

Report of the Deputy Monitoring Officer

Code of Conduct Complaint received in respect of a City Councillor

Summary

1. To consider complaints of breach of the Code of Conduct received in respect of a City Councillor and determine next steps.

Recommendations

2. The options available to the Sub-Committee are as follows:
 - a. Rule that the complaint is out of scope.
 - b. Rule that the complaint is in scope and choose to
 - (i) take no further action,
 - (ii) seek to resolve the matter informally; or
 - (iii) refer the matter for investigation.

In either eventuality there are no rights of appeal to this decision.

Background

3. On 6 February 2026 the Monitoring Officer received a complaint from a Councillor alleging that the Subject Member had breached the Code of Conduct. The Complainant reports that the Subject Member has failed to comply with multiple, specific duties set out in the Code of Conduct

Procedure

4. Under the Case Handling Procedure set out in Appendix 29 of the Constitution, an initial filter is applied to all complaints, essentially “is there a case to answer?”

5. The Monitoring Officer is responsible for applying that filter except that under paragraph 5 of the Procedure, cases of complaints against a member of the Executive or Shadow Executive or a committee chair or deputy, these complaints must be referred to a Joint Standards, Sub Committee.
6. In all cases, the subject member is notified of the complaint and may provide comments.
7. An Independent Person is also invited to give a view on what should happen next. The assessment of the IP should be considered in determining which of the following actions, under paragraph 9 should follow, namely
 - a. to take no further action;
 - b. to seek to resolve the matter informally; or
 - c. to refer the matter for investigation.
8. These will be the options available to the Sub Committee today if the complaint is determined to be in scope. Guidance on factors to be taken into account is offered in Paragraph 10 of the Procedure.

Advice of Deputy Monitoring Officer

Initial Assessment – Jurisdictional Test (can we look at the complaint?)

9. The matters to consider in applying the initial filter are set out in Paragraph 4 of the Procedure:
 - i. check that the complaint is against a Councillor;
 - ii. that they were in Office at the time of the alleged incident; and
 - iii. 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.
10. Factors i and ii are plainly satisfied in this case. Members must decide if there is prima facie evidence of breaches to the following aspects of the Code:

Section 1 - Respect As a Councillor:

- a. I treat other Councillors and members of the public with respect.
- b. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Section 2 - Bullying, harassment and discrimination as a Councillor:

- a. I do not bully any person.
- b. I do not harass any person.
- c. I promote equalities and do not discriminate unlawfully against any person.

Section 4 - Confidentiality and access to information

As a Councillor:

- a. I do not disclose information:
 - a. given to me in confidence by anyone
 - b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person;
 - or iv. the disclosure is:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority;
 - and 3. I have consulted the Monitoring Officer prior to its release.
 - b. I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.
 - c. I do not prevent anyone from getting information that they are entitled to by law.

Section 5 - Disrepute of a Councillor – a Councillor should not bring the Office of Councillor or the Council into disrepute.

If members agree that there has been a breach of any of the above, the matter is in scope.

2nd Stage Test (Should we look at the complaint?)

11. If the jurisdictional tests have been met, the subcommittee should continue to determine the appropriate course of action taking into account

the assessment criteria found in paragraph 10 of the Case Handling Procedure namely:

- 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).
- 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?

Local Government Association Guidance

12. The Local Government Association publishes guidance on interpretation of the Code and complaints handling which is referred to as a background document.

Options

13. The Sub-Committee must now consider the following options:

- a. Rule that the complaint is out of scope.
- b. Rule that the complaint is in scope and choose to (i) take no further action, (ii) seek to resolve the matter informally; or (iii) refer the matter for investigation.

Implications

Financial

14. There will be costs incurred in the event that the matter progresses to investigation.

Human Resources (HR)

15. Not applicable to this report.

Equalities

16. Councillors are offered the support of an Independent Person as part of the Complaints Handling Procedure.

Legal

17. The Monitoring Officer is required to consider all formal complaints received in respect of the Code of Conduct in line with the published Procedure for managing Code of Conduct Complaints.

Crime and Disorder, Information Technology (IT) and Property

18. Not applicable to this report.

Other

19. Not applicable to this report.

Contact Details

Author and Officer

Responsible for the report:
Julie Gallagher

Deputy Monitoring Officer

Report Approved Date 17 February 2026

Wards Affected: All

All

For further information please contact the author of the report

Background Papers:

- Member Code of Conduct
- City of York Council Code of Conduct and Procedure for Handling of Complaints
- City of York Council Constitution
- <https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respect>

Annexes:

- Annex 1 – Complaint *[To Follow]*
- Annex 2 – Subject Member comments *[To Follow]*
- Annex 3 – IP views *[To Follow]*