

**Joint Standards Assessments Sub
Committee**

30th March 2023

Report of the Deputy Monitoring Officer

Code of Conduct Complaint received in respect of a Parish Councillor

Summary

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

Recommendations

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

Option A is recommended in respect of each complaint.

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

Background

3. On 22nd February 2023 the Monitoring Officer received a complaint alleging that a Parish Councillor had breached the Parish Council's Code of Conduct by failing to treat the complainant with respect.

Procedure

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

5. The Monitoring Officer is responsible for applying that filter except that under paragraph 5 of the Procedure, cases of complaints by or against a member of the Executive or Shadow Executive or a committee chair or deputy, must be referred to a JSC Sub Committee. This provision applies.
6. In all cases, the subject member is notified of the complaint and may provide comments.
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 the 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. Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances 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.
 - b. Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as bullying and the demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or

members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

- c. Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault-finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

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.

Options

11. 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

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

Human Resources (HR)

13. Not applicable to this report.

Equalities

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

Legal

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

Crime and Disorder, Information Technology (IT) and Property

16. Not applicable to this report.

Other

17. Not applicable to this report.

Contact Details

**Author and Officer
Responsible for the report:
Frances Harrison**

Deputy Monitoring Officer

Tel No. 01904 551988

**Report
Approved**



Date

20th March 2023

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
- <https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respect>