

## **Joint Standards Committee**

- To:** Councillors Martin Rowley BEM (Chair), Fisher, Lomas, Pavlovic and Runciman (CYC Members)
- Cllrs Waudby (Vice-Chair) Chambers and Rawlings  
(Parish Council Members)
- Mr J Leigh (Independent Member)
- Date:** Tuesday, 21 November 2023
- Time:** 4.00 pm
- Venue:** The Thornton Room - Ground Floor, West Offices (G039)

### **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) to Agenda Item 9 on the grounds that it contains information which is likely to reveal the identity of individuals. This information is classed as exempt under Paragraph 2 of Part 1 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 - 6)  
To approve and sign the minutes of the meeting of the Joint Standards Committee held on 28 September 2023.

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

- 5. 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 17 November 2023.**

To register to speak please visit [www.york.gov.uk/AttendCouncilMeetings](http://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](http://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](http://www.york.gov.uk/COVIDDemocracy)) for more information on meetings and decisions.

- 6. Member Induction Programme 2023** (Pages 7 - 26)  
This report provides a review of the Member Induction Programme.

**7. Review of the Case Handling Procedure for complaints under the Member Code of Conduct** (Pages 27 - 108)

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.

**8. Review of Work Plan** (Pages 109 - 110)

To consider the Committee's work plan for the current year and decide whether any amendments or additions are required.

**9. Monitoring Report on Complaints Received** (Pages 111 - 122)

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](mailto: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  
własnym języku. (Polish)**

**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) <b>OR</b> 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) <b>OR</b> 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

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Meeting	Joint Standards Committee
Date	28 September 2023
Present	Councillors Fisher, Pavlovic, Runciman, and Whitcroft (Substitute for Cllr Lomas) (CYC Members)  Councillors M Waudby (Vice-Chair in the Chair), Chambers and Rawlings (Parish Council Members)
Apologies	Councillors Rowley and Lomas Mr Leigh (Independent Person)
In attendance	Frances Harrison, Head of Legal and Deputy Monitoring Officer

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#### 11. **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.

Cllr Fisher declared an interest in Agenda Item 9 (Monitoring Report on Complaints Received). Parish Cllr Chambers noted that he was a resident of York.

At a later stage in the meeting, in relation to Item 7 (Register of Member Interests Treatment of Sensitive Interests and Civility in Public Life), Cllr Pavlovic noted that he was exempted from publishing his home address. He therefore took no further part in the discussion on that item.

#### 12. **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 and B to Agenda Item 9 (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.

**13. Minutes (4.03 pm)**

Resolved: That the minutes of the meeting of the Joint Standards Committee held on 7 June 2023 be approved and signed as a correct record.

**14. Minutes of Sub-Committees (4.03 pm)**

It was noted that the meeting of 18 September 2023 was not attended by a Parish Councillor. It was later clarified that if a Parish Councillor is the subject of an assessment, then a Parish Councillor must be included as part of the assessment panel.

Resolved: That the minutes of the following sub-committee meetings be approved and signed as a correct record:

- Assessments Sub-Committee 26 June 2023
- Assessments Sub-Committee 18 September 2023, subject to the removal of 'Cllr Leigh' which was a typographical error.

**15. Public Participation (4.06 pm)**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Cllr Mark Warters had registered to speak on Item 9 (Monitoring Report on Complaints Received). The Head of Legal and Deputy Monitoring officer gave advice to Cllr Warters that individual cases could not be referred to during public participation. He was subsequently reminded of this advice by the Chair.

The Head of Legal and Deputy Monitoring officer then restated the Public Participation protocol (appendix 8 to the constitution) for the benefit of the committee.



**16. Register of Member Interests Treatment of Sensitive Interests and Civility in Public Life (4.13 pm)**

The Head of Legal and Deputy Monitoring officer introduced the report and explained that some members may wish for their personal information to be kept private. She highlighted the Local Government Associated materials that were available.

Members discussed the role of social media had played in the loss of boundaries in relation to citizen engagement and acknowledged the need, in certain circumstances, to protect Members' confidential information.

Resolved:

- i. The Committee noted and endorsed the Monitoring Officer's approach to Sensitive Interests
- ii. The Committee noted and endorsed the LGA's general guidance in relation to member safety and security; and
- iii. The Committee noted and endorsed the LGA specific guidance in relation to the use of social media/digital citizenship "Improving digital citizenship: A practical guide for councillors" at Appendix 1.

**17. Review of Work Plan (4.21 pm)**

Members considered the committee's work plan for the 2023-24 municipal year.

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

Meeting on 21 November 2023

- Preliminary Report on review of Joint Standards policies and procedures.

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

**18. Monitoring Report on Complaints Received (4.22 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 Waudby, Vice-Chair in the Chair

The meeting started at 4.01 pm and finished at 4.49 pm.



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**JOINT STANDARDS COMMITTEE****21 November 2023**

Report of the Deputy Monitoring Officer

**To receive an overview of the Member Induction Programme 2023****Summary**

The Joint Standards Committee is keen to support Member development and to ensure that the content and accessibility of training for members fully promotes high standards of conduct which falls within the Committee's remit.

**Background**

The member induction programme was co-ordinated by Claire Foale, Assistant Director of Policy and Strategy and compiled in collaboration with officers and members across CYC. The Joint Standards Committee asked for a review of the programme to be presented to it. Annexes A and B have been produced by Claire following analysis of feedback on the programme.

**Implications**

**Financial** – None directly arising from this report

**Human Resources (HR)** – None directly arising from this report.

**Equalities** – None directly arising from this report.

**Legal** – None directly arising from this report.

**Crime and Disorder, Information Technology and Property** - None directly arising from this report.

## Recommendations

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

## Reasons for the Recommendation

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

## Options

There are no other options for the Committee to consider on this occasion.

**Author & Chief Officer responsible for the report:** Bryn Roberts, Director of Governance & Monitoring Officer

**Report Approved**  **Date** 9 November 2023

**Specialist Implications Officer(s):**

**Wards Affected:** All

**For further information please contact the author of the report**

## Annexes:

- Annex A – November 2023 Review of the member induction programme
- Annex B – Member Feedback

## **November 2023 Review of the member induction programme**

1. The member induction programme was designed to help improve understanding of member roles and responsibilities over a wide range of subjects. It begun May 2023 and will conclude December 2023. Over 25 different sessions are being held, covering a wide range of issues, including code of conduct, aspects of The Constitution and how officers and members work together, and their respective roles.
2. Sessions are either mandatory or optional and available in different formats and lengths with some including external speakers with different areas of expertise, including the Local Government Association. Sessions can be attended in real time or watched-back via video at the member's convenience, materials can be downloaded and over time, the member induction programme has built a library of videos and materials for future reference.
3. The member induction programme focuses on the distinct roles of member and officer, with Executive members setting policy and officers involved in the day-to-day delivery of policy and statutory services, together with the distinct roles of the different statutory officers.
4. The member induction programme is promoted on the council website, a new member portal on the intranet and via modgov.

## Members' portal



Here is some information to help you find the information you need as part of your work as an elected member at City of York Council.

**View the calendar of meetings, agendas and committee information:** [Meetings, agendas and minutes](#)

**Submit or amend your register of interests:** Go to [Work to Do](#), and select Edit My Register of Interests.

Once you have completed the Register of Interest form, it will be submitted to Democratic Services to be approved and published.

### Member induction programme information

- [view member induction programme calendar](#)
- [view member induction sessions and supporting papers](#)
- [register to attend a member induction session](#)
- [provide feedback in survey on member induction programme](#)
- [download member induction welcome pack](#)

5. Members can register interest via a link from modgov to MyLo. In addition, all newly elected members received a welcome pack which included the member induction programme. In September, members were sent a reminder of the remaining sessions.
6. The member induction programme is available to officers G12 or above (the Leading Together cohort) to build shared understanding of expectations. Heads of Service are able to view recorded sessions via MyLo, the council's online training platform to share and discuss in team meetings.
7. Additional training sessions for both officers and members will be introduced to help further embed the Council Plan vision and priorities. This includes a focus on Human Rights and Equalities.
8. There are still a few sessions to rearrange including Access and Ward and Parish Councils. The member induction programme will be reviewed in December to consider whether there are opportunities to improve or introduce new sessions.

## Online

9. The number of members who watched different online sessions is shown below to demonstrate the value of having sessions available to watch at a convenient time:

<b>Member induction sessions (elected members only)</b>	<b>Number of members who watched online at their convenience</b>
Elected Members - Anti-Social Behaviour	1
Elected Members - Being a ward councillor – council support	5
Elected Members - Climate Change development programme	1
Elected Members - Code of Conduct	10
Elected Members - Induction Day One - Welcome to the Council	3
Elected Members - Introduction to Scrutiny	3
Elected Members - Joint Standards Committee	1
Elected Members - Licensing and Regulatory Committee Induction	9
Elected Members - Making the most of meetings	7
Elected Members - Planning Committee	9
Elected Members - Public Health	6
Elected Members - Risks, protections and policies	6
Elected Members - The budget and commercial awareness	5
Elected Members - Work of the Audit and Governance committee	3
<b>Grand Total</b>	<b>69</b>

## Attendance

10. Attendance is recorded for each session. This is either via a registration in live sessions, Teams attendance logs or for members watching on video at a later date, attendance is automatically recorded.
11. In some instances, members have not been able to access MyLo to register attendance or view the videos via MyLo (and instead had the videos sent direct to them) and their attendance has been added manually.
12. The below shows registered attendance by Group. Nine elected members have not attended any of the sessions. All sessions have had at least one attendee (the below also includes attendance registered by watching the video at a more convenient time). Attendance by officers is not shown.

	Cons	Labour	Lib dem	Other	Grand Total
Elected Members - Access (Equalities)		4			4
Elected Members - Anti-Social Behaviour		4			4
Elected Members - Being a ward councillor – council support		11	1		12
Elected Members - Climate Change development programme		5			5
Elected Members - Code of Conduct		17	1		18
Elected Members - Council Strategy and policies		8			8
Elected Members - Customer Communications		5			5
Elected Members - How the council makes decisions		6	1		7
Elected Members - Human Rights		4			4
Elected Members - Induction Day One - Welcome to the Council	1	21	8		30
Elected Members - Induction to Safeguarding		4			4
Elected Members - Introduction to Scrutiny	1	14	2		17
Elected Members - Joint Standards Committee		4			4
Elected Members - Licensing and Regulatory Committee Induction	1	10	3		14
Elected Members - Making the most of meetings		12	1		13
Elected Members - Personal Safety		3	1		4
Elected Members - Planning Committee	1	13	4	1	19
Elected Members - Public Health		10	1		11
Elected Members - Risks, protections and policies		13	1		14
Elected Members - The budget and commercial awareness		15			15
Elected Members - The Local Plan		7			7
Elected Members - Unitary and Parish Councils		1			1
Elected Members - Ward Profiles		4	1		5
Elected Members - Work of the Audit and Governance committee		7			7
Elected Members - York's Civic History		2			2
Grand Total	4	204	25	1	234



## Lessons learned

**Day one Induction:** with the building and IT induction following the day one induction, many members didn't have access to register attendance causing delays. A different schedule which breaks the larger group into smaller groups and takes them through a rolling-schedule of IT, Building and interactive day one induction which would also help to build relationships from the outset.

**Access:** collecting information needs about access should be made at the count (or before) to help ensure the first sessions are welcoming and inclusive. By waiting to collate access needs, there wasn't time to then incorporate into the first couple of sessions.

**Accessing MyLo:** assumptions were made about how members would understand how to access the training on MyLo. A step by step guide should be provided with the Welcome Pack to help.

**MS Teams:** three sessions were held to support members learn more about MS Teams, however these were nearly a month in and as a result, it would be more helpful to have these nearer the start of members time with the council.

**Changing the programme:** Some sessions have been cancelled or postponed at short notice due to what looks like no registered attendance. Members have expressed concern as are keen to view the session at their convenience. Officers will endeavour to continue with the programme regardless of registered attendance.

**Communicating updates:** Members remained interested in the sessions and shared frustrations about not knowing which external speakers or extra sessions were taking place. A summary reminder of the remaining programme was circulated to all members in September.

**Mandatory vs. optional:** There was some confusion about what was mandatory (as set out in the Constitution, for example Planning) and what was mandatory because we would have liked members to be more aware of their roles and responsibilities. Next time we arrange a full member induction programme, making this clear from the outset would be helpful.

**Too time intensive:** When arranging the programme during the pre-election period it seemed reasonable, however, after the election it was clear that the programme was too time intensive. We quickly responded to feedback and moved sessions to later in the year and should bear this in mind next time arrange a full induction programme.

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# Annex B (i)

Contact details:	Which month did you attend your training event?	Please select the training event you attended:	Please select the training event you attended:	Please select the training event you attended:	Please select the training event you attended:	Did you:	Please let us know if attendance was optional or mandatory for this event.	About the training and trainer:							
Name	Response	Response	Response	Response	Response	Response	Response	I had the information I needed to access the training	The trainer was knowledgeable	There was enough time for questions and discussion	The handouts were helpful	The training format met my needs	The training was helpful / useful / interesting	I would recommend this training to other councillors	
Clr Baxter	May 2023	Making the most of meetings				Download	Mandatory	Good	Very good	Very good	N/A	Good	Good	Very good	
Jo Coles	June 2023		Public Health			Attend the event in person		Very good	Very good	Very good	N/A	Very good	Very good	Very good	
Anne Hook	June 2023		Council services Risks protections and policies			Online	Mandatory	Average	Very good	N/A	N/A	Very good	Very good	N/A	
Kallum Taylor	June 2023					Online	Mandatory	Good	Good	Poor	N/A	Good	Average	Average	
Kallum Taylor	May 2023	Welcome to the Council (induction day two)				Attend the event in person	Mandatory	Very good	Very good	Very good	Very good	Very good	Very good	Very good	
Dave Merrett	June 2023		Planning Committee			Attend the event in person	Mandatory	Very good	Very good	Very good	N/A	Good	Good	Good	
Sarah Wilson	June 2023		Planning Committee			Attend the event in person	Mandatory	Very good	Very good	Very good	N/A	Good	Good	Very good	
Sarah Wilson	May 2023	Being a ward councillor – council support				Attend the event in person	Mandatory	Very good	Very good	Very good	Good	Very good	Very good	Very good	
Bob Webb	May 2023	Being a ward councillor – council support				Download	Optional	Very good	Very good	N/A	N/A	Good	Good	Good	
Bob Webb	May 2023	Code of Conduct				Download	Optional	Very good	Very good	N/A	N/A	Very good	Good	Good	
Jason Rose	May 2023	Introduction to Scrutiny				Attend the event in person	Mandatory	Very good	Very good	Good	Very good	Very good	Very good	Very good	
Kallum	May 2023	Introduction to Scrutiny				Attend the event in person	Optional	Very good	Very good	Very good	Very good	Very good	Very good	Very good	
Chris Steward	May 2023	Introduction to Scrutiny				Attend the event in person	Optional	Good	Good	Good	N/A	Good	Good	Good	
Ben Burton	May 2023	Code of Conduct				Online	Mandatory	Very good	Very good	N/A	N/A	Very good	Very good	Very good	
Kallum Taylor	May 2023	Code of Conduct				Online	Mandatory	Average	Very good	Good	Good	Very good	Very good	Very good	
Paul S. Healey	May 2023	Welcome to the Council (induction day one)				Attend the event in person	Mandatory	Average	Average	Average	Average	Average	Average	Average	
Jo Coles	May 2023	Code of Conduct				Online	Mandatory	Good	Very good	Very good	N/A	Very good	Very good	Very good	
Margaret Wells	May 2023	Welcome to the Council (induction day two)				Attend the event in person	Mandatory	Very good	Very good	Very good	Very good	Very good	Very good	Very good	
Margaret Wells	May 2023	Welcome to the Council (induction day one)				Attend the event in person	Mandatory	Very good	Very good	Very good	N/A		Very good	Very good	
Jo Coles	May 2023	Making the most of meetings				Online	Optional								
Chris Steward	May 2023	Welcome to the Council (induction day one)				Attend the event in person	Mandatory	Very good	Very good	Very good	Good	Very good	Very good	Very good	

Please let us know if you have any further comments or suggestions.																
Open-Ended Response																

I spent 4 hours today watching the training and at the end the system said that I had watched 0%. Something is very wrong with your system and I hope it does not preclude my being able to sit on the Licensing Sub-Committee tomorrow or the Licensing and Regularly Committee on Tuesday, because otherwise you have completely wasted my time and I would not be at all happy about that.

There was a conversation at the start about condensing it to try and finish it early at the expense of longer breaks. I think that this squeezed down the potential for more interesting and useful discussions and questions, and also challenges the accessibility of the training. It wasn't a problem but I thought I'd mention it.

Without wanting to sound like Victor Meldrew I think it was poor that it was billed to last three hours longer than it did and the trainer decided to slash the length. I happened to have a very busy day so it worked out fine but I could easily have just planned to attend later in the day for what looked the second or third session but in reality it would have been over. Doing training which is meant to last three hours but finishes half an hour early is always a nice break but taking half the time it should is just poor!  
The opportunity to watch online at a later date was hugely valuable to me, as my work prevents me from attending all the training in person

Adjusting my shifts at work is very difficult and I've already taken too much annual leave/unpaid leave to support my Council duties and so I'm very grateful for the option to watch this session remotely.

A lot of the initial sessions focused on Councillor Office relations which gave the distinct impression that it had made a problem in the past.

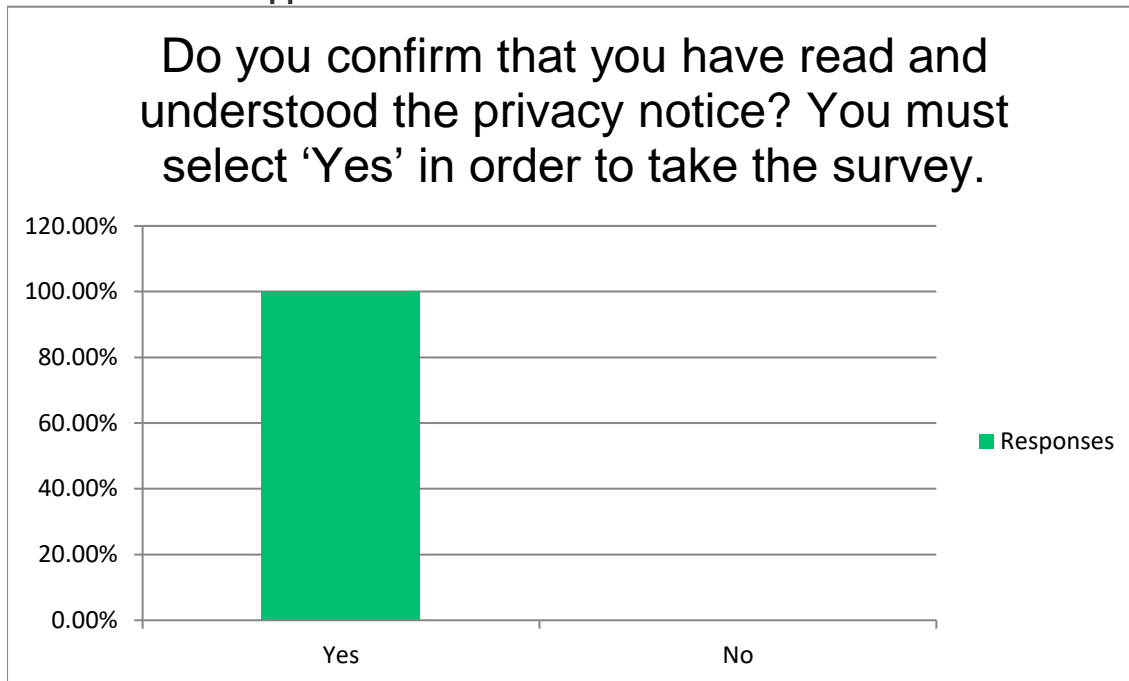
thank you

I was unable to join because no link was provided.  
It was excellent. I was a councillor before so would have expected it to be much less interesting than it was but it was very well thought out and put together. I think the Corporate Parenting segment was particularly good.

## Member Development Programme - Feedback

**Do you confirm that you have read and understood the privacy notice?**

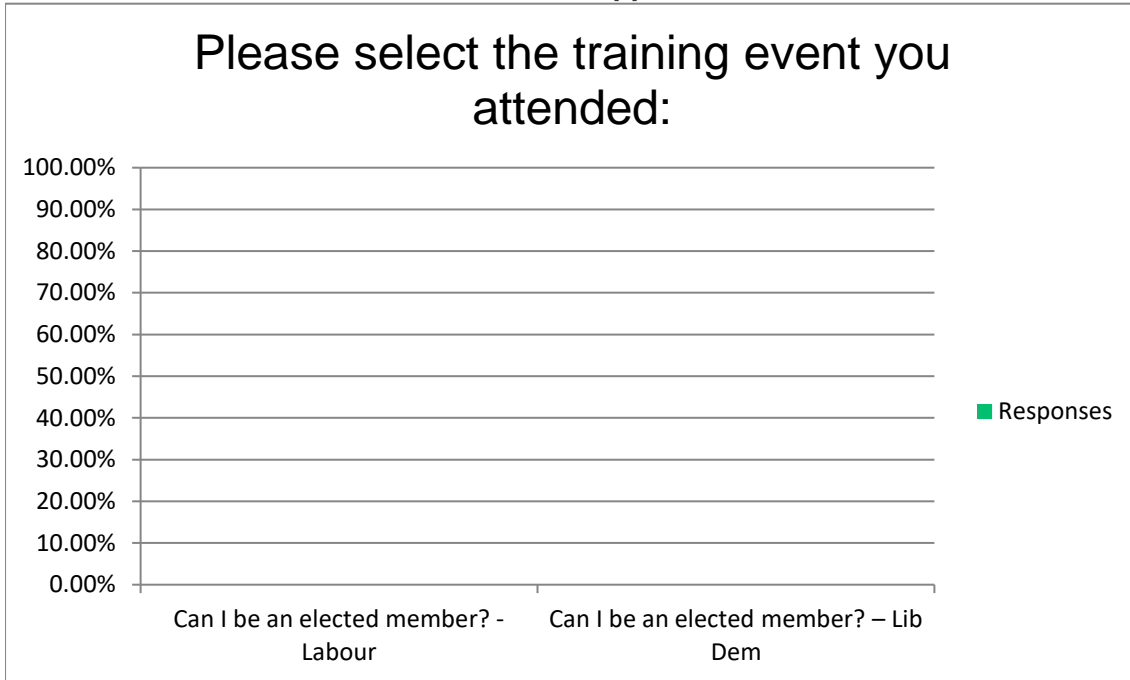
Answer Choices	Responses	
Yes	100.00%	26
No	0.00%	0
	<b>Answered</b>	<b>26</b>
	<b>Skipped</b>	<b>0</b>



Member Development Programme - Feedback

Please select the training event you attended:

Answer Choices	Responses	
Can I be an elected member? - Labour	0.00%	0
Can I be an elected member? – Lib Dem	0.00%	0
	<b>Answered</b>	<b>0</b>
	<b>Skipped</b>	<b>26</b>



Member Development Programme - Feedback

Please select the training event you attended:

Answer Choices	Responses	
Can I be an elected member? - Conservative	0.00%	0
Can I be an elected member? - Green	0.00%	0
Can I be an elected member? – other/independents	0.00%	0
	<b>Answered</b>	<b>0</b>
	<b>Skipped</b>	<b>26</b>



Member Development Programme - Feedback

Please select the training event you attended:

Answer Choices	Responses	
Welcome to the Council (induction day one)	18.75%	3
Welcome to the Council (induction day two)	12.50%	2
How the council makes decisions	0.00%	0
Code of Conduct	25.00%	4
Licensing sub committee	0.00%	0
Council strategy and policies	0.00%	0
Making the most of meetings	12.50%	2
Introduction to Scrutiny	18.75%	3
Being a ward councillor – council support	12.50%	2
Using MS Teams (drop ins)	0.00%	0
	<b>Answered</b>	<b>16</b>
	<b>Skipped</b>	<b>10</b>





Member Development Programme - Feedback

Please select the training event you attended:

Answer Choices	Responses	
Planning Committee	40.00%	2
Unitary and Parish Councils	0.00%	0
Risks protections and policies	20.00%	1
The budget and commercial awareness	0.00%	0
Work of the Audit and Governance committee	0.00%	0
Access (Equalities)	0.00%	0
Public Health	20.00%	1
Council services	20.00%	1
LGA regional event for councillors	0.00%	0
Using MS Teams (drop ins)	0.00%	0
<b>Answered</b>		<b>5</b>
<b>Skipped</b>		<b>21</b>



Member Development Programme - Feedback

Please select the training event you attended:

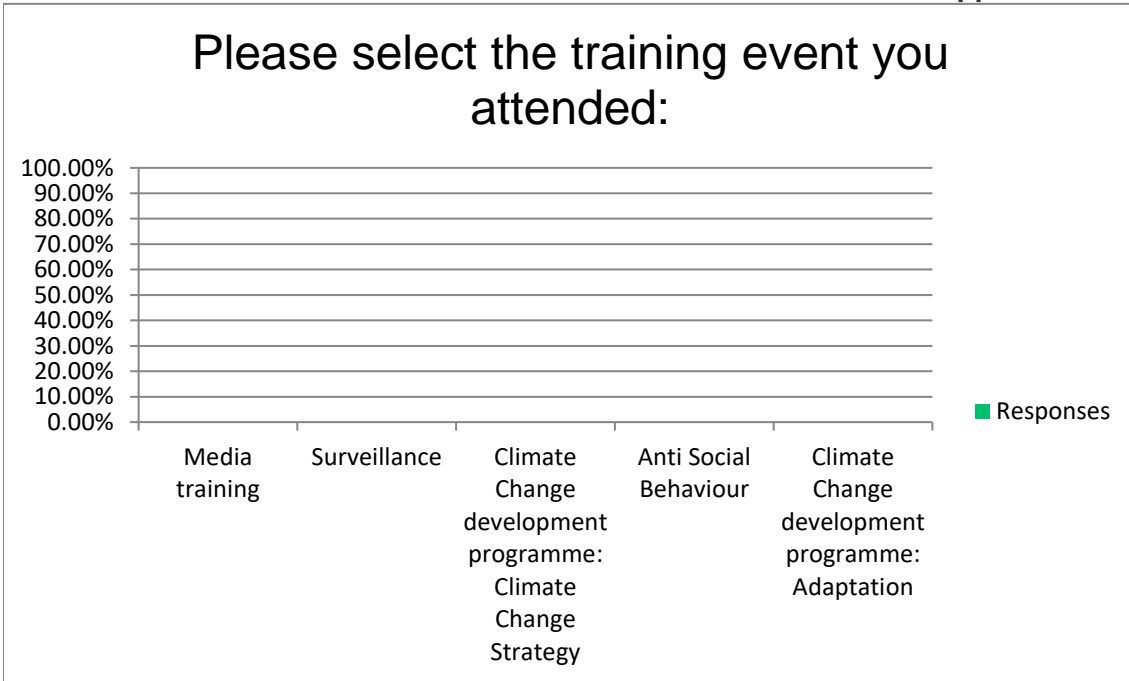
Answer Choices	Responses	
Customer Communications	0.00%	0
Communications	0.00%	0
Ward profiles	0.00%	0
Personal safety	0.00%	0
Joint Standards Committee	0.00%	0
Human Rights	0.00%	0
	<b>Answered</b>	<b>0</b>
	<b>Skipped</b>	<b>26</b>



Member Development Programme - Feedback

Please select the training event you attended:

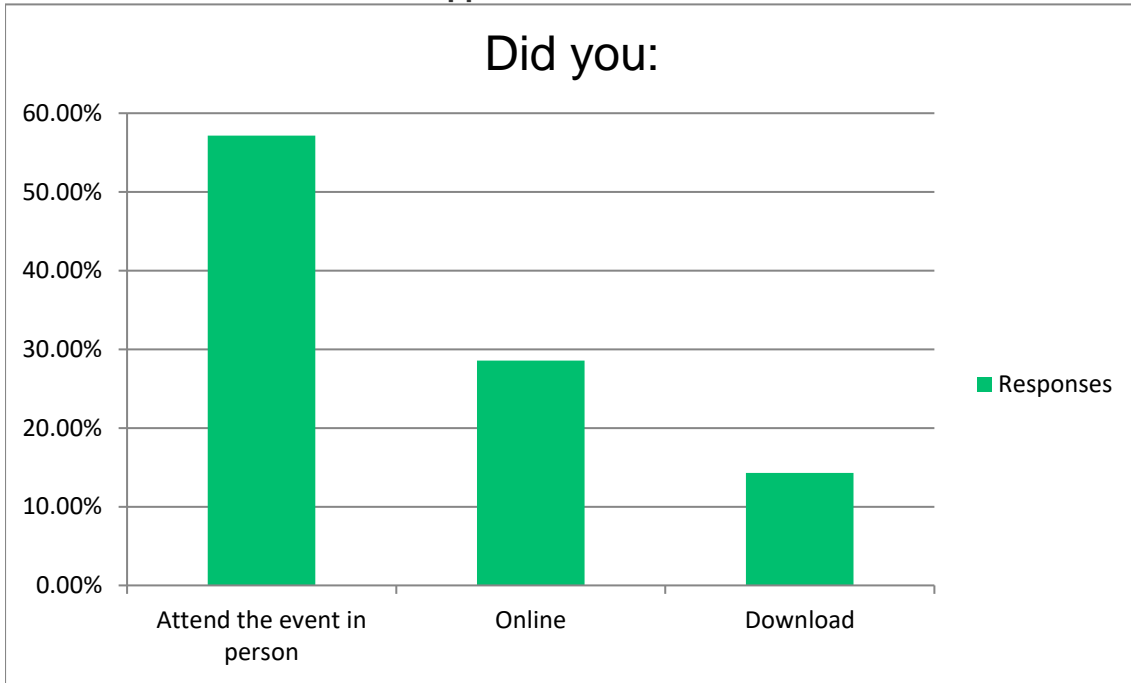
Answer Choices	Responses	
Media training	0.00%	0
Surveillance	0.00%	0
Climate Change development programme: Climate Change Strategy	0.00%	0
Anti Social Behaviour	0.00%	0
Climate Change development programme: Adaptation	0.00%	0
	<b>Answered</b>	<b>0</b>
	<b>Skipped</b>	<b>26</b>



### Member Development Programme - Feedback

#### Did you:

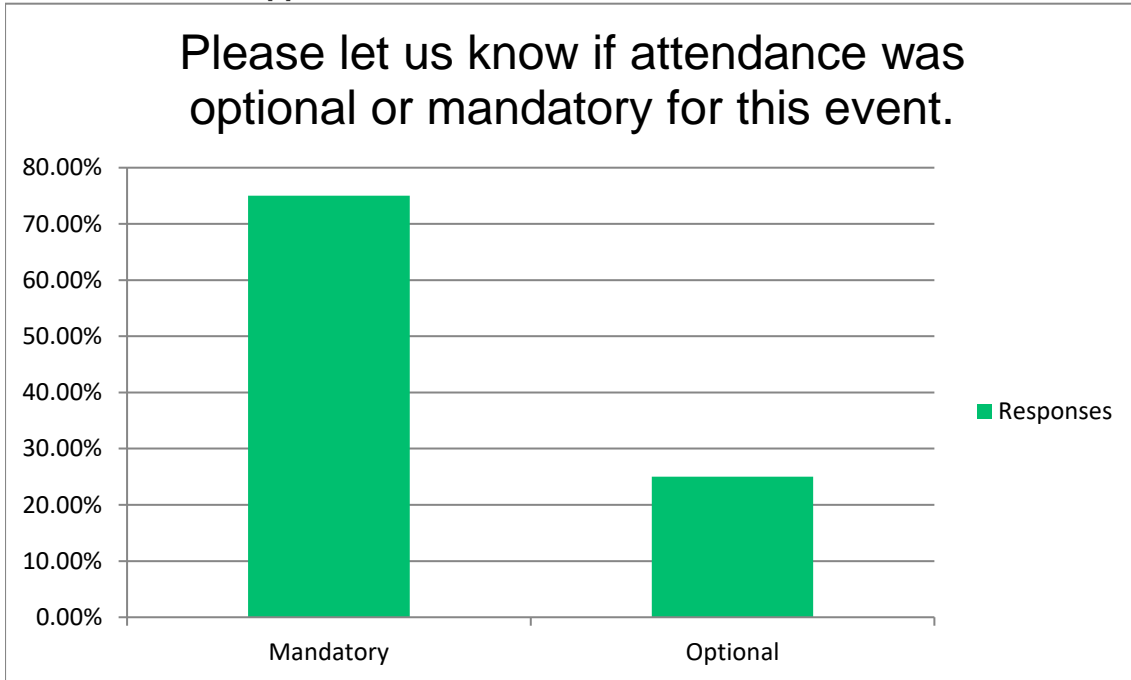
Answer Choices	Responses	
Attend the event in person	57.14%	12
Online	28.57%	6
Download	14.29%	3
<b>Answered</b>		<b>21</b>
<b>Skipped</b>		<b>5</b>



Member Development Programme - Feedback

Please let us know if attendance was optional or mandatory for this event.

Answer Choices	Responses	
Mandatory	75.00%	15
Optional	25.00%	5
	<b>Answered</b>	<b>20</b>
	<b>Skipped</b>	<b>6</b>



Member Development Programme - Feedback  
**About the training and trainer:**

	Very poor	
I had the information I needed to access the training	0.00%	0
The trainer was knowledgeable	0.00%	0
There was enough time for questions and discussion	0.00%	0
The handouts were helpful	0.00%	0
The training format met my needs	0.00%	0
The training was helpful / useful / interesting	0.00%	0
I would recommend this training to other councillors	0.00%	0





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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 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 23<sup>rd</sup> 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 12<sup>th</sup> 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.

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

<b>Issue</b>	<b>Objective</b>	<b>Proposed amendment</b>
<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 &amp; initial assessment stage to ensure committee workload is proportionate</p>	<p>Balance member involvement &amp; review with efficiency and trust in MO</p>	<p>Reduce committee involvement to Executive member cases only or alternatively for hearing stage alone.</p>
<p>Clarify and expand factors to</p>	<p>For transparency it should be clear at</p>	<p>Addition of malicious vexatious and</p>

take into account on initial assessment e.g. member query on interpretation of "tit for tat"	outset that certain things will not be capable of constituting a breach. See Leeds list.	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

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.

## **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 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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Deputy Monitoring Officer

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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:**

- [https://www.york.gov.uk/downloads/file/6830/public-interest-report-  
mary-weastell-exit-package](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>

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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 writing<sup>1</sup>, 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 complaint<sup>2</sup> 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).

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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 complaint<sup>3</sup> will not be considered as 'valid complaints' under this procedure and will result in No Further Action being taken:

- a. Complaints which are submitted anonymously<sup>4</sup>;
- 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 ago<sup>6</sup> 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';<sup>7</sup>
- 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:

<sup>3</sup> 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.

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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 complaint<sup>8</sup> and the name of the complainant<sup>9</sup> 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 Member<sup>10</sup> and the relevant Group Whip<sup>11</sup> 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 Person<sup>12</sup>.

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.

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- 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 Officer<sup>13</sup> 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)

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19. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee<sup>14</sup>)<sup>15</sup> 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 excluded<sup>16</sup>.

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 authority<sup>17</sup> 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.

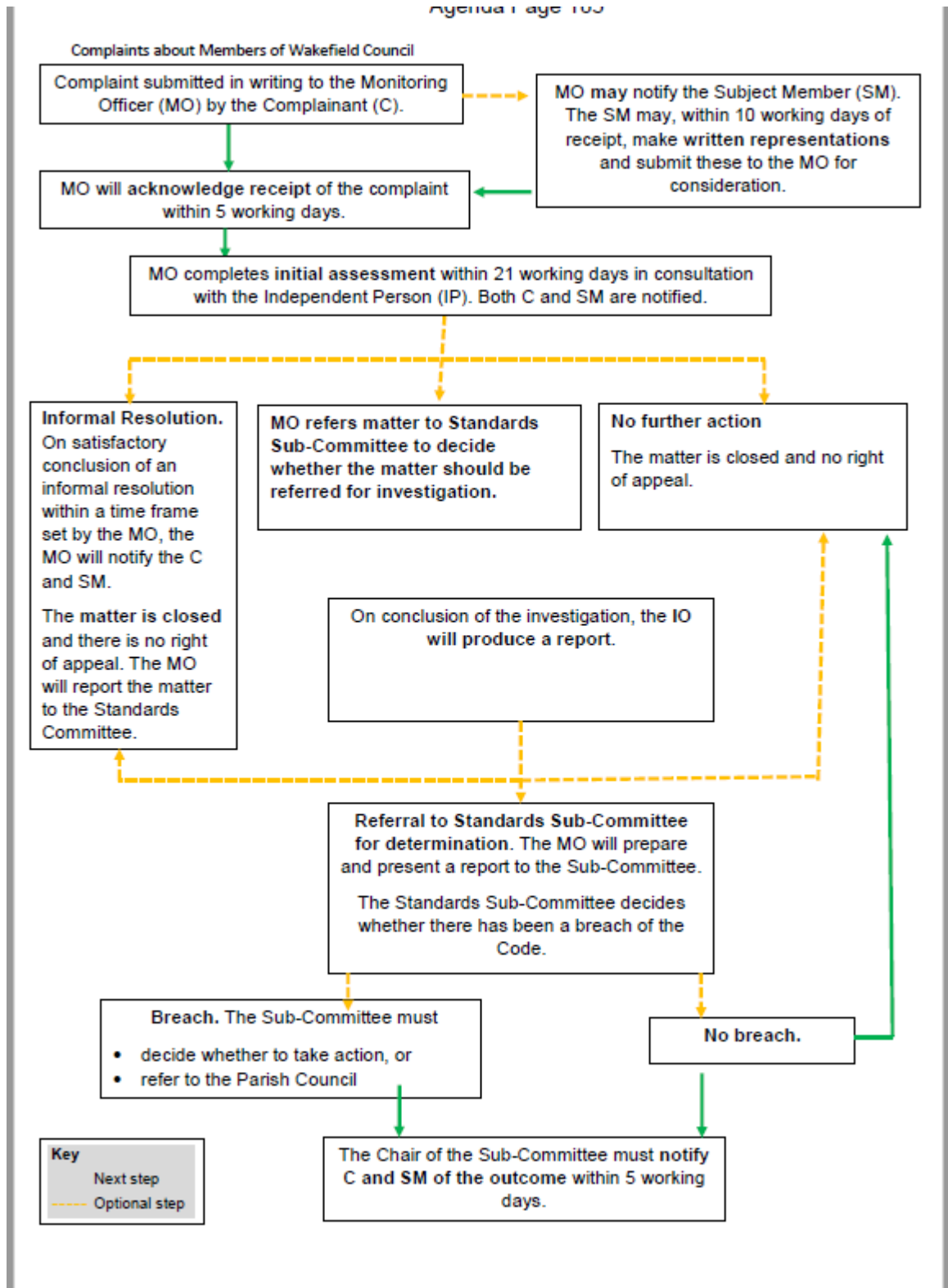
The quorum for the Sub-Committee shall be no less than 3 Members of the Standards Committee including one co-opted Member

#### **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](mailto: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**

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**APPENDIX 2**  
**[PROCEDURE FOR THE INVESTIGATION OF MISCONDUCT COMPLAINTS]**

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**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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~~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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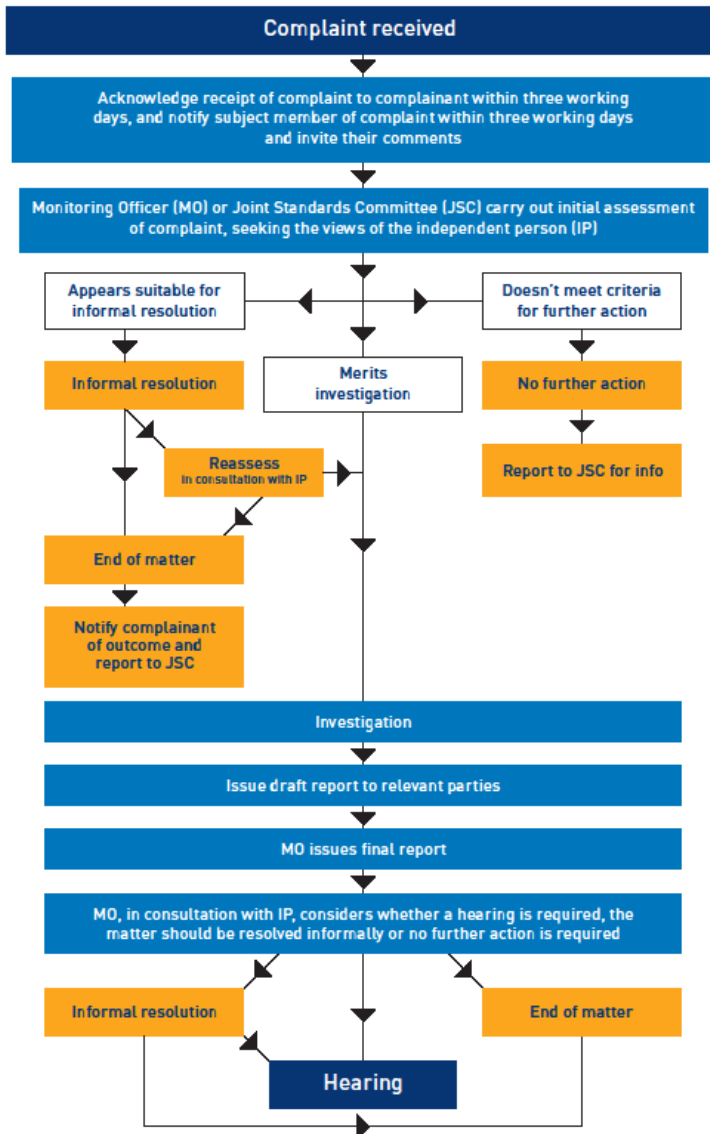
Need to see an anonymised list of complaints and justified outcomes

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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.~~

Commented [HF(24)]: Avoid repetition

- ~~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.~~

<sup>i</sup> ~~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 Code<sup>i</sup>.

#### 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.

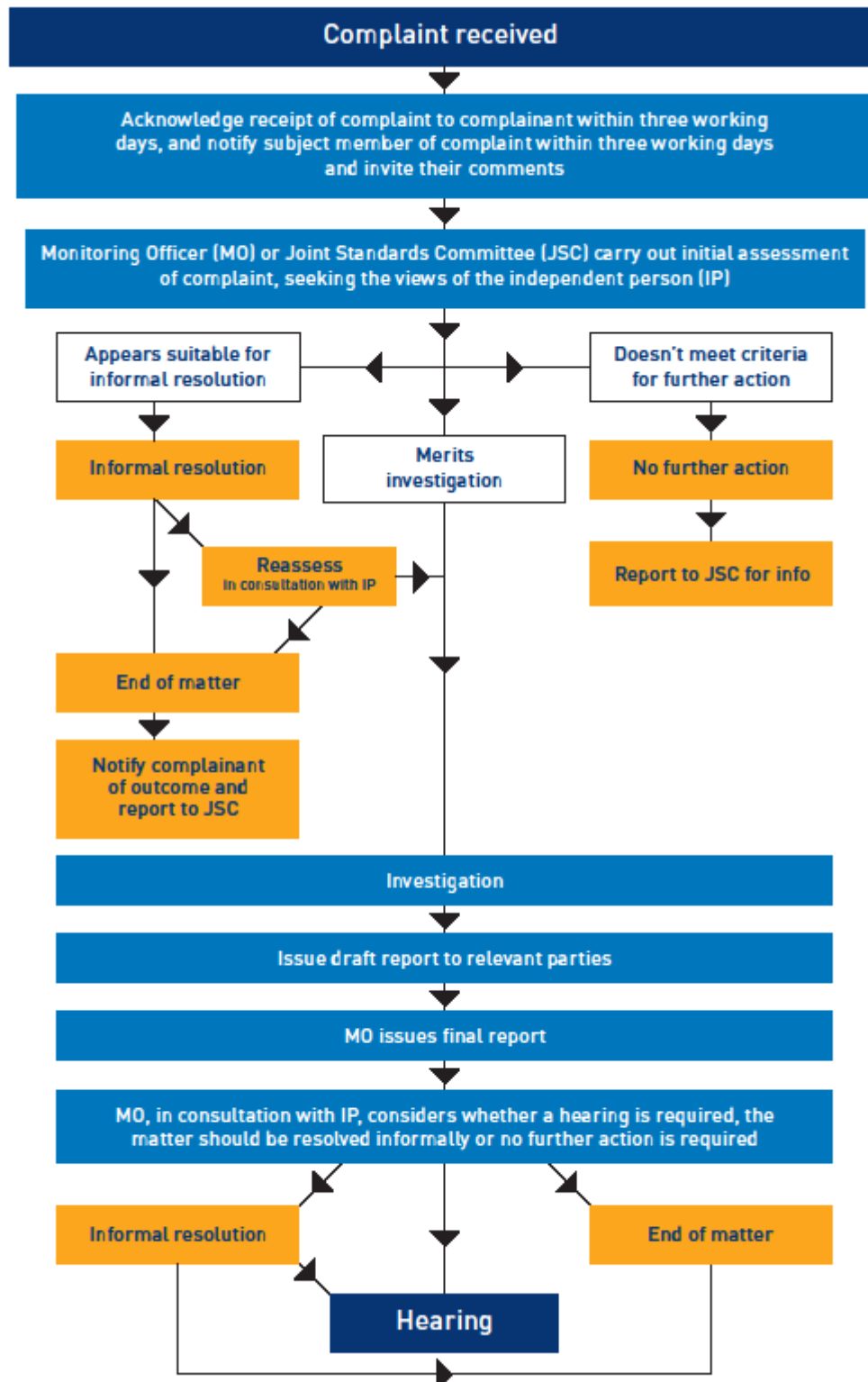
33. There is no right of appeal against a decision taken at any part of this procedure.
34. If the Complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government and Social Care Ombudsman.

### **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.

# Annex 4

City of York Council Constitution  
Appendix 29: Joint Standards Committee Procedures

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## **Annex 4**

City of York Council Constitution  
Appendix 29: Joint Standards Committee Procedures

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<sup>i</sup> 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.

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### Work Plan for Joint Standards Committee 2023-24

<b>Meeting Date</b> (4.00pm start time)	<b>Items</b>	<b>Notes</b>
21 November 2023	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> <li>• Review of Work Plan</li> <li>• Report on Member training programme</li> <li>• Preliminary Report on review of Joint Standards policies and procedures</li> </ul>	Standard Item
31 January 2024	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> <li>• Review of Work Plan</li> </ul>	Standard Item
21 March 2024	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> <li>• Draft Annual Report for Municipal Year 2023-2024</li> <li>• Review of Work Plan</li> </ul>	Standard Item

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**Joint Standards Committee****21 November 2023**

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 2023/07 has been investigated by a CYC lawyer and a report has been prepared. A hearing will be convened under the Case Handling Procedure to determine the matter.
4. Case reference 2023/13 has been assessed by the Monitoring Officer in consultation with the Independent Person and it has progressed to investigation. An investigating officer has been appointed and they have made completed initial interviews. A draft report is expected to be completed by the end of November 2023.
5. Case reference 2023/14 has been assessed by the Monitoring Officer in consultation with the Independent Person and it has progressed to investigation. An investigating officer has been appointed. Taking into account the scope of the investigation a draft report is likely to be completed by mid December 2023.
6. Case reference 2023/15 falls under paragraph 5 of the complaints handling process and will therefore be referred to a JSC Sub Committee for assessment.
7. Case reference 2023/16 falls under paragraph 5 of the complaints handling process and will therefore be referred to a JSC Sub Committee for assessment.

## **Cases closed since last JSC**

8. No cases have been closed since the last meeting of Joint Standards Committee.

### **Implications**

#### **Financial**

Not applicable to this report.

#### **Human Resources (HR)**

Not applicable to this report.

#### **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.

**Legal**

As detailed within the report.

**Crime and Disorder, Information Technology and Property**

Not applicable to this report.

**Recommendations**

9. 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  
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**Report  
Approved**

**Date** 9 November  
2023

**Wards Affected:**

**All**

**For further information please contact the author of the report**

**Background Papers:**

- Annex A – Table showing open complaints received.

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# Annex A (i)



## Open Complaints Log - Public

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status / updates
2023/07 (FH)	CYC	York Resident	16/04/23	The complainant alleges the Councillor used public funds from the Parish Council to produce leaflets that support their personal election campaign.	<p>This complaint is currently being assessed by the Monitoring Officer.</p> <p>Views of the IP sought.</p> <p>This complaint falls under paragraph 5 of the complaints handling process as the subject member is Chairperson of the Parish Council concerned. It will therefore be referred to a JSC Sub Committee.</p> <p>The views of the IP have been sought and will be incorporated into the MO's report to JSC Sub Committee on 26<sup>th</sup> June 2023.</p> <p>On 26<sup>th</sup> June the JSC Sub-Committee agreed that the issue complained of is capable of constituting a breach of the Member Code of Conduct and merits further investigation in light of the seriousness of the allegation. The DMO has appointed a CYC lawyer to investigate.</p> <p>A draft report is expected to be completed by the end of September 2023.</p> <p>Report finalised November 2023, Hearing to be convened.</p>

# Annex A (i)



## Open Complaints Log - Public

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status / updates
2023/13 (LT)	CYC	York residents	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.	This complaint is currently being assessed by the Deputy Monitoring Officer.  Views of the IP sought. Complaint assessed and will progress to investigation. Parties notified. Investigating Officer identified.
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.	This complaint is currently being assessed by the Deputy Monitoring Officer.  Views of the IP sought. Complaints assessed and will both progress to investigation. Parties notified. Investigating Officer identified.
2023/15 (LT)	Parish	Resident	29/10/23	Complainant alleges the Councillors were disrespectful during a Parish Council Meeting and that a sexist comment was made towards them. Complainant also alleges needs were not met under the Equality Act.	This complaint is currently being assessed by the Deputy Monitoring Officer.  This complaint falls under paragraph 5 of the complaints handling process as the subject member is Chairperson of the Parish Council concerned. It will therefore be referred to a JSC Sub Committee for assessment.



# Annex A (i)



## Open Complaints Log - Public

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status / updates
					Views of the IP sought.
2023/16	Parish x 8	Resident	01/11/23	The complainant alleges the Councillors breached the code of conduct following a request of co-option on to the Town Council.	<p>This complaint is currently being assessed by the Deputy Monitoring Officer.</p> <p>This complaint falls under paragraph 5 of the complaints handling process as a subject member was Chairperson of the Parish Council at the time of the complaint. It will therefore be referred to a JSC Sub Committee for assessment.</p> <p>Views of the IP sought.</p>

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

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