

**Joint Standards Assessments Sub-Committee**

**23 July 2024**

Report of the Deputy Monitoring Officer

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

**Summary**

1. To give fresh consideration to a complaint of breach of the Code of Conduct received in respect of a CYC Councillor and to 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 either eventuality there are no rights of appeal to this decision.

**Background**

3. On 21 February 2024 a Joint Standards Committee Sub Committee considered a complaint received on 15 January 2024 alleging that a Councillor had breached the Code of Conduct by failing to treat the disabled complainant with respect.
4. The Sub Committee found no evidence of disrespect within the meaning of the Code and ruled the complaint out of scope.

5. The complaint handling process provides no rights of appeal against such a decision. The complainant however complained to the Monitoring Officer that the complaints handling process had been unfair in failing to provide an opportunity for them to make verbal representations to the sub committee. It was further submitted that in light of the complainant's disability, this would have been a reasonable adjustment.
6. The Equality Act 2010 obliges local authorities to make reasonable adjustments to avoid putting persons with protected characteristics at a disadvantage in accessing services.
7. In response to the process complaint, the Monitoring Officer determined that it would be appropriate to take Counsel's advice on the extent of reasonable adjustments required by law. Counsel was asked to advise generally, and specifically on whether the complainant should be afforded an opportunity to make verbal representations to sub committee notwithstanding this is not a facility made available to non disabled complainants.
8. Counsel's opinion was received on 9 June 2024 and confirmed:
  - a. An appropriate adjustment was made to the Case Handling Procedure so that the complainant could make their complaint verbally rather than being required to put it in writing;
  - b. To be effective in removing any substantial disadvantage the adjustment of allowing a verbal complaint should ensure it is recorded/used in the same way that a written complaint from a non-disabled person would be used;
  - c. Although the Council took reasonable steps to ensure that the complainant was not at a substantial disadvantage in terms of having to *submit* the complaint in writing, it failed to take steps to ensure that they were not put at a substantial disadvantage in terms of the *procedure overall* by not ensuring that a record/note of their verbal complaint was included in the report to the JSC or was otherwise available to the JSC;
  - d. The Councillor was not in breach of the Equality Act 2010 when they referred the original complaint to the relevant department of the Council and the original advice to the sub-committee on the substance was correct;

- e. The Case Handling Procedure should make reference on its face of to the possibility of the procedure being adapted if necessary to account for an individual's disability. It may also be sensible to say that a complaint may be made verbally as well as in writing;
  - f. There had been no breach of the duty to make reasonable adjustments in failing to allow the complainant to make verbal representations to the JSC.
9. In order to remedy the potential procedural defect, the complaint is re submitted for assessment together with an additional note of the meeting between the DMO and the complainant.
10. For transparency this note was recorded on the date of the meeting in the form of a draft letter to the complainant.

## **Implications**

### **Financial**

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

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

12. Not applicable to this report.

### **Equalities**

13. This re hearing has been arranged to ensure fair access to the complaints handling process for a complainant with a protected characteristic.

### **Legal**

14. 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 as adjusted in compliance with the Equality Act 2010 where applicable.

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

15. Not applicable to this report.

## Other

16. 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 1 July 2024

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>