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel may, with the benefit of any advice from the Independent Person, conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8 What action can the hearings panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may:

- 8.1 censure or reprimand the member;
- 8.2 publish its findings in respect of the member's conduct;
- 8.3 report its findings to Council [or to the Parish Council] for information;
- 8.4 recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.6 recommend to Council that the member be replaced as Executive Leader;
- 8.7 instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
- 8.8 remove [or recommend to the Parish Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council];
- 8.9 withdraw [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.10 exclude [or recommend that the Parish Council exclude] the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member [and to the Parish Council], make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the hearings panel?

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least two different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the independent person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be 'independent' if he/she:

- 11.1 is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;
- 11.2 [is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority's area], or
- 11.3 is a relative, or close friend, of a person within paragraph 11.1[or 11.2 above]. For this purpose, 'relative' means:
 - 11.3.1 spouse or civil partner;
 - 11.3.2 living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 grandparent of the other person;
 - 11.3.4 a lineal descendant of a grandparent of the other person;

11.3.5 a parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;

11.3.6 a spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or

11.3.7 living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

APPENDIX 1
THE AUTHORITY'S CODE OF CONDUCT

APPENDIX 2
[PROCEDURE FOR THE INVESTIGATION OF MISCONDUCT COMPLAINTS]

APPENDIX 3
[PROCEDURE FOR LOCAL HEARINGS]

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Appendix 29 – Joint Standards Committee Procedures

CASE HANDLING PROCEDURE

Background

Under Section 28 of the Localism Act 2011, City of York Council must have in place “arrangements” under which to consider and determine any allegations that an elected or co-opted councillor of the Council or of a town or parish council within the Council’s area (~~herein after referred to as~~ the ‘Subject Member’) has failed to comply with the Council’s Code of Conduct ~~can be considered and decisions made on such allegations.~~

These arrangements provide for the Council to appoint at least one Independent Person (“IP”) whose views must be sought ~~by the Council~~ before it takes a decision on an allegation that it has decided to investigate, and ~~whose views can may~~ be sought by the Council at any other stage, or by the Subject Member against whom an allegation has been made.

~~The Council has adopted a Code of Conduct for councillors (the Code), which is published on the Council’s website and is available for inspection on request from the Council’s office.~~

~~Each town and parish council is also required to adopt a Code of Conduct which should be available on their website.~~

Receipt of Complaints~~Initial assessment~~

1. All allegations, including those against a town or parish councillor, Complaints must be made in writing, ideally by completing the complaints form available on the Council’s website, to the Monitoring Officer of City of York Council (the “MO”). A form is available on the Council’s website and in the reception of West Offices. Assistance in completing the form can be provided.

2. The MO may nominate another officer with the designation of Deputy Monitoring Officer (“DMO”) to carry out any of the functions listed in this procedure.

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Commented [HF(1)]: Not necessary we’ve already defined who a Subject Member can be. I’m not convinced on the form. We can’t reject them for not using the form. For ease we should make a form available but that is online now.

Commented [HF(2)]: It is also necessary to consider accessibility of the complaints process. If we have print disabled customers they may wish to make their complaints by telephone or at a face to face appointment and that would be a reasonable adjustment in providing a service (disability discrimination)

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3. Anonymous complaints will not be accepted unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously may be taken forward.

~~4.~~

2.4. Within 3 working days of receipt of the complaint the MO will acknowledge the complaint.

~~3.1. Anonymous complaints will not be accepted unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously may be taken forward.~~

Filter Stage (is the Complaint in Scope?)
Members not part of the Executive

5. For Members not part of the Executive, the MO, in consultation with the IP, will apply an initial filter to an allegation – for example, to check that the complaint is:

- a. against a councillor;
- b. that they were in office at the time of the alleged incident; and
- c. that the matter would be capable of being a breach of the Code. ~~The Council has no authority to deal with complaints which relate solely to a councillor's private life or things they do which are not related to their role as a councillor or as a representative of the council. The MO will keep a record of all complaints made including those which do not pass the initial filter.~~

~~4.~~

Executive Members

6. The MO must refer a complaint to the Joint Standards Committee (the "JSC") where the Subject Member is a member of the Executive and the initial filter will be applied by the JSC with advice from the MO and IP.

Conflict of Interest

7. In any case (Executive and non Executive members) the MO may must refer a complaint to the Joint Standards Committee (the "JSC") Assessment Sub-Committee where the subject member or complainant is a member of the Executive or Shadow Executive or a committee chair or deputy. The MO may also refer a complaint either to the deputy monitoring officer (DMO) or the Assessment Sub-Committee where the MO has a conflict of interest or in other

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Commented [HF(3)]: Do we need "for example" or are these the only criteria applied as an initial filter. The Committee on Standards in Public Life has recommended that authorities should also seek the views of the IP when initially assessing a case as a further way of ensuring consistency and enhancing public confidence in the framework

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Commented [HF(4)]: This provision is inserted at the request of the Chair of Standards Committee. It is not legally necessary or advised but does respond to a specific concern that a previous complaint about an Executive member was wrongly filtered out by a former monitoring officer.

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~~exceptional circumstances.~~ ~~Situations~~ ~~Circumstances~~ where ~~there may be~~ a conflict of interest ~~may arise~~ ~~would~~ include (but are not limited to) where the MO is the complainant, a key witness or where the MO has already advised on matters which are the subject of the complaint.

~~5.8.~~ ~~Where a matter is referred under this section to the JSC or DMO, this is done, subsequent~~ references to the MO in this ~~procedure section should be substituted by JSC or DMO (as appropriate).~~ ~~the DMO or the JSC Assessment Sub-Committee.~~

9. Complaints which identify criminal conduct or breach of other regulations by any person may be referred by the MO to North Yorkshire Police for consideration, or any other regulatory agency. In such cases the MO may pause the consideration of the complaint pending action by the other body.

6. Initial Assessment

~~10.~~ ~~If the MO decides~~ the matter is within scope, the ~~MOy~~ will invite an Independent Person (IP) to give their views on what action should be taken at this ~~stage~~. That IP will then remain the IP who will be consulted on that case throughout this process, except in exceptional circumstances. ~~Where a matter has not been referred to the JSC Assessment Sub-Committee, the MO will also consult with the chair or vice chair of the JSC.~~

~~7.11.~~

8. The MO will also notify the ~~S~~subject ~~M~~member of the complaint within three working days ~~[of an in scope decision]~~ unless there are compelling reasons not to, together with a ~~summary~~ ~~copy~~ of the complaint ~~(or relevant extracts) and a summary of the process to be followed,~~ and invite them to submit any relevant comments. The ~~S~~subject ~~M~~member will be given 10 working days to respond from the date of the notification. In parish council cases the MO may also notify the clerk and may ask for relevant factual information. However, the MO, in consultation with an IP, may withhold the complainant's identity if ~~they can be~~ satisfied that there are reasonable grounds for granting ~~confidentiality,~~ ~~for example a belief that the complainant or any witness to the complaint may be at risk of physical harm or intimidation, or that their employment may be jeopardised if their identity is disclosed.~~

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Commented [HF(5)]: Suggest creating a form for the benefit of new IPs to be very clear what we are asking them at this stage i.e. to recommend NFA, informal resolution or investigation with a box for reasons. This came out of training session at which Richard Gadd unsure whether he should write chapter and verse. IP should in my view refer for guidance to para 10 considerations but may not be aware of full background in all cases

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Commented [HF(6)]: The case handling procedure is accessible to members so does not need to be provided. If we say we are going to do something which is not necessary and fail to do it that is a technical breach of procedure.

Commented [HF(7)]: This has caused problems by implying that confidentiality must have been granted due to threat or intimidation which impugns the Subject Member.

~~9-12.~~ At the end of the 10 working days from notifying the Ssubject Mmember (regardless of whether any comments have been received from the Ssubject Mmember), ~~and after seeking the views of the IP and consulting with the chair or vice chair of the JSC~~ the MO will decide one of the following outcomes:

- a. to take no further action;
- b. to seek to resolve the matter informally; or
- c. to refer the matter for investigation.

~~10-13.~~ In deciding what action is necessary the MO will consider the following non-exclusive factors:

- a. does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?;
- b. are there alternative, more appropriate, remedies that should be explored first?;
- c. where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse or "unparliamentary" language) may be given;
- d. is the complaint in the view of the MO malicious (intended to do harm), vexatious (intended to cause annoyance, frustration or worry), frivolous (of little or no substance or public interest), ~~politically motivated~~, or retaliatory 'tit for tat'?;
- e. whether an investigation would not be in the public interest or the matter, even if proven, would not warrant any sanction;
- f. whether the complaint is the same as one which has previously been considered and no new material evidence has been submitted within the current administration;
- g. whether the same complaint has been submitted and accepted;
- h. does the complaint relate to conduct in the distant past (over six months before)? ~~This would include any reason why there had been a delay in making the complaint;~~
- i. does the complaint actually relate to dissatisfaction with a Council (or parish council) decision rather than the specific conduct of an individual?; and
- j. is it about someone who is no longer a councillor or who is seriously ill?

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Commented [HF(8)]: Malicious and vexatious would cover politically motivated. Retaliatory more plain in meaning than "tit for tat".

~~j.k. Does the complaint concern a failure to respond to a request from a constituent or other individual which is not of itself capable of amounting to disrespect.~~

~~11. All parties (and the clerk for parish cases) will be notified of the decision and there is no internal right of appeal against that decision.~~

~~12.14. A decision notice will be produced as a matter of record but will not be published at this stage though the Council may issue a public statement if details of the complaint are already in the public domain.~~

~~13. The MO will report to the JSC for information on cases in which there has been no further action taken.~~

Commented [HF(9)]: Decision Notice template (para 12 initial assessment has been created)

Commented [HF(10)]: This will happen but is a matter for the JSC work plan (standing item) rather than cluttering this procedure document)

Informal resolution

~~14.15.~~ Where the MO has decided to seek to resolve the matter informally, they may do one or more of the following:

- a. ask the ~~S~~subject ~~M~~member to submit an apology in writing to the complainant;
- b. convene a meeting between the ~~S~~subject ~~M~~member and the complainant in order to try to resolve the issue informally;
- c. notify the ~~S~~subject ~~M~~member's group leader (where they are a member of a political group) and suggest that they may wish to take some internal group action;
- d. suggest that the ~~S~~subject ~~M~~member undergo relevant training;
- e. other such action that the MO deems appropriate.

~~15.16.~~ The MO will decide on a timeframe within which the informal resolution must be completed to an acceptable standard.

~~17.~~ If either the ~~S~~subject ~~M~~member or complainant refuses to engage with the informal resolution proposed by the MO, or the MO deems the action taken by the ~~S~~subject ~~M~~member insufficient or the informal resolution does not take place in a timely way, the MO will decide, in consultation with an IP, whether the case should be closed, whether an investigation is necessary or whether some other action should be taken. ~~If the MO and the IP are not in agreement about how to proceed the case will be referred to the chair or vice chair of the JSC for a decision.~~

Commented [F(H11)]: I see no legal justification for giving final right of determination to the Chair of JSC.

Commented [HF(12)]: Where the case involves an Exec member the JSC sub will determine if the informal resolution is satisfactory.

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~~16-18. Where informal resolution has been proposed by the JSC any default in discharging that informal resolution shall result in the matter being referred for investigation. OR Where a case is remitted to JSC under this paragraph, the Committee will not be entitled to re-open whether the matter is in scope but must determine whether or not the alleged conduct is so serious as to warrant investigation or whether in all the circumstances the case should be closed.~~

~~17. The MO will notify the complainant (and clerk in parish cases) of the outcome of the informal resolution.~~

~~18. The MO will report to the JSC on the outcome of any informal resolutions proposed and/or implemented.~~

Investigation

19. Where a matter is referred for investigation, the MO may carry out the investigation themselves, delegate it to another officer or contract it out to an outside body.

20. The investigation must normally be completed within 3 months of the MO decision to refer the complaint for investigation. If an extension of time is needed the MO must agree that extension with the JSC chair and the IP and notify the Ssubject Mmember, complainant (and clerk in parish cases) of any extension with reasons.

21. The Ssubject Mmember is notified who the relevant IP is for the case and may seek their views at any stage during the investigation.

~~22. The complainant is also notified who the IP is and may make a request to the MO to seek the views of the IP. However, such a request will only be granted at the discretion of the IP in consultation with the MO.~~

~~23-22.~~ At any time while the investigation is underway the MO, the Ssubject Mmember or the complainant may ask for an informal resolution. The MO will consult with the relevant IP whether to agree with the request.

~~24-23.~~ Before concluding the investigation, a draft report will be produced and the complainant, Ssubject Mmember and IP will be given 7 calendar days invited to comment. Any comments received

Commented [HF(13)]: This is not a function of the IP as defined in law and appears to blur their role.

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~~will be appended to the report and the investigator will confirm on the face of the report whether the comments affect the conclusion. Witnesses may also be asked to comment as appropriate on parts of the draft report relevant to them.~~

~~25.24. Where the investigation has not been personally conducted by the MO, the final decision as to the findings of the report will be made by the MO, unless there is a conflict of interest, in which case the decision will be taken by the DMO.~~

26.25. There may be exceptional circumstances when the MO decides that a case should be closed before a draft or final report has been produced due to a significant change in circumstances. This may include, for example that the Ssubject Mmember is seriously ill or is no longer a councillor or other action has led to the matter being resolved. In such cases the MO should consult the IP before deciding that the file be closed. A record of the complaint will be kept on file in the event that the Ssubject Mmember returns to office in the future and a subsequent complaint is lodged against them.

27.26. At the end of the investigation the MO may conclude:

- a. that there has been no breach of the Code;
- b. to seek to resolve the matter informally; or
- c. to refer the matter to the JSC for determination.

~~28. In cases where the MO has concluded that there has been no breach of the Code all parties (and the clerk in parish cases) will be notified of the decision and there is no right of internal appeal against that decision. The MO will report the finding to the JSC and issue a public decision notice.~~

~~29. Where the MO decides to seek to resolve the matter informally, they shall seek the views of the IP and complainant before concluding whether such an outcome is appropriate. Paragraphs [16-20 Informal Resolution] will apply. The possible resolutions are those outlined above at paragraph 14. If the Ssubject Mmember or complainant refuses to engage with the informal resolution directed by the MO, the MO deems the action taken by the Ssubject Mmember insufficient or the informal resolution does not take place in a timely way the MO will decide, in consultation with the IP and chair or vice chair of the JSC,~~

Commented [HF(14)]: Is it helpful to invite witnesses to comment at this point? Surely the investigator has taken their evidence and represented it appropriately.

Commented [HF(15R14)]: In practice we get parties seeking to submit new evidence at this stage and if we were to open new lines of enquiry at draft report stage it is unlikely any investigation would be completed (to final report) within 3 month target

Commented [HF(16)]: I think this puts the investigator in a difficult position. They are being asked to professionally stand by findings and recommendations and they must therefore be their own. Investigators can consult with the MO/DMO for guidance.

Commented [HF(17)]: Decision notice template required for post investigation

~~whether the case should be closed or whether a hearing is necessary. The MO will notify the complainant (and clerk in parish cases) of the outcome of the informal resolution and any further steps.~~

~~27.~~

~~30-28.~~ Where the matter is referred for determination, the ~~hearings panel of the~~ JSC will convene within 2 months. The MO will notify the ~~S~~subject ~~M~~member and complainant of the date of the hearing and provide them with a written outline of the hearing procedure.

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Hearings ~~Panel~~

~~31-29.~~ A matter referred for determination by the MO will be heard by a ~~hearings panel, made up of members of~~ the JSC.

~~32-30.~~ At the start of the hearing the MO will ask the ~~JSC Hearings Panel~~ to consider whether the matter should be heard in public or in private, subject to the normal rules on exempt and confidential information and bearing in mind the public interest. The ~~JSC Hearings Panel~~ will always, however, retire in private to consider its findings and possible action.

~~33-31.~~ The views of the IP will be sought by the ~~JSC Hearings Panel~~ and made public ~~before the JSC Hearings Panel~~ reaches its decision.

Commented [F(H18): Do we want or have to do this? It will alter the webcasting requirements for the meetings. A valid alternative perhaps is to record what the IP view was clearly in the decision.

~~34-32.~~ The ~~JSC Hearings Panel~~ may decide:

- a. that there has been no breach of the Code;
- b. that there has been a breach but to take no further action; or
- c. that there has been a breach and a relevant sanction should be imposed or recommended.

~~35-33.~~ If the ~~JSC Hearings Panel~~ decides that a relevant sanction should be imposed or recommended it may impose or recommend any one or more of the following:

- a. report its findings in respect of the ~~S~~subject ~~M~~member's conduct to Council (or the relevant parish council);
- b. issue (or recommend to the parish council to issue) a formal censure;

- c. recommend to the ~~S~~subject ~~M~~member’s group leader (or in the case of un-grouped councillors, recommend to Council) that they be removed from any or all committees or sub-committees of the Council (or recommend such action to the parish council);
- d. recommend to the Leader of the Council that the ~~S~~subject ~~M~~member be removed from positions of responsibility.
- e. instruct the MO to (or recommend that the parish council) arrange training for the ~~S~~subject ~~M~~member;
- f. recommend to Council (or recommend to the parish council) that the ~~S~~subject ~~M~~member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by the parish council);
- g. recommend to Council (or recommend to the parish council) that it withdraws facilities provided to the ~~S~~subject ~~M~~member by the Council for a specified period, such as a computer, website and/or email and internet access; or
- h. recommend to Council (or recommend that the parish council) that it excludes the ~~S~~subject ~~M~~member from the Council’s offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings and/or restricts contact with officers to named officers only;
- i. if relevant, recommend to the Council that the ~~S~~subject ~~M~~member be removed from their role as Leader of the Council;
- j. if relevant recommend to the secretary or appropriate official of the group that the ~~Subject Member~~councillor be removed as Group Leader or other position of responsibility.

~~All parties (and the clerk in parish cases) will be notified of the Hearing Panel/JSC’s decision and there is no right of internal appeal against that decision.~~

~~A decision notice will be published on the Council website within 5 working days of the Hearings Panel decision.~~

Outcomes & Appeals

34. Notice of any decision made under this procedure will be given to all parties (and the clerk in parish cases). Decision notices following hearing will be published on the City of York Council website at the MO’s discretion.

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35. There is no right of appeal against a decision taken at any part of this procedure.

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36. If the Complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government and Social Care Ombudsman.

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Record Keeping

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36.37. The MO will keep a record of all complaints made and will report on the data gathered regularly to the JSC.

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~~A decision notice will be published on the Council website within 5 working days of the Hearings Panel decision.~~

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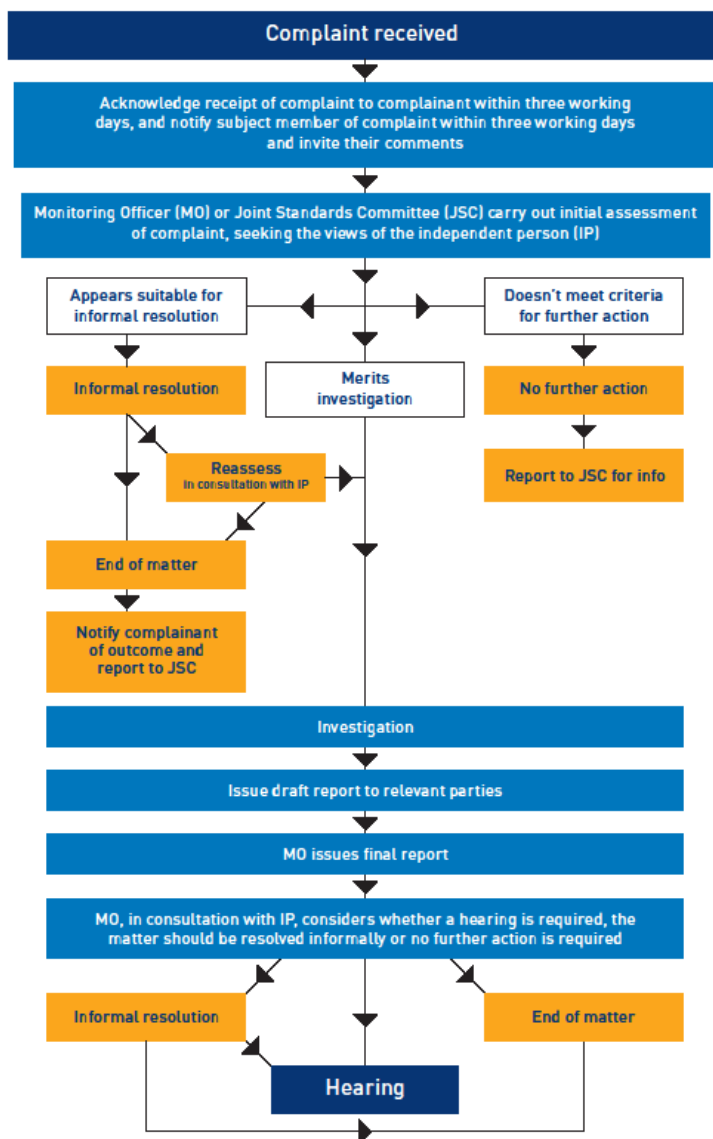
Need to see an anonymised list of complaints and justified outcomes

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Case Handling Flowchart

To be amended following confirmation of any procedural amendments

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INITIAL ASSESSMENT BY AN ASSESSMENT SUB-COMMITTEE PROCEDURE

Background

~~Under Section 28 of the Localism Act 2011, City of York Council must have in place “arrangements” under which allegations that an elected or co-opted member of the Council or of a town or parish council within the Council’s area has failed to comply with the Council’s Member Code of Conduct can be considered and decisions made on such allegations.~~

~~These arrangements provide for the Council to appoint at least one independent person (IP) whose views must be sought by the Council before it takes a decision on an allegation that it has decided to investigate, and whose views can be sought by the Council at any other stage, or by the member against whom an allegation has been made (subject member).~~

~~The Council has adopted a Member Code of Conduct (the Code), which is published on the Council’s website and is available for inspection on request from the Council’s office.~~

~~Each town and parish council is also required to adopt a Code of Conduct which should be available on their website.~~

The following procedures set out the process to be followed when an allegation is referred by the ~~M~~onitoring ~~O~~fficer (MO) for an assessment by ~~a sub-committee of~~ the Joint Standards Committee (JSC).

Initial assessment by ~~an assessment sub-committee~~ JSC

- ~~1. All allegations, including those against a town or parish councillor, must be made in writing, ideally by completing the complaints form available on the Council’s website, to the MO of City of York Council. In most circumstances the Council has delegated the decision as to whether or not to take any further action on a complaint to the MO. However, i~~n certain circumstances the MO will refer the matter to an assessment sub-committee the JSC (see paragraph #5 of the Case Handling Procedure). This is either where the MO has a conflict of interest or because the complaint is about certain senior members of the City Council as set out in paragraph 5 of the Case Handling Procedure.
- ~~2. The MO will only refer matters to the JSC Assessment Sub-Committee for initial assessment in accordance with paragraphs 6 &~~

Commented [F(H19)]: No need to repeat what is already in the first paragraphs of Appendix 29

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~~7 after having applied the initial filter in paragraph 4 of the Case Handling Procedure, to assess whether the complaint falls properly within the jurisdiction of the framework. However, where unless there is some doubt in the application of the filter criteria. (for example it is unclear on the face of it whether the matter related to the member's role as a councillor or representative of the authority) the presumption would be that the matter should be referred to the Assessment Sub-Committee. This process sets out the procedure to be followed by the Assessment Sub-Committee upon receipt of a referral from the MO.~~

- ~~3. A matter referred for determination by the MO will be heard by an assessment sub-committee, made up of members of the JSC. This Sub-Committee will consist of three members. The Council has agreed that political proportionality rules do not apply to the Assessment Sub-Committee. Where the matter relates to a parish councillor or a parish representative will be one of the three Sub-JSC Committee members considering the matter.~~
4. At the start of the assessment the MO will ask the JSC Assessment Sub-Committee to consider whether the matter should be heard in public or in private, subject to the normal rules on exempt and confidential information and bearing in mind the public interest. Given that this is an early consideration of an allegation where no findings of fact have yes been made, however, there would be a presumption that the matter is heard as a confidential item.
5. The JSC Assessment Sub-Committee will meet within three weeks of the MO referring the matter to them.
6. The views of the IP will be sought by the JSC Assessment Sub-Committee and included in any report to the Sub-Committee.
7. In considering the complaint, the JSC Assessment Sub-Committee will receive a report from the MO (or deputy MO ~~if the MO is conflicted~~) setting out:
 - a. the complaint;
 - b. matters to be considered by the JSC;
 - c. ~~Sub-Committee and~~ the available options and as to next steps;
 - d. ~~It would also include~~ any comments received from the Subject Member in response to the complaint;
 - e. The views of the IP;

Commented [F(H20)]: I think we do generally achieve this and a timescale if helpful for Dem Services to galvanise members

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~~f. The MO may also include~~

~~7. any relevant factual material such as minutes of a meeting or a copy of a Ssubject Mmember's register of interests. This part of the process is not a formal investigation but is to establish whether or not there is a 'case to answer'. As such the JSCSub-Committee should consider the matter on the papers with relevant supporting information but cannot call witnesses.~~

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~~8. This part of the process is not a formal investigation but is to establish whether or not there is a 'case to answer'. As such the JSC should consider the matter on the papers with relevant supporting information but cannot call witnesses.~~

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~~8.9. The JSCAssessment Sub-Committee may decide:~~

- a. that no further action is required;
- b. that the matter should be referred for formal investigation; or
- c. that some form of informal resolution should be carried out.

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~~9.10. In reaching its decision it must consider the same range of factors as set out in the Case Handling Procedure.~~

~~10. If the Assessment Sub-Committee decides that no further action is required it will produce a decision notice and notify the complainant and the subject member (and parish clerk if appropriate) within three working days.~~

~~11. If the JSCAssessment Sub-Committee decides the matter should be referred for formal investigation, that investigation will proceed under the direction of the MO in accordance with paragraph #. it must produce a Decision Notice and instruct the MO to arrange for the matter to be investigated. In doing so it should specify to the MO whether it believes the investigation needs to be done externally from the authority, bearing in mind the significance and complexity of the case. The MO should then notify the complainant and subject member (and parish clerk if appropriate) that the matter is to be investigated and outline the process to be followed within three working days.~~

Commented [HF(21)]: If the JSC decides on investigation that should be an investigation conducted in the usual way under the direction of the DMO as necessary in cases of conflict of interest.

~~11.~~

~~12. If the Assessment Sub-Committee decides the matter should be referred for an informal resolution, it JSC must produce a Decision Notice and instruct the MO to arrange for the action to be carried out.~~

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~~In doing so it should specify to the MO what action it believes to be appropriate and a timescale. The MO should then notify the complainant and Ssubject Mmember (and parish clerk if appropriate) within three working days.~~

~~There is no internal right of appeal against the decision of the Assessment Sub-Committee.~~

WHAT TO EXPECT IF YOU'RE SUBJECT TO A CODE OF CONDUCT COMPLAINT

1. How is a complaint made?

~~A complaint is usually made by means of a completed complaint form. A copy of the complaint form is available to download from the Council website [here](#).~~

~~The monitoring officer (MO) will then apply an initial filter to the complaint—for example, to check that it is actually against a serving councillor, that they were in office at the time of the alleged incident and that the matter if proven would be capable of being a breach of the Code. If the complaint does not meet these legal tests the complainant will be told that no further action can be taken. The MO will keep a record of all complaints made including those which do not pass the initial filter.~~

2. How will I be notified of the complaint?

~~If the complaint passes the initial filter the MO will notify you of the complaint and send you a copy (or relevant extracts) and the process to be followed within three working days unless there are compelling reasons not to do so. You will also be asked to send any relevant comments to the MO within 10 working days from when the MO tells you about the complaint. In parish and town council cases the MO may also notify the clerk and ask them for any relevant factual information. The MO may refer some complaints to an assessment sub-committee of the Joint Standards Committee (JSC) in which case you will also be told that the JSC will be making the initial decision in your case.~~

3. Will I know who has made the complaint?

Commented [HF(22)]: I have made no suggested amendments to this section. I would be minded to remove it. The procedures above and below should adequately describe what to expect. Providing another explanation of the same thing risks an unintentional contradiction.

~~You will usually be informed of the complainant's identity. However, the MO, in consultation with an independent person (IP), may withhold the complainant's identity if they are satisfied that there are reasonable grounds for granting confidentiality.~~

~~Anonymous complaints will not be accepted unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously should be taken forward.~~

~~**4. When may the complainant be granted confidentiality?**~~

~~Requests for confidentiality will be considered on a case-by-case basis but reasonable grounds may include a belief that the complainant or any witness to the complaint may be at risk of physical harm or intimidation, or that their employment may be jeopardised if their identity is disclosed.~~

~~**5. How will the complaint to be considered?**~~

~~At the end of the 10 working days from sending you the complaint the MO (or Assessment Sub-Committee of the JSC) will decide:~~

- ~~a. to take no further action; or~~
- ~~b. to try to resolve the matter informally; or~~
- ~~c. to refer the matter for investigation.~~

~~Before taking this decision the MO will ask an IP for their views on what action should be taken and will also consult with the chair or vice chair of the Joint Standards Committee unless the matter is being decided by the Assessment Sub-Committee of the JSC. In deciding what action is necessary the MO (or the Assessment Sub-Committee of the JSC) will consider the following non-exclusive factors:~~

- ~~a. does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?;~~
- ~~b. are there alternative, more appropriate, remedies that should be explored first?;~~
- ~~c. where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse or "unparliamentary" language) may be given;~~
- ~~d. is the complaint in the view of the MO malicious, politically motivated, or 'tit for tat'?~~
- ~~e. whether an investigation would not be in the public interest or the matter, even if proven, would not warrant any sanction;~~

- ~~f. whether the complaint is the same as one which has previously been considered and no new material evidence has been submitted within the current administration;~~
- ~~g. whether the same complaint has been submitted and accepted;~~
- ~~h. does the complaint relate to conduct in the distant past (over six months before)? This would include any reason why there had been a delay in making the complaint;~~
- ~~i. does the complaint actually relate to dissatisfaction with a Council (or parish council) decision rather than the specific conduct of an individual?; and~~
- ~~j. is it about someone who is no longer a councillor or who is seriously ill?~~

6. What contact can I expect from the MO after the assessment of the complaint?

~~You will be notified of the MO's decision, and there is no internal right of appeal against that decision.~~

~~A decision notice will be produced as a matter of record but will not be published at this stage though the Council may issue a public statement if details of the complaint are already in the public domain.~~

7. What happens if the MO seeks to resolve the matter informally?

~~Where the MO has decided to seek to resolve the matter informally, they may do one or more of the following:~~

- ~~a. seek an apology from you in writing to the complainant;~~
- ~~b. convene a meeting between you and the complainant in order to try to resolve the issue informally;~~
- ~~c. notify your group leader (if you are a member of a political group) and suggest that they may wish to take some internal group action;~~
- ~~d. suggest that you undergo relevant training;~~
- ~~e. other such action that the MO deems appropriate.~~

~~The MO will decide on a timeframe within which the informal resolution must be completed to an acceptable standard.~~

~~If either you or the complainant do not engage with the informal resolution, or the MO deems the action taken by you is insufficient or the informal resolution does not take place in a timely way the MO will decide, in consultation with an IP, whether the case should be closed, whether an investigation is necessary or whether some other action~~

~~should be taken. If the MO and the IP do not agree the chair or vice chair of the JSC will be asked to decide.~~

~~The MO will notify the complainant (and clerk in parish cases) of the outcome of the informal resolution and will report to the JSC on the outcome of any informal resolutions proposed and/or implemented.~~

8. What happens if the matter is referred for investigation?

~~Where a matter is referred for investigation, the MO may carry out the investigation themselves, delegate it to another officer or contract it out to an outside body.~~

~~The investigation must normally be completed within 3 months. If an extension of time is needed the MO will notify you of any extension with reasons.~~

~~You will be notified of who the relevant IP is for the case and you may seek their views at any stage during the investigation.~~

~~At any time while the investigation is underway you, the MO or the complainant may ask for an informal resolution. The MO will consult with the relevant IP whether to agree with the request.~~

~~Before concluding the investigation, a draft report will be produced and you, the complainant and the IP will be asked to comment. Witnesses may also be asked to comment on parts of the draft report relevant to them.~~

~~There may be exceptional circumstances when the MO decides that a case should be closed before a draft or final report has been produced due to a significant change in circumstances. In such cases the MO will consult the IP before closing the file. A record of the complaint will be kept on file.~~

~~At the end of the investigation the MO may conclude:~~

- ~~a. that there has been no breach of the Code;~~
- ~~b. to seek to resolve the matter informally; or~~
- ~~c. to refer the matter to the JSC for determination.~~

~~In cases where the MO has concluded that there has been no breach of the Code you will be told of the decision and there is no right of~~

~~internal appeal against that decision. The MO will report the finding to the JSC and issue a public decision notice.~~

~~Where the MO decides to seek to resolve the matter informally, they will seek the views of the IP and complainant before concluding whether such an outcome is appropriate. If you or the complainant do not engage with the informal resolution, the MO deems the action taken by you insufficient or the informal resolution does not take place in a timely way the MO will decide, in consultation with the IP and chair or vice chair of the JSC, whether the case should be closed or whether a hearing is necessary. The MO will notify the complainant (and clerk in parish cases) of the outcome of the informal resolution and any further steps.~~

9. Will I have to attend a hearing?

~~A matter referred for determination by the MO will be heard by a hearings panel, made up of members of the JSC. There is no requirement for you to attend the hearing though you will be invited and may ask somebody to help you with your case. You will also be asked if you want any witnesses to come to the hearing to help your case.~~

~~At the start of the hearing the Hearings Panel will decide whether the hearing will be in public or in private, subject to the normal rules on exempt and confidential information and bearing in mind the public interest. The hearings panel will always, however, retire in private to consider its findings and possible action.~~

~~The IP will give their views to the Hearings Panel before it makes a finding on the case.~~

~~The Hearings Panel may decide:~~

- ~~a. that there has been no breach of the Code;~~
- ~~b. that there has been a breach but to take no further action; or~~
- ~~c. that there has been a breach and a relevant sanction should be imposed or recommended.~~

~~If the Hearings Panel decides that a relevant sanction should be imposed or recommended it may impose or recommend any one or more of the following:~~

- ~~a. report its findings in respect of your conduct to Council (or the relevant parish council);~~
- ~~b. issue (or recommend to the parish council to issue) a formal censure;~~
- ~~c. recommend to your group leader (or in the case of ungrouped councillors, recommend to Council) that you be removed from any or all committees or sub-committees of the Council (or recommend such action to the parish council);~~
- ~~d. recommend to the Leader of the Council that you be removed from positions of responsibility.~~
- ~~e. instruct the MO to (or recommend that the parish council) arrange training for you;~~
- ~~f. recommend to Council (or recommend to the parish council) that you be removed from all outside appointments to which you have been appointed or nominated by the Council (or by the parish council);~~
- ~~g. recommend to Council (or recommend to the parish council) that it withdraws facilities provided to you by the Council for a specified period, such as a computer, website and/or email and internet access; or~~
- ~~h. recommend to Council (or recommend that the parish council) that it excludes you from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings and/or restricts contact with officers to named officers only;~~
- ~~i. if relevant, recommend to the Council that you be removed from your role as Leader of the Council;~~
- ~~j. if relevant recommend to the secretary or appropriate official of the group that you be removed as group leader or other position of responsibility.~~

10. What can I do if I disagree with the decision of the hearing panel?

~~There is no right of internal appeal against that decision.~~

11. Are the outcomes of the hearings published?

~~You, the complainant (and the clerk in parish cases) will be told of the outcome and a decision notice will be published on the Council website within 5 working days of the Hearings Panel decision.~~

~~12. Who should I go to if I have a question about the process?~~

~~The MO or Deputy MO should be able to answer any questions you have about the process.~~

CONFLICTS OF INTEREST GUIDELINES FOR MEMBERS AND OFFICERS

Members

A member must not participate in any part of the assessment or hearings process if they are:-

- the complainant;
- a potential witness to, or the subject of the complaint;
- closely associated with someone who is the complainant, a potential witness, or the subject of the complaint;
- a parish representative and the matter concerns their own parish council.

A member of the ~~Joint Standards Committee (JSC)~~ who is involved in the initial assessment of a complaint can be a member of the ~~JSC Hearings Panel~~ which hears and determines the complaint at the conclusion of an investigation even if they were involved in the initial assessment decision, subject to the same tests for any conflict of interest. Each case where this could occur should however be considered carefully on its own particular circumstances, in order to assess whether there might be any perceptions of potential unfairness or bias, which would justify the member concerned not being involved in the hearing/determination.

Officers

An officer who has previously advised the ~~S~~subject ~~M~~member, another member or the complainant about the issues giving rise to the complaint, should consider carefully whether they can be involved in any part of the assessment or hearings process at all.

An officer who has taken part in supporting the assessment and/or hearing process, should not be involved in the investigation of the matter, and vice-versa.

Members and officers

Members and officers should also take care to avoid any personal conflicts of interest in relation to the consideration of a complaint that a member may have breached the Code of Conduct.

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The provisions of the Council's Member Code of Conduct regarding interests apply to Joint Standards Committee members in assessments and hearings.

These provisions should also be considered by officers to apply to them in the same way that they apply to members, so that anyone (member or officer) who has an interest or is otherwise personally involved with a complaint in any way, must not take part in the assessment or hearing of that complaint.

Commented [HF(23)]: I think this section could be reduced to what is highlighted.

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The circumstances where a member or officer must not take part in an assessment or hearing of a complaint, include the following:-

- the member or officer or a relative or close associate of the ~~S~~subject ~~M~~member or an officer who is directly involved in the case;
- the complaint is likely to affect the well-being or financial position of the member or officer or the well-being or financial position of a family member, friend or close associate more than it affects the majority;
- a family member, friend or close associate of the member or officer is involved in the case;
- the member or officer has an interest in any matter relating to the case. For example, it concerns another member's failure to declare an interest in a planning application in which the member or officer has an interest.

HEARINGS BEFORE ~~A HEARINGS PANEL OF THE JOINT STANDARDS COMMITTEE PROCEDURE~~

1. Formal hearings will be conducted by ~~a panel of three councillors drawn from membership of the Joint Standards Committee (the JSC)~~ on the basis of availability plus an Independent Person (IP) who will not be a member of the ~~Committee Hearings Panel~~ but whose views the Panel must have regard to.
2. The ~~JSC Hearings Panel~~ need not reflect the political proportionality of the Council as a whole.
3. The ~~monitoring officer (MO)~~ will advise the ~~JSC Hearings Panel~~ at the start of the meeting, whether in their opinion the ~~Committee Panel~~ should meet in public or private having regard to:
 - a. the rules on confidential and exempt information as defined by Schedule 12A, Local Government Act, 1972; and whether
 - b. in all the circumstances of the case, the public interest in maintaining any exemption outweighs the public interest in disclosing the information.
4. The Council's published Public Participation Protocol as contained within the Council's Constitution will not apply without exception. This means that where the hearing is held in public, members of the public will not be allowed to address the ~~JSC Panel~~ on any matter unless they are formally part of the proceedings, for example as a witness.
5. Before a ~~h~~Hearings ~~Panel meets~~, the MO shall write to the ~~S~~subject ~~M~~member with a copy of the report, notifying them of the date of the hearing and asking:
 - a. whether they accept the finding in the investigation report;
 - b. whether they dispute any factual part of the report, identifying any areas of dispute;

- c. whether the Ssubject Mmember wishes to call any witnesses at the hearing (only witnesses identified to the investigating officer by the Ssubject Mmember may be called as witnesses. In law, witnesses do not have to attend a hearing);
 - d. whether they wish to be accompanied at the hearing.
6. Where the investigation has not been carried out by the MO, the MO will also ask the investigator if they wish to call any witnesses in addition to any called by the Ssubject Mmember. (Only witnesses identified as part of the investigation may be called as witnesses – as 5.c. above)
7. The MO will also write to the complainant with a copy of the report, notifying them of the date of the hearing and asking them if they wish to attend and/or make any further representations. They are not required to attend and the hearing may continue if the complainant is not present or has made no further representation.
8. In advance ~~of a meeting~~ of a hearing ~~the JSCs Panel its~~ members shall seek to agree who will chair the hearing. The chair may issue directions about the conduct of the hearing, including the number and suitability of suggested witnesses. A member of ~~thea JSC Hearings Panel~~ shall not act as chair unless they have received relevant training.
9. Subject to the discretion of the chair, the hearing shall be conducted as follows:
 - a. The investigating officer will be invited to present their report and to call witnesses. The Ssubject Mmember and the JSCPanel (including the IP), in that order, may ask questions or seek clarification both of the investigating officer and any witnesses.
 - b. The Ssubject Mmember will be invited to comment on the report and its findings and to call any witnesses. The investigating officer and the JSCPanel (including the IP), in that order, may ask questions or seek clarification both of the Ssubject Mmember and any witnesses.
 - c. The investigating officer and the Ssubject Mmember will be invited, in that order, to make brief concluding remarks.
 - d. The Ssubject Mmember will remain present throughout the hearing although any witnesses would only be present when being invited to present their evidence.

10. The chair and ~~JSC Hearings Panel~~, including the IP, may ask for advice at any stage from the MO or another officer appointed to advise the ~~JSC Panel~~.
11. Once the hearing has been concluded, the IP will express their views. The ~~JSC Hearings Panel~~ and the MO, or other officer where the MO is the investigator or has a conflict of interest, will then retire to consider its decision. The ~~JSC Hearings Panel~~ is required to ~~do the following~~:
 - i. ~~to~~ make findings of the facts,
 - ii. ~~to~~ decide on whether these facts constitute a breach of the Code of Conduct, and
 - iii. where a breach is found, to decide on the appropriate sanction.
12. In deciding whether or not to uphold the complaint the ~~JSC Hearings Panel~~ must apply, as the standard of proof, the balance of probability. Any officer present is simply there to advise the ~~JSC Panel~~ and is not part of the decision-making process.
13. The ~~JSC Hearings Panel~~ will then return and announce its findings on whether there has been a breach of the Code, and give reasons.
14. Following announcement of the ~~JSC Hearing Panel~~'s findings, the investigating officer and the ~~Ssubject Mmember~~ will be invited to make submissions, if necessary, regarding remedies or sanctions. The IP may also be asked to give any further views.
15. The ~~JSC Hearings Panel~~ with the MO or other appropriate officer will then retire again to consider what, if any, sanction it wishes to impose. It will then announce its decision and give reasons. Following the hearing, a Decision Notice will be issued within 3 working days, and a copy shall be sent to the complainant and ~~Ssubject Mmember~~, and to the parish clerk where it is a parish council case.
16. There is no internal right of appeal against a decision on a Code of Conduct complaint.
17. The decision will be published on the Joint Standards Committee pages of the Council's website. This includes decisions relating to members of town or parish councils.

Sanctions ~~available to a Hearings Panel~~

18. The ~~JSC Hearings Panel~~ has powers to take action in respect of individual councillors as necessary to promote and maintain high standards of conduct. It may impose one or a combination of the sanctions outlined in paragraph [32] of the Case Handling Procedure.

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- ~~19. The Hearings Panel may do one, or a combination, of the following:~~
- ~~a. report its findings in respect of the subject member's conduct to Council (or the relevant parish council);~~
 - ~~a. issue (or recommend to the parish council to issue) a formal censure;~~
 - ~~b. recommend to the subject member's group leader (or in the case of un-grouped members, recommend to Council) that they be removed from any or all committees or sub-committees of the Council (or recommend such action to the parish council);~~
 - ~~c. recommend to the Leader of the Council that the subject member be removed from positions of responsibility;~~
 - ~~d. instruct the MO to (or recommend that the parish council) arrange training for the subject member;~~
 - ~~e. recommend to Council (or recommend to the parish council) that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by the parish council);~~
 - ~~f. recommend to Council (or recommend to the parish council) that it withdraws facilities provided to the subject member by the Council for a specified period, such as a computer, website and/or email and internet access; or~~
 - ~~g. recommend to Council (or recommend that the parish council) that it excludes the subject member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings and/or restricts contact with officers to named officers only;~~
 - ~~h. if relevant recommend to the Council that the subject member be removed from their role as leader of the Council;~~

~~if relevant recommend to the secretary or appropriate official of the group that the member be removed as group leader or other position of responsibility.~~

~~ⁱ The Council has no authority to deal with complaints which relate solely to a councillor's private life or things they do which are not related to their role as a councillor or as a representative of the council.~~

Appendix 29 – Joint Standards Committee Procedures

CASE HANDLING PROCEDURE

Background

Under Section 28 of the Localism Act 2011, City of York Council must have in place “arrangements” under which to consider and determine any allegations that an elected or co-opted councillor of the Council or of a town or parish council within the Council’s area (the ‘Subject Member’) has failed to comply with the Council’s Code of Conduct

These arrangements provide for the Council to appoint at least one Independent Person (“IP”) whose views must be sought before it takes a decision on an allegation that it has decided to investigate, and may be sought by the Council at any other stage, or by the Subject Member against whom an allegation has been made.

Receipt of Complaints

1. Complaints must be made to the Monitoring Officer of City of York Council (the “MO”). A form is available on the Council's website and in the reception of West Offices. Assistance in completing the form can be provided.
2. The MO may nominate another officer with the designation of Deputy Monitoring Officer (“DMO”) to carry out any of the functions listed in this procedure.
3. Anonymous complaints will not be accepted unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously may be taken forward.
4. Within 3 working days of receipt of the complaint the MO will acknowledge the complaint.

Filter Stage (is the Complaint in Scope?)

Members not part of the Executive

5. For Members not part of the Executive, the MO, in consultation with the IP, will apply an initial filter to an allegation to check that the complaint is:

- a. against a councillor;
- b. that they were in office at the time of the alleged incident; and
- c. that the matter would be capable of being a breach of the Codeⁱ.

Executive Members

6. The MO must refer a complaint to the Joint Standards Committee (the “JSC”) where the Subject Member is a member of the Executive and the initial filter will be applied by the JSC with advice from the MO and IP.

Conflict of Interest

7. In any case (Executive and non Executive members) the MO may refer a complaint to the JSC where the MO has a conflict of interest or in other exceptional circumstances. Situations where a conflict of interest may arise include (but are not limited to) where the MO is the complainant, a key witness or where the MO has already advised on matters which are the subject of the complaint.
8. **Where a matter is referred under this section to the JSC or DMO, subsequent references to the MO in this procedure should be substituted by JSC or DMO (as appropriate).**
9. Complaints which identify criminal conduct or breach of other regulations by any person may be referred by the MO to North Yorkshire Police for consideration, or any other regulatory agency. In such cases the MO may pause the consideration of the complaint pending action by the other body.

Initial Assessment

10. If the matter is within scope, the MO will invite an Independent Person (IP) to give their views on what action should be taken at this stage. That IP will then remain the IP who will be consulted on that case throughout this process, except in exceptional circumstances.
11. The MO will also notify the Subject Member of the complaint within three working days [of an in scope decision] unless there are compelling reasons not to, together with a summary of the complaint and invite them to submit any relevant comments. The Subject Member will be given 10 working days to respond from the date of the notification. In parish council cases the MO may also notify the clerk

and may ask for relevant factual information. However, the MO, in consultation with an IP, may withhold the complainant's identity if satisfied that there are reasonable grounds for granting confidentiality.

12. At the end of the 10 working days from notifying the Subject Member (regardless of whether any comments have been received from the Subject Member), the MO will decide one of the following outcomes:
 - a. to take no further action;
 - b. to seek to resolve the matter informally; or
 - c. to refer the matter for investigation.

13. In deciding what action is necessary the MO will consider the following non-exclusive factors:
 - a. does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?;
 - b. are there alternative, more appropriate, remedies that should be explored first?;
 - c. where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse or "unparliamentary" language) may be given;
 - d. is the complaint in the view of the MO malicious (intended to do harm), vexatious (intended to cause annoyance, frustration or worry), frivolous (of little or no substance or public interest), or retaliatory?;
 - e. whether an investigation would not be in the public interest or the matter, even if proven, would not warrant any sanction;
 - f. whether the complaint is the same as one which has previously been considered and no new material evidence has been submitted within the current administration;
 - g. whether the same complaint has been submitted and accepted;
 - h. does the complaint relate to conduct in the distant past (over six months before)?;
 - i. does the complaint actually relate to dissatisfaction with a Council (or parish council) decision rather than the specific conduct of an individual?; and
 - j. is it about someone who is no longer a councillor or who is seriously ill?

- k. Does the complaint concern a failure to respond to a request from a constituent or other individual which is not of itself capable of amounting to disrespect.

Informal resolution

14. Where the MO has decided to seek to resolve the matter informally, they may do one or more of the following:
 - a. ask the Subject Member to submit an apology in writing to the complainant;
 - b. convene a meeting between the Subject Member and the complainant in order to try to resolve the issue informally;
 - c. notify the Subject Member's group leader (where they are a member of a political group) and suggest that they may wish to take some internal group action;
 - d. suggest that the Subject Member undergo relevant training;
 - e. other such action that the MO deems appropriate.
15. The MO will decide on a timeframe within which the informal resolution must be completed to an acceptable standard.
16. If either the Subject Member or complainant refuses to engage with the informal resolution proposed by the MO, or the MO deems the action taken by the Subject Member insufficient or the informal resolution does not take place in a timely way, the MO will decide, in consultation with an IP, whether the case should be closed, whether an investigation is necessary or whether some other action should be taken.
17. Where informal resolution has been proposed by the JSC any default in discharging that informal resolution shall result in the matter being referred for investigation. OR Where a case is remitted to JSC under this paragraph, the Committee will not be entitled to re-open whether the matter is in scope but must determine whether or not the alleged conduct is so serious as to warrant investigation or whether in all the circumstances the case should be closed.

Investigation

18. Where a matter is referred for investigation, the MO may carry out the investigation themselves, delegate it to another officer or contract it out to an outside body.
19. The investigation must normally be completed within 3 months of the MO decision to refer the complaint for investigation. If an extension of time is needed the MO must agree that extension with the JSC chair and the IP and notify the Subject Member, complainant (and clerk in parish cases) of any extension with reasons.
20. The Subject Member is notified who the relevant IP is for the case and may seek their views at any stage during the investigation.
21. At any time while the investigation is underway the MO, the Subject Member or the complainant may ask for an informal resolution. The MO will consult with the relevant IP whether to agree with the request.
22. Before concluding the investigation, a draft report will be produced and the complainant, Subject Member and IP will be given 7 calendar days to comment. Any comments received will be appended to the report and the investigator will confirm on the face of the report whether the comments affect the conclusion.
23. There may be exceptional circumstances when the MO decides that a case should be closed before a draft or final report has been produced due to a significant change in circumstances. This may include, for example that the Subject Member is seriously ill or is no longer a councillor or other action has led to the matter being resolved. In such cases the MO should consult the IP before deciding that the file be closed. A record of the complaint will be kept on file in the event that the Subject Member returns to office in the future and a subsequent complaint is lodged against them.
24. At the end of the investigation the MO may conclude:
 - a. that there has been no breach of the Code;
 - b. to seek to resolve the matter informally; or
 - c. to refer the matter to the JSC for determination.
25. Where the MO decides to seek to resolve the matter informally, they shall seek the views of the IP and complainant before concluding

whether such an outcome is appropriate. Paragraphs [16-20 Informal Resolution will apply.

26. Where the matter is referred for determination, the JSC will convene within 2 months. The MO will notify the Subject Member and complainant of the date of the hearing and provide them with a written outline of the hearing procedure.

Hearings

27. A matter referred for determination by the MO will be heard by the JSC.
28. At the start of the hearing the MO will ask the JSC to consider whether the matter should be heard in public or in private, subject to the normal rules on exempt and confidential information and bearing in mind the public interest. The JSC will always, however, retire in private to consider its findings and possible action.
29. The views of the IP will be sought by the JSC and made public before the JSC reaches its decision.
30. The JSC may decide:
- a. that there has been no breach of the Code;
 - b. that there has been a breach but to take no further action; or
 - c. that there has been a breach and a relevant sanction should be imposed or recommended.
31. If the JSC decides that a relevant sanction should be imposed or recommended it may impose or recommend any one or more of the following:
- a. report its findings in respect of the Subject Member's conduct to Council (or the relevant parish council);
 - b. issue (or recommend to the parish council to issue) a formal censure;
 - c. recommend to the Subject Member's group leader (or in the case of un-grouped councillors, recommend to Council) that they be removed from any or all committees or sub-committees of the Council (or recommend such action to the parish council);

- d. recommend to the Leader of the Council that the Subject Member be removed from positions of responsibility.
- e. instruct the MO to (or recommend that the parish council) arrange training for the Subject Member;
- f. recommend to Council (or recommend to the parish council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by the parish council);
- g. recommend to Council (or recommend to the parish council) that it withdraws facilities provided to the Subject Member by the Council for a specified period, such as a computer, website and/or email and internet access; or
- h. recommend to Council (or recommend that the parish council) that it excludes the Subject Member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings and/or restricts contact with officers to named officers only;
- i. if relevant, recommend to the Council that the Subject Member be removed from their role as Leader of the Council;
- j. if relevant recommend to the secretary or appropriate official of the group that the Subject Member be removed as Group Leader or other position of responsibility.

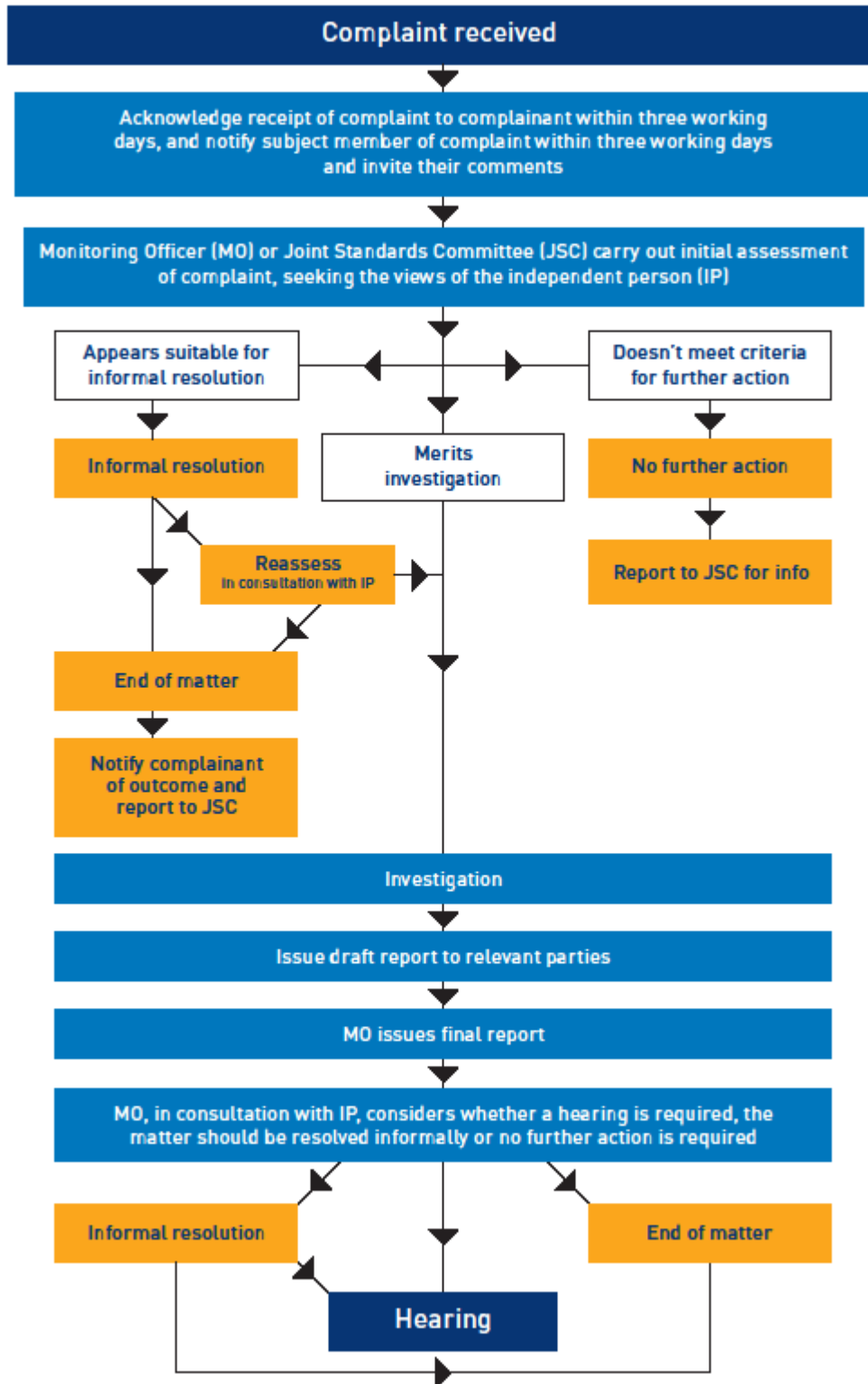
Outcomes & Appeals

- 32. Notice of any decision made under this procedure will be given to all parties (and the clerk in parish cases). Decision notices following hearing will be published on the City of York Council website at the MO's discretion.
- 33. There is no right of appeal against a decision taken at any part of this procedure.
- 34. If the Complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government and Social Care Ombudsman.

Record Keeping

35. The MO will keep a record of all complaints made and will report on the data gathered regularly to the JSC.

**Case Handling Flowchart
To be amended following confirmation of any procedural
amendments**



INITIAL ASSESSMENT BY AN ASSESSMENT SUB-COMMITTEE PROCEDURE

The following procedures set out the process to be followed when an allegation is referred by the Monitoring Officer (MO) for an assessment by the Joint Standards Committee (JSC).

Initial assessment by JSC

1. The MO will only refer matters to the JSC for initial assessment in accordance with paragraphs 6 & 7 of the Case Handling Procedure.
2. Where the matter relates to a parish councillor a parish representative will be one of the JSC members considering the matter.
3. At the start of the assessment the MO will ask the JSC to consider whether the matter should be heard in public or in private, subject to the normal rules on exempt and confidential information and bearing in mind the public interest. Given that this is an early consideration of an allegation where no findings of fact have been made, however, there would be a presumption that the matter is heard as a confidential item.
4. The JSC will meet within three weeks of the MO referring the matter to them.
5. The views of the IP will be sought by the JSC and included in any report to the Sub-Committee.
6. In considering the complaint, the JSC will receive a report from the MO (or deputy MO) setting out:
 - a. the complaint;
 - b. matters to be considered by the JSC;
 - c. the available options and next steps;
 - d. any comments received from the Subject Member in response to the complaint;
 - e. The views of the IP;
 - f. any relevant factual material such as minutes of a meeting or a copy of a Subject Member's register of interests.

7. This part of the process is not a formal investigation but is to establish whether or not there is a 'case to answer'. As such the JSC should consider the matter on the papers with relevant supporting information but cannot call witnesses.
8. The JSC may decide:
 - a. that no further action is required;
 - b. that the matter should be referred for formal investigation; or
 - c. that some form of informal resolution should be carried out.
9. In reaching its decision it must consider the same range of factors as set out in the Case Handling Procedure.
10. If the JSC decides the matter should be referred for formal investigation, that investigation will proceed under the direction of the MO in accordance with paragraph #.

CONFLICTS OF INTEREST GUIDELINES FOR MEMBERS AND OFFICERS

Members

A member must not participate in any part of the assessment or hearings process if they are:-

- the complainant;
- a potential witness to, or the subject of the complaint;
- closely associated with someone who is the complainant, a potential witness, or the subject of the complaint;
- a parish representative and the matter concerns their own parish council.

A member of the JSC who is involved in the initial assessment of a complaint can be a member of the JSC which hears and determines the complaint at the conclusion of an investigation even if they were involved in the initial assessment decision, subject to the same tests for any conflict of interest. Each case where this could occur should however be considered carefully on its own particular circumstances, in order to assess whether there might be any perceptions of potential unfairness or bias, which would justify the member concerned not being involved in the hearing/determination.

Officers

An officer who has previously advised the Subject Member, another member or the complainant about the issues giving rise to the complaint, should consider carefully whether they can be involved in any part of the assessment or hearings process at all.

An officer who has taken part in supporting the assessment and/or hearing process, should not be involved in the investigation of the matter, and vice-versa.

Members and officers

Members and officers should also take care to avoid any personal conflicts of interest in relation to the consideration of a complaint that a member may have breached the Code of Conduct.

The provisions of the Council's Member Code of Conduct regarding interests apply to Joint Standards Committee members in assessments and hearings.

These provisions should also be considered by officers to apply to them in the same way that they apply to members, so that anyone (member or officer) who has an interest or is otherwise personally involved with a complaint in any way, must not take part in the assessment or hearing of that complaint.

The circumstances where a member or officer must not take part in an assessment or hearing of a complaint, include the following:-

- the member or officer or a relative or close associate of the Subject Member or an officer who is directly involved in the case;
- the complaint is likely to affect the well-being or financial position of the member or officer or the well-being or financial position of a family member, friend or close associate more than it affects the majority;
- a family member, friend or close associate of the member or officer is involved in the case;
- the member or officer has an interest in any matter relating to the case. For example, it concerns another member's failure to declare an interest in a planning application in which the member or officer has an interest.

**HEARINGS BEFORE THE JOINT STANDARDS COMMITTEE
PROCEDURE**

1. Formal hearings will be conducted by the JSC on the basis of availability plus an Independent Person (IP) who will not be a member of the Committee but whose views the Panel must have regard to.
2. The JSC need not reflect the political proportionality of the Council as a whole.
3. The MO will advise the JSC at the start of the meeting, whether in their opinion the Committee should meet in public or private having regard to:
 - a. the rules on confidential and exempt information as defined by Schedule 12A, Local Government Act, 1972; and whether
 - b. in all the circumstances of the case, the public interest in maintaining any exemption outweighs the public interest in disclosing the information.
4. The Council's published Public Participation Protocol as contained within the Council's Constitution will not apply without exception. This means that where the hearing is held in public, members of the public will not be allowed to address the JSC on any matter unless they are formally part of the proceedings, for example as a witness.
5. Before a hearing, the MO shall write to the Subject Member with a copy of the report, notifying them of the date of the hearing and asking:
 - a. whether they accept the finding in the investigation report;
 - b. whether they dispute any factual part of the report, identifying any areas of dispute;
 - c. whether the Subject Member wishes to call any witnesses at the hearing (only witnesses identified to the investigating officer by the Subject Member may be called as witnesses. In law, witnesses do not have to attend a hearing);
 - d. whether they wish to be accompanied at the hearing.
6. Where the investigation has not been carried out by the MO, the MO will also ask the investigator if they wish to call any witnesses in addition to any called by the Subject Member. (Only witnesses identified as part of the investigation may be called as witnesses – as 5.c. above)

7. The MO will also write to the complainant with a copy of the report, notifying them of the date of the hearing and asking them if they wish to attend and/or make any further representations. They are not required to attend and the hearing may continue if the complainant is not present or has made no further representation.
8. In advance of a hearing the JSC members shall seek to agree who will chair the hearing. The chair may issue directions about the conduct of the hearing, including the number and suitability of suggested witnesses. A member of the JSC shall not act as chair unless they have received relevant training.
9. Subject to the discretion of the chair, the hearing shall be conducted as follows:
 - a. The investigating officer will be invited to present their report and to call witnesses. The Subject Member and the JSC (including the IP), in that order, may ask questions or seek clarification both of the investigating officer and any witnesses.
 - b. The Subject Member will be invited to comment on the report and its findings and to call any witnesses. The investigating officer and the JSC (including the IP), in that order, may ask questions or seek clarification both of the Subject Member and any witnesses.
 - c. The investigating officer and the Subject Member will be invited, in that order, to make brief concluding remarks.
 - d. The Subject Member will remain present throughout the hearing although any witnesses would only be present when being invited to present their evidence.
10. The chair and JSC, including the IP, may ask for advice at any stage from the MO or another officer appointed to advise the JSC.
11. Once the hearing has been concluded, the IP will express their views. The JSC and the MO, or other officer where the MO is the investigator or has a conflict of interest, will then retire to consider its decision. The JSC is required to:
 - i. make findings of the facts,
 - ii. decide on whether these facts constitute a breach of the Code of Conduct, and
 - iii. where a breach is found, to decide on the appropriate sanction.

12. In deciding whether or not to uphold the complaint the JSC must apply, as the standard of proof, the balance of probability. Any officer present is simply there to advise the JSC and is not part of the decision-making process.
13. The JSC will then return and announce its findings on whether there has been a breach of the Code, and give reasons.
14. Following announcement of the JSC's findings, the investigating officer and the Subject Member will be invited to make submissions, if necessary, regarding remedies or sanctions. The IP may also be asked to give any further views.
15. The JSC with the MO or other appropriate officer will then retire again to consider what, if any, sanction it wishes to impose. It will then announce its decision and give reasons. Following the hearing, a Decision Notice will be issued within 3 working days, and a copy shall be sent to the complainant and Subject Member, and to the parish clerk where it is a parish council case.
16. There is no internal right of appeal against a decision on a Code of Conduct complaint.
17. The decision will be published on the Joint Standards Committee pages of the Council's website. This includes decisions relating to members of town or parish councils.

Sanctions

18. The JSC has powers to take action in respect of individual councillors as necessary to promote and maintain high standards of conduct. It may impose one or a combination of the sanctions outlined in paragraph [32] of the Case Handling Procedure.

ⁱ The Council has no authority to deal with complaints which relate solely to a councillor's private life or things they do which are not related to their role as a councillor or as a representative of the council.

Work Plan for Joint Standards Committee 2024/25

<u>Meeting Date</u> (4.00pm start time)	<u>Items</u>	<u>Notes</u>
14 May 2024	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Officer Support Protocols • Member Induction Update • Case Handling Procedure amendments, Constitution Working Group Update • Review of Work Plan 	Standard Item
23 July 2024	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Work Plan 	Standard Item
17 September 2024	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Work Plan 	Standard Item

12 November 2024	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Work Plan 	Standard Item
21 January 2025	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Work Plan 	Standard Item
18 March 2025	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Work Plan 	Standard Item

Pending items for consideration:

- Review of Citywide Democratic Engagement of Parished and Non Parished areas



Joint Standards Committee**14 May 2024**

Report of the Deputy Monitoring Officer

Monitoring Report in respect of Complaints Received**Summary**

1. This report is to update the Committee on the position regarding ongoing complaints.

Background

2. The Joint Standards Committee is responsible for promoting a culture of openness, accountability, probity and the maintenance of high standards of conduct by members. In order to do this, it reviews all code of conduct complaints. This enables, amongst other things:
 - Monitoring overall numbers of complaints allowing comparison with similar authorities
 - Monitoring trends of increasing/decreasing levels of complaints and identifying links to key events or triggers
 - Identifying common types of complaints which may illustrate a need for enhanced training and information
 - Assessing the efficacy of sanctions imposed by linking an increase/decrease in complaints regarding a particular member or from a particular locus to intervention or sanctions previously imposed.
 - Assessing the efficacy of the complaints procedure and identifying possible improvements.

Commentary on Case Logs**Open cases**

3. Case reference 2023/21 falls under paragraph 5 of the complaints handling process and was considered by a JSC Assessment Sub Committee on 30 January 2024. The Committee decided to refer

the matter for investigation which it indicated should be external. The cost of an external investigation was explored and found to be disproportionate. The investigation has since been tasked to two senior CYC lawyers who expect to complete their report within 3 months. Interviews with the complainants have been undertaken.

4. Case reference 2024/01 falls under paragraph 5 of the complaints handling process. It was referred to a JSC Sub Committee for assessment which determined the complaint was not in scope. Following a request from the complainant to allow a verbal description of their complaint to be put to the Assessment Sub Committee, the Monitoring Officer has agreed to a re-hearing as a reasonable adjustment.
5. Case reference 2024/06 remains at assessment stage.

Cases closed since last JSC

6. Case reference 2023/13 was investigated by a CYC lawyer and a report was presented to a hearing on 18 April 2024. The complaint was upheld and sanctions applied as described in the case log.
7. Case reference 2023/14 was investigated by a CYC lawyer and a report was presented to a hearing on 18 April 2024. The complaint was upheld and sanctions applied as described in the case log.
8. Case references 2024/02 to 2024/05 were assessed by the Deputy Monitoring Officer as being in scope. The complaints were interrelated. It was determined that each should be resolved by way of informal resolution through advice and information in line with the recommendation of the Independent Person. This has been provided.

Implications

9. **Financial** Not applicable to this report.
10. **Human Resources (HR)** Not applicable to this report.
11. **Equalities** Maintaining standards across the City through the Code of Conduct ensures that an ethical framework can be adhered to, including ensuring that equality issues form an integral part of that framework.
12. **Legal** As detailed within the report.

13. **Crime and Disorder, Information Technology and Property** Not applicable to this report.

Recommendations

14. That the Joint Standards Committee notes the report, in order to ensure that the Committee is aware of the current levels of activity and is able to provide oversight of the complaints procedure.

Author & Officer Responsible for the report:

Frances Harrison
Deputy Monitoring Officer
frances.harrison@york.gov.uk

Report Approved

Date 1 May 2024

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

- Annex A (i) Table showing open complaints received.
- Annex A (ii) Table showing open complaints received (confidential)
- Annex B (i) Table showing recently closed complaints.
- Annex B (ii) Table showing recent complaints (confidential)

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Open Complaints Log - Public

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status / updates
2023/21 (LT)	CYC	York residents	26/11/23	The complainants allege that the behaviour of the 3 Councillor's is not in line with the code. Multiple examples of these allegations over a period of time have been provided by all complainants.	<p>This complaint falls under paragraph 5 of the complaints handling process. It will therefore be referred to a JSC Sub Committee for assessment.</p> <p>Views of the IP sought.</p> <p>Assessment Sub Committee arranged for 30th January 2024.</p> <p>The Assessment Sub Committee assessed the complaint and recommended to progress to investigation. Parties notified. Investigation ongoing.</p>
2024/01 (FH)	City	York resident	15/01/24	The complainant alleges the Councillor failed to respond, failed to rectify the alleged disability discrimination they had suffered and that was disrespectful under the Code.	<p>This complaint falls under paragraph 5 of the complaints handling process. It will therefore be referred to a JSC Sub Committee for assessment.</p> <p>Views of the IP sought.</p>
2024/06	Parish	Parish	19/03/24	The complainant alleges the Councillors breached the code of conduct at a Council meeting, in that they brought their Councils into disrepute, failed to respect a fellow Councillor during a meeting, failed to declare an interest in procedures, attempted to make false minutes and made false statements during the meeting.	This complaint is currently being assessed by the Deputy Monitoring Officer.

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Recently Closed Complaints Log - Public

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status / updates
2024/02 (FH)	Parish	Parish	15/02/24	The complainant alleges the Councillor's behaviour at a Parish Council meeting was not in line with the code. Evidence of the alleged disrespect provided.	This complaint is currently being assessed by the Deputy Monitoring Officer. Views of the IP sought. The Deputy Monitoring Officer determined that the matter should be resolved informally by a letter of advice and a review of training materials. Parties notified, complaint closed.
2024/03 (FH)	Parish	Parish	17/02/24	The complainant alleges the Cllr breached the code of conduct at a Parish Council meeting in January 2024 by allowing a draft letter to be included on the agenda outside the allowed 5 days' notice. The complainant also alleges this was submitted to confer an advantage and a pre-disclosed position of bias.	This complaint is currently being assessed by the Deputy Monitoring Officer. Views of the IP sought. The Deputy Monitoring Officer determined that the matter should be resolved informally by a letter of advice and a review of training materials. Parties notified, complaint closed.
2024/04 (FH)	Parish	Parish	17/02/24	The complainant alleges the Councillor breached the code of conduct at a Parish Council meeting in January 2024 by not declaring an interest for an item they voted on.	This complaint is currently being assessed by the Deputy Monitoring Officer. Views of the IP sought. The Deputy Monitoring Officer determined that the matter should be resolved informally by a

Recently Closed Complaints Log - Public

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status / updates
					letter of advice and a review of training materials. Parties notified, complaint closed.
2024/05 (FH)	Parish	York resident	17/02/24	The complainant alleges the Councillor breached the code of conduct at a Parish Council meeting in January 2024 by not declaring an interest for an item they voted on.	<p>This complaint is currently being assessed by the Deputy Monitoring Officer.</p> <p>Views of the IP sought.</p> <p>The Deputy Monitoring Officer determined that the matter should be resolved informally by a letter of advice and a review of training materials. Parties notified, complaint closed.</p>
2023/13 (LT)	CYC	York resident	23/08/23	The complainant alleges the Councillor's behaviour is disrespectful, distressing and not in line with the code. Example of behaviour provided. The complainant also alleges the Councillor wrongly shared an address of an ongoing enforcement case, breaching data protection.	<p>This complaint is currently being assessed by the Deputy Monitoring Officer.</p> <p>Views of the IP sought. Complaint assessed and will progress to investigation. Parties notified. Investigating Officer identified.</p> <p>Investigation completed and will be referred to a Hearing Committee.</p> <p>Hearing Committee to be convened.</p> <p>Hearing Panel met on 18th April 2024. The Panel upheld the Investigating Officer's findings that the Councillor breached the Code of Conduct. The</p>

Recently Closed Complaints Log - Public

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status / updates
					Panel imposed the following sanctions: The Cllr will be required to attend appropriate training. The Cllr will not be permitted to contact certain staff for a period of six months. Decision notice sent to parties and published online. Complaint closed.
2023/14 (LT)	City	Residents	16/10/23	2 complaints received against the Councillor's behaviour. The complainants allege the behaviour is in breach of the member/officer protocol in that the Councillor failed to treat officers with respect, dignity and courtesy.	<p>This complaint is currently being assessed by the Deputy Monitoring Officer.</p> <p>Views of the IP sought. Complaints assessed and will both progress to investigation. Parties notified. Investigating Officer identified.</p> <p>Following investigation, Hearing Committee to be convened.</p> <p>Hearing Panel met on 18th April 2024. The Panel upheld the Investigating Officer's findings that the Councillor breached the Code of Conduct. The Panel imposed the following sanctions: A formal censure is issued. The Cllr will not be permitted to contact staff in the relevant department below the level of Assistant Director. Decision notice sent to parties and published online. Complaint closed.</p>

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