

**Joint Standards Assessments Sub-Committee**

**21<sup>st</sup> February 2023**

**Public Report**

Report of the Deputy Monitoring Officer

**Code of Conduct Complaints received in respect of a City of York Councillor**

**Summary**

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

**Recommendations**

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

Option A is recommended in respect of each complaint.

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

**Background**

3. The Monitoring Officer received two complaints in respect of a City of York Councillor on 18<sup>th</sup> and 21<sup>st</sup> January 2023. It is necessary for this to be considered in accordance with the Council's published procedure for handling of complaints alleging breach of the Member Code of Conduct.

4. The complaints allege that the Councillor failed to treat others with respect and brought their role into disrepute. In both cases they relate to communications in the public domain.

### **Current Position**

5. The Deputy Monitoring Officer has provided advice to the Committee on the Council's Complaints Handling Procedure and application of the Local Government Association's Guidance on the handling of complaints.
6. Under the Case Handling Procedure set out in Appendix 29 of the Constitution, an initial filter is applied to all complaints, essentially "is there a case to answer?"
7. If a complaint passes the initial filter, an Independent Person is invited to give a view on what should happen next. The assessment of the IP, as well as that of the Chair or Vice Chair of the JSC is considered in determining which of the following actions, under paragraph 9 should follow, namely
  - a. to take no further action;
  - b. to seek to resolve the matter informally; or
  - c. to refer the matter for investigation.
8. These will be the options available to the Sub Committee today if either complaint is determined to be in scope. Guidance on factors to be taken into account is offered in Paragraph 10 of the Procedure.
9. The Local Government Association publishes guidance on complaints handling which is referred to as a background document. Key aspects of that guidance regarding disrespect are:
  - a) The role of Councillors is such that they will engage in robust debate and are expected to challenge, criticise and disagree;
  - b) It is helpful to focus any criticism or challenge on ideas and policies rather than personalities or personal attributes
  - c) Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another;
  - d) The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful and include the

place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.

- e) The requirement to treat others with respect must be balanced with the right to Freedom of expression.

10. With regard to Disrepute the Guidance states:

“In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a councillor’s behaviour in office will bring their **role** into disrepute if the conduct could reasonably be regarded as either:

- a) reducing the public’s confidence in them being able to fulfil their role;  
or
- b) adversely affecting the reputation of your authority’s councillors, in being able to fulfil their role.

11. In addition there is specific guidance offered by the LGA on use of social media. This encourages engagement with citizens in the digital world and recommends good practice for maintaining respect and civility on all sides of public debate, recognising that councillors can themselves become victims of online bullying and intimidation.

## **Options**

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

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

## **Implications**

### **Financial**

13. Not applicable to this report.

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

14. Not applicable to this report.

## **Equalities**

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

## **Legal**

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

## **Crime and Disorder, Information Technology (IT) and Property**

17. Not applicable to this report.

## **Other**

18. Not applicable to this report.

## **Contact Details**

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### **Chief Officer Responsible for the report:**

**Bryn Roberts  
Monitoring Officer**

**Report**  **Date** 10<sup>th</sup> February 2023  
**Approved**

**Wards Affected: All**

**All**

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

**Background Papers:**

- City of York Council Code of Conduct and Procedure for Handling of Complaints
- City of York Council Constitution
- LGA Guidance on Complaints Handling