

CITY OF YORK COUNCIL INITIAL ASSESSMENT PROCEDURE BY AN ASSESSMENT SUB-COMMITTEE

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 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 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 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.

The following procedures set out the process to be followed when an allegation is referred by the Monitoring Officer for an assessment by a sub-committee of the Joint Standards Committee.

Initial assessment by an assessment sub-committee

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 Monitoring Officer of City of York Council (MO). 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, in certain circumstances the MO will refer the matter to an assessment sub-committee (see paragraph 5 of the Complaints 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 policy.
2. The MO will only refer matters to the assessment sub-committee after having applied the initial filter in paragraph 4 of the Complaints Handling Procedure to assess whether the complaint falls properly within the jurisdiction of the framework. However, where there is some doubt (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 Joint Standards Committee. This Sub-Committee will consist of three members. The Council has agreed that political proportionality rules do not apply to the sub-committee. Where the matter relates to a parish councillor a parish representative will be one of the three Sub-Committee members.
4. At the start of the assessment the MO will ask the 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 has been made, however, there would be a presumption that the matter is heard as a confidential item.
5. The 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 assessment Sub-Committee and included in any report to the Sub-Committee.
7. In considering the complaint, the Sub-Committee will receive a report from the MO (or DMO if the MO is conflicted) setting out the complaint, matters to be considered by the Sub-Committee and the available options as to next steps. It would also include any comments received from the subject member in response to the complaint. The MO may also include any relevant factual material such as minutes of a meeting or a copy of a member'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 Sub-Committee should consider the matter on the papers with relevant supporting information but cannot call witnesses.
8. The 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.
9. In reaching its decision it must consider the same range of factors as set out in the Complaints Handling Procedure.
10. If the 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 Sub-Committee decides the matter should be referred for formal investigation, 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.

12. If the Sub-Committee decides the matter should be referred for an informal resolution, it must produce a Decision Notice and instruct the MO to arrange for the action to be carried out. 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 subject member (and parish clerk if appropriate) within three working days.
13. There is no internal right of appeal against the decision of the Assessment Sub-Committee