

Standards Committee

- To:** Mrs Christine Bainton (Independent Member, in the Chair)
Cllrs Scott (Vice-Chair), Barton, Taylor and Runciman
Mr A L Dixon (Independent Member) and Mr M R Hall (Independent Member)
Cllrs Crawford (Parish Council Member), Forster (Parish Council Member) and Mellors (Parish Council Member)
- Date:** Tuesday, 26 June 2012
- Time:** 3.00 pm
- Venue:** The Guildhall, York

AGENDA

- 1. Declarations of Interest**
At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.
- 2. Minutes** (Pages 3 - 6)
To approve and sign the minutes of the meeting of the Standards Committee held on 17 May 2012.
- 3. Minutes of Sub-Committees** (Pages 7 - 8)
To approve and sign the minutes of the Standards Committee Assessment Sub-Committee meeting held on 1 June 2012.

4. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Standards Committee, may do so. The deadline for registering is **5:00 pm on Monday 25 June 2012**.

5. Code of Conduct (Pages 9 - 22)

This report presents a draft Code of Conduct for Members' consideration.

6. Joint Committee (Pages 23 - 30)

This report asks the Committee to recommend terms of reference for the new, non-statutory Joint Standards Committee to the member Councils.

7. Transitional Provisions and Implementation Arrangements (Pages 31 - 40)

This report advises Members of transitional provisions contained in Regulations and makes further recommendations as to steps the Council may need to take as regards implementation.

8. Urgent Business

Any other business which the Chair decides is urgent under the Local Government Act 1972.

Democratic Services Officer responsible for this meeting:

Name: Jayne Carr

Contact Details:

- Telephone – (01904) 552030
- E-mail – jayne.carr@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.

About City of York Council Meetings

Would you like to speak at this meeting?

If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an

interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

যদি যথেষ্ট আগে থেকে জানানো হয় তাহলে অন্য কোন ভাষাতে তথ্য জানানোর জন্য সব ধরনের চেষ্টা করা হবে, এর জন্য দরকার হলে তথ্য অনুবাদ করে দেয়া হবে অথবা একজন দোভাষী সরবরাহ করা হবে। টেলিফোন নম্বর (01904) 551 550।

Yeteri kadar önceden haber verilmesi koşuluyla, bilgilerin terümesini hazırlatmak ya da bir tercüman bulmak için mümkün olan herşey yapılacaktır. Tel: (01904) 551 550

我們竭力使提供的資訊備有不同語言版本，在有充足時間提前通知的情況下會安排筆譯或口譯服務。電話 (01904) 551 550。

اگر مناسب وقت سے اطلاع دی جاتی ہے تو ہم معلومات کا ترجمہ میا کرنے کی پوری کوشش کریں گے۔ ٹیلی فون (01904) 551 550

Informacja może być dostępna w tłumaczeniu, jeśli dostaniemy zapotrzebowanie z wystarczającym wyprzedzeniem. Tel: (01904) 551 550

Holding the Cabinet to Account

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business following a Cabinet meeting or publication of a Cabinet Member decision. A specially convened Corporate and Scrutiny Management Committee (CSMC) will then make its recommendations to the next scheduled Cabinet meeting, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
- Public libraries get copies of **all** public agenda/reports.

City of York Council

Minutes

MEETING	STANDARDS COMMITTEE
DATE	17 MAY 2012
PRESENT	MRS BAINTON (INDEPENDENT MEMBER IN THE CHAIR) MR DIXON (INDEPENDENT MEMBER) MR HALL (INDEPENDENT MEMBER) COUNCILLOR BARTON (CYC COUNCIL MEMBER) COUNCILLOR RUNCIMAN (CYC COUNCIL MEMBER) COUNCILLOR CRAWFORD (PARISH COUNCIL MEMBER) COUNCILLOR MELLORS (PARISH COUNCIL MEMBER)
APOLOGIES	COUNCILLORS FORSTER, SCOTT AND TAYLOR

1. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. None were declared.

2. MINUTES

RESOLVED: That the minutes of the Standards Committee meeting held on 16 March 2012 be approved and signed by the Chair as a correct record.

3. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

4. NEW STANDARDS ARRANGEMENTS

Consideration was given to a report that provided an update on progress with putting in place new arrangements for dealing with standards issues affecting the City of York Council and the local parish councils with effect from 1 July 2012.

(i) Standards Committee

The City Council had accepted the Standards Committee's recommendation to establish a non-statutory Standards Committee to replace the existing committee after 1 July 2012.

The Local Association had balloted its members regarding the parish representation and three nominations had been received. These were due to be considered by Council at the annual meeting.

It was suggested that the parish representatives be invited to attend the next meeting of the Standards Committee.

(ii) Independent Persons

The City Council had also accepted the Committee's recommendation that two independent persons should be appointed. Confirmation was still awaited as to the transitional arrangements that could be put in place. Consideration was given to a draft description for an independent person (Annex A to the report).

(iii) Code of Conduct

The City Council had agreed to adopt an interim position whereby the existing Code would continue with a view to a new Code being adopted at the Council's meeting scheduled for 19 July 2012.

During April the LGA model had been published. The Department for Communities and Local Government had also issued their own Code. Consideration was given to the comparison of the two Codes (Annex B to the report). Members also noted the model Code that had been presented to North Yorkshire County Council's Standards Committee (Annex C to the report).

Members stated that the existing Code had been effective and they suggested that consideration be given to modifying the Code to ensure that it met the new requirements.

(iv) Arrangements for handling complaints

An update was given on the options available in respect of an appeal mechanism for a Member who had been found to have breached the Code. It was noted that the recommended option was for appeals to be heard by a differently constituted Sub-Committee of the Standards Committee.

(v) Monitoring Document

Members considered the updated version of the monitoring document that had been considered at the previous meeting and noted the progress that had been made.

- RESOLVED:
- (i) That the role description for an Independent Person be approved.
 - (ii) That the Monitoring Officer be requested to adapt the existing Code to ensure that it met the new requirements and that this be presented to the Committee for their consideration at the next meeting.
 - (iii) That the Committee recommended that appeals against findings that a Member had breached the Code should be referred to a differently constituted Sub-Committee of the Standards Committee.
 - (iv) That the progress on the various tasks to establish the new arrangements be noted.

REASON: To ensure arrangements are in place for dealing with standards issues affecting the City of York Council and the local parish councils with effect from 1 July 2012.

This page is intentionally left blank

City of York Council

Committee Minutes

MEETING	STANDARDS COMMITTEE ASSESSMENT SUB-COMMITTEE
DATE	1 JUNE 2012
PRESENT	MRS BAINTON (INDEPENDENT MEMBER) IN THE CHAIR COUNCILLOR BARTON (CYC MEMBER) PARISH COUNCILLOR MELLORS (PARISH COUNCIL MEMBER)

1. **DECLARATIONS OF INTEREST**

At this point in the meeting, Members were invited to declare any personal or prejudicial interests they may have in the business on the agenda. None were declared.

2. **COMPLAINT AGAINST MEMBER OF CITY OF YORK COUNCIL**

The Sub-Committee considered a complaint made against a Member of City of York Council.

It was alleged that the Member may have failed to comply with the Code of Conduct in respect of his behaviour whilst attending an event.

Members were reminded of the options open to the Sub-Committee at this stage, namely to refer the matter to the Monitoring Officer for further investigation or alternative action or to agree that no further action be taken.

Having considered the evidence provided in support of the complaint, it was


RESOLVED: That the matter be referred to the Monitoring Officer for investigation.

REASON: It is considered that the facts alleged, if proven, could amount to a breach of the Code of Conduct.

Chair

[The meeting started at 1.30 pm and finished at 1.50 pm].

This page is intentionally left blank

	
STANDARDS COMMITTEE	26th June 2012
Report of the Monitoring Officer	

Code of Conduct

1. Summary

- 1.1 This report presents a draft Code of Conduct for Members' consideration.

2. Background

- 2.1 The existing statutory code of conduct is due to be repealed with effect from 30th June. The City Council has already agreed to an interim position of following the existing Code with the addition of any statutory requirements in respect of disclosable pecuniary interests.
- 2.2 At its last meeting the Standards Committee Members expressed the view that the existing code was reasonably robust and asked the Monitoring Officer to bring forward a new Code using the existing model as a template.
- 2.3 On the 8th of June regulations were laid before Parliament defining "disclosable pecuniary interests". These interests are now included within the draft Code annexed.
- 2.4 NALC have also produced a straightforward code which they are recommending to Parish Councils.

3. The Draft Code

- 3.1 The draft code is stated to apply to members and co-opted members when acting as such. This follows the new statutory provision for Codes. The draft Code then defines when a Member is "acting as such" by using the current definition of "official capacity" i.e "when conducting the business of the Council or acting, claiming to act or

giving the impression that you are acting as a representative of the Council.

Question One

Is it appropriate to include a definition of when a Member is acting as such?

3.2 The draft code generally follows the existing Model in defining general obligations. There are though some modifications:

- The prohibition on intimidation is extended so that it does not just cover complainants, witnesses etc. It also specifically covers *attempts* to intimidate or to bully.
- An additional consideration is added to the confidentiality provisions allowing disclosures to take place only having consulted the Chief Executive or MO and having considered their advice.
- The prohibition on Members scrutinising their own decisions is contained in the “interests” section of the current code but has been brought forward in the draft.
- An attempt to simplify some of the language has been made.

Question Two

Is a prohibition on Members scrutinising their own decisions a matter for the Code?

Question Three

Do Members agree with the added requirement to consult Officers before disclosing confidential information?

Question Four

The “respect” and “disrepute” provisions have been retained although it may be argued that any complaint can be brought within one or other of these. Are Members content that the new filtering arrangements provide the right way to deal with this issue rather than changing the Code?

- 3.3 The draft Code reflects the legal requirements in respect of disclosable pecuniary interests. The interests which are defined as DPI's closely reflect the majority of those which needed to be registered under the existing Code. The first schedule sets these out using the language of the Statutory Instrument. Given that there are criminal offences for non compliance it seems inappropriate to seek to alter the language even if that might make the draft code more reader friendly.
- 3.4 A member with a DPI is not permitted to participate in the debate or decision making but the law does not require them to declare the interest (if it registered) or leave the room. Standing Orders could certainly make the latter provision.
- 3.5 The second schedule sets out interests which appear in the current code but which are not DPI's. The draft Code requires such interests to be declared if they have not been registered. It also requires the declaration of any interests which relate to members' close associates. The draft code does not attempt to re-create prejudicial interests so a member with a simple personal interest would be allowed to participate in a meeting.
- 3.6 A modification has been made to existing provisions in that it is suggested that Members who have been appointed to the body by the Council should not be treated as having a personal interest.
- 3.7 The draft code, as with the previous statutory codes, does not attempt to deal with the legal provisions regarding bias and pre-determination.

Question Five

Is there a need for the non statutory category of interests?

Question Six

Should the draft code make provision for prejudicial interests?

Question Seven

Does the Committee believe that Council should adopt a standing order requiring members with a DPI [or a prejudicial interest] to withdraw from the room

Question Eight

Do members agree that there should be no requirement to register interests arising from the Council making an outside body appointment?

4. Recommendation

- 4.1 That the Standards Committee discuss the draft code and in particular the questions posed above.

Author	Chief Officer Responsible for the report		
<i>Author's name: Andy Docherty Title: Assistant Director of Governance and ICT Dept: CBSS Ext: 1004</i>	<i>Chief Officer's Andy Docherty Title: Assistant Director of Governance and ICT</i>		
	Report Approved	√	Date 11/6/12

Background papers

None

Annex

Draft Code of Conduct

CODE OF CONDUCT FOR MEMBERS OF THE CITY OF YORK COUNCIL

1. Introduction

- 1.1 This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of the City of York Council. This Code also applies to any person appointed as a co-opted member of the City Council or any of its Committees when acting as such.
- 1.2 The Code has been adopted by the City Council and is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

2. Definitions

2.1 In this Code:

You are acting as a Councillor or action as a co-opted Member only when conducting the business of the Council or acting, claiming to act or giving the impression that you are acting as a representative of the Council.

- 2.2 A “co-opted member”, is a person who is not a member of the authority but who—
- (a) is a member of any committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and is entitled to vote at any meeting of that committee or sub committee
- 2.3 “meeting “ means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Cabinet or any committee of the Cabinet

- 2.4 A “sensitive interest” is one where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees

3. General Duties

- 3.1 You must treat others with respect.
- 3.2 You must not do anything which may cause the Council to breach any equality enactment.
- 3.3 You must not bully or intimidate any person, or attempt to bully or intimidate them.
- 3.4 You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality.
- 3.5 You must not disclose information which is confidential, unless:
- a) You have the permission of a person authorised to give it; or
 - b) You are required by law to disclose the information; or
 - c) You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - d) The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having consulted the Monitoring Officer and/or the Chief Executive and you having given due consideration to their advice.
- 3.6 You must not prevent another person gaining access to information which that person is entitled by law.

- 3.7 You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.
- 3.8 You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.
- 3.9 You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking any scrutiny process.
- 3.10 When you use or authorise the use by others of the resources the Council you must:
- a) abide by the Council's reasonable requirements; and
 - b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 3.11 You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions, in accordance with any requirements imposed by statute or the Council.

INTERESTS

4. Disclosable Personal Interests

Registration of disclosable pecuniary interests

- 4.1 Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. These will be included in the register of interests which is published on the Council's website

Definition of disclosable personal interests

- 4.2 A 'disclosable pecuniary interest' is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interests of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Non participation at meetings in case of disclosable pecuniary interest

- 4.4 If you are present at a meeting and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,
- a) You may not participate in any discussion of the matter at the meeting.
 - b) You may not participate in any vote taken on the matter at the meeting.
 - c) If the interest is not registered, you must disclose the interest to the meeting.
 - d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

Non participation in individual executive decision making in case of disclosable pecuniary interest

- 4.5 Where a Cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Other Interests

5. Notification of interests

- 5.1 In addition to the disclosable pecuniary interests you must, notify the Monitoring Officer of any interests you have of a kind described in the second schedule. You must make that notification within 28 days of this Code coming into effect or of you becoming a Member or co-opted Member if that is later.
- 5.2 You must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.

6. Disclosure of personal interests

- 6.1 You have a personal interest in any business of your authority where it relates to or is likely to affect a body named in the second schedule or any person with whom you have a close association.
- 6.2 If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting:
 - a) If the interest is not registered, you must disclose the interest to the meeting.
 - b) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

7. Sensitive interests

- 7.1 If you have a sensitive interest which is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

7.2 If you are required to declare a sensitive interest at a meeting you need only declare the fact of the interest and not the details of the interest itself.

8. Compliance with Standing Orders

8.1 Standing Orders may require you to leave the meeting room when you have a personal interest. You must comply with any such Standing Order.

First Schedule – Interests which are disclosable personal interests

<i>Interest</i>	<i>description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the you in carrying out duties as a member, or towards your election expenses .</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest)

and the relevant authority—

(a) under which goods or services are to be provided or works are to be executed; and

(b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the area of the relevant authority.

Licences

Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge)—

(a) the landlord is the relevant authority; and

(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class,

the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“relevant period” means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) of the Act;

“relevant person” means you or any your partner as defined in paragraph 4.2

securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

Second Schedule – other interests

1. Any body [other than one to which you have been appointed by the Council] of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

2. Any body [other than one to which you have been appointed by the Council] —


(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

DRAFT

This page is intentionally left blank

	
STANDARDS COMMITTEE	26 June 2012
Report of the Monitoring Officer	

Joint Committee

1. Summary

- 1.1 This report asks the Committee to recommend terms of reference for the new, non-statutory Joint Standards Committee to the member Councils.

2. Background

- 2.1 Statutory Standards Committees are abolished by the Localism Act. This Committee felt that it was important that there should continue to be a Standards Committee and it should continue to have voting Parish Councillors as Members. That was also the majority view of those Parish Councils who responded to consultation undertaken through the Yorkshire Local Council's Association.
- 2.2 The only way to ensure that Parish Members could have voting rights was for a Joint Committee to be established with Parish Councils. This Committee recommended and the City Council accepted that there should be a joint Committee established with three Parish Councils with membership nominated by the Parishes themselves. The Parish Councils have nominated Parish Councillors Don Crawford of New Earswick Parish Council, Glyn Simpson of Copmanthorpe Parish Council and Dennis Martin of Dunnington Parish Council.
- 2.3 Terms of reference are required for the new Joint Committee which all four Councils will need to approve. Draft terms of reference are annexed to this report and Members are asked to recommend them for approval to the Councils.
- 2.4 One particular difficulty with the Joint Committee arrangements (and which was considered by Standards Committee before making its recommendation) is that the Joint Committee is established between

the Councils and not between individuals. This means that while the Local Council's Association has signified its approval to the particular nominations which have been made, it is for the respective Parish Councils to confirm their nominations and they would be free to make alternative nominations in the future. In order to partially address this issue paragraph 4.2 of the draft terms of reference requires any casual vacancy to be reported to the Local Council's Association. This would allow the Parish Councils collectively to discuss whether the Joint Committee still reflects their interests and may prompt further discussions with the City Council. However, the Parish Council would be required to make an alternative nomination so as to allow the Joint Committee to continue to operate effectively.

- 2.5 The terms of reference allow the Joint Committee to take on the responsibility for granting dispensations. Given that this would otherwise be a function for full Council it would be appropriate for the Committee to recommend to the City Council that this power be delegated to the Joint Committee and that the Monitoring Officer be appointed as Proper Officer under section 33 of the Localism Act for the purpose of receiving applications for dispensation. The Committee has previously indicated its support for some further delegation of the function of granting dispensations and it would be appropriate for the Joint Committee to consider this at a future meeting
- 2.6 Parish Councils may well wish to retain this power themselves but they would have the option to delegate it if they so wish.

3. Recommendations

- 3.1 That the Councils be recommended to confirm their agreement to the establishment to the Joint Committee with the terms of reference annexed.
- 3.2 That the City Council delegate powers to deal with dispensations to the Joint Committee
- 3.3 That the City Council appoint the Monitoring Officer as Proper Officer for the purpose of receiving applications for dispensation
- 3.4 The Joint Committee be recommended to consider a further report on the issue of dispensations at a future meeting.

Author	Chief Officer Responsible for the report		
<i>Author's name: Andy Docherty Title: Assistant Director of Governance and ICT Dept: CBSS Ext: 1004</i>	<i>Chief Officer's Andy Docherty Title: Assistant Director of Governance and ICT</i>		
	Report Approved	√	Date 20/6/12

Background papers

None

Annex

Terms of Reference

This page is intentionally left blank

TERMS OF REFERENCE FOR JOINT STANDARDS COMMITTEE

1. Composition

- 1.1 The Standards Committee shall be a joint committee established pursuant to section 102 of the Local Government Act 1972 consisting of the City of York Council, Copmanthorpe Parish Council, Dunnington Parish Council and New Earswick Parish Council (“the Councils”)

2. Functions which may be exercised by the Joint *Standards Committee*

- 2.1 The Joint Standards Committee may exercise the following functions of the Councils:
- a) The promotion and maintenance of high standards of conduct by members and co-opted members of the Councils and other Parish Councils for which the City Council is the principal authority
 - b) Establishing arrangements for investigating and making decisions in respect of allegations that the code of conduct of either the City Council or a parish council for which the City Council is the principal authority has been breached
 - c) Where the power to do has been delegated to it by a Council, granting dispensations relieving members from the duty to register or declare interests

3. Membership of the Joint Standards Committee

- 3.1 The Joint Standards Committee shall consist of:
- a) Four voting members of the City Council;
 - b) One voting member of each of the Parish Councils
 - c) Up to three non- voting community members co-opted by the Committee

3.2 A person who is disqualified for being a member of a relevant authority shall be disqualified from membership of the Joint Standards Committee.

4. Term of office and casual vacancies

4.1 A member of the Joint Standards Committee will hold office until one of the following occurs:

- a) He or she resigns by giving written notice to the proper officer of the Council that appointed him or her;
- b) He or she is removed or replaced by the Council that appointed him or her;
- c) He or she is disqualified for membership of the Joint Standards Committee;
- d) He or she ceases to be eligible for appointment to the Joint Standards Committee in the capacity in which he or she was appointed;
- e) The Constituent Authority which appointed him or her ceases to participate in the Joint Standards Committee.

4.2 A casual vacancy shall be filled as soon as practicable by the relevant Council. A casual vacancy in the case of a Parish Councillor shall be reported to the York Association of Local Councils for information.

5. Sub Committees

5.1 The Joint Standards Committee may appoint Sub Committees for purposes in the exercise of its functions.

5.2 Each person appointed as a member of a Sub Committee must be a voting member of the Joint Standards Committee.

5.3 The Joint Standards Committee will determine the membership and terms of reference of the Sub Committee, and the quorum for its meetings.

5.4 If the Joint Standards Committee appoints more than one Sub Committee to exercise one or more of its functions then it shall ensure that the Proper Officer allocates particular matters to a

Sub Committee first on the basis of the availability of the members required to constitute the Sub Committee, and thereafter by rotation, and summonses meetings accordingly.

6. Meetings and proceedings

6.1 The meetings and proceedings of the Joint Standards Committee shall be conducted in accordance with the standing orders or rules of procedure of the City of York Council.

6.2 The Joint Standards Committee may determine procedure rules for its sub committees


7. Withdrawal from the Joint Standards Committee

7.1 A constituent authority may cease to participate in the Joint Standards Committee by resolution to that effect communicated in writing to the Monitoring Officer

8. Expenses of the Joint Committee

8.1 The expenses of the Joint Committee shall be met by the City Council

This page is intentionally left blank

	
STANDARDS COMMITTEE	26 June 2012
Report of the Monitoring Officer	

Transitional Provisions and Implementation Arrangements

1. Summary

- 1.1 This report advises Members of transitional provisions contained in Regulations and makes further recommendations as to steps the Council may need to take as regards implementation.

2. Application of the Code

- 2.1 Section 30(1) of the Localism Act requires Members to notify the Monitoring Officer of their disclosable pecuniary interests (DPI's) before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority. Surprisingly no transitional provisions have been made for existing members. It is therefore difficult to see how the criminal offence of failing to notify (as opposed to those relating to participating in meetings) can be committed by an existing member.
- 2.2 The draft Code being recommended to the City Council retains the "disrepute" provisions of the old Code. The Committee may wish to give an indication as to whether it would consider a failure to notify as coming within that provision or alternatively consider amending the draft Code to require notification within 28 days of the Code coming into effect.

3. Implementation of new Codes

- 3.1 The City Council took the sensible precaution of agreeing an interim provision that the existing Code would continue from 1st July with the addition of the requirements in respect of DPI's. The transitional provisions (which came into effect on 6th June) contain preparatory powers including a power to adopt a Code to take effect on 1st July.

Some commentators have questioned whether, by implication, earlier decisions such as that taken by the City Council are now ineffective.

- 3.2 There is no other transitional provision to keep the current Code alive. The Localism Act abolishes the previous statutory Code. It is therefore important that all Councils adopt a new Code as soon as practicable. The earliest that the City Council can do so is the 12th July.

4. Sanctions

- 4.1 The power to suspend or partially suspend a Member ceased to have effect on 6th June. Disqualification had already been removed as a sanction. The remaining statutory sanctions cease to have effect on 1st July.

5. Current Cases

- 5.1 Existing cases are to be treated as though the allegation has been made under the Localism Act and, presumably, are to be judged against the new Code. The Committee has previously indicated its support for the draft procedures for dealing with allegations annexed to this report which have now been amended to include the appeals process approved at the last meeting. Members are asked to formally adopt these procedures.

6. Independent Person

- 6.1 The transitional provisions now allow existing independent Members to be appointed to the new role of independent person provided that the appointment is made before 1st July 2013. Unfortunately the transitional provisions do not remove the requirement to advertise the position. Ideally the Council should appoint at least one of its independent persons at the Council meeting on 12th July 2012. The Committee is therefore invited to establish a small appointment Panel to make a recommendation to Council.

7. Recommendations

- 7.1 That the Standards Committee considers the implication of the lack of transitional provisions in respect of the requirement to notify interests.
- 7.2 That the Committee adopt the procedures for handling complaints annexed to this report

- 7.3 That the Committee nominate an appointment Panel to make recommendations to Council in respect of the Independent Person role.

Author	Chief Officer Responsible for the report		
<i>Author's name: Andy Docherty Title: Assistant Director of Governance and ICT</i>	<i>Chief Officer's Andy Docherty Title: Assistant Director of Governance and ICT</i>		
<i>Dept: CBSS Ext: 1004</i>	Report Approved	√	Date 20/6/12

Background papers

None

Annex

Draft procedures for dealing with complaints

This page is intentionally left blank

Complaints about the ethical conduct of Councillors

1 The Code of Conduct

All City and Parish Councillors must follow a Code of Conduct which their Council has agreed. You can find a copy of the City Council's Code on the Council's website at *[address]* or inspect a paper copy by contacting the Democratic Services team who are based at the Guildhall.

Parish Council's Codes of Conduct can be inspected *[insert arrangements for inspection]*

The City Council is responsible for putting in place arrangements for dealing with complaints that a Councillor from either the City Council or a Parish Council within York, may have breached the Code of Conduct. In dealing with complaints the Council consults with an Independent Person who is not connected with the Council or Councillors and is appointed to deal with these matters.

2 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer
Guildhall
St. Helen's Square
York

Or –

monitoringofficer@york.gov.uk

The Monitoring Officer is a senior officer of the City Council who is responsible for administering the system in respect of complaints of Councillor misconduct.

So that we have all the information which we need to be able to process your complaint, we ask that you complete our complaint form, which can be downloaded from the authority's website^[insert link], and is

available on request from the Democratic Services team at the Guildhall.

We ask you to provide 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. This also guards against malicious complaints. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. The Monitoring Officer will normally tell the Councillor that a complaint has been received and who from. If you are concerned about your identity being revealed please advise the Monitoring Officer and he will discuss this with you before processing the complaint.

The Monitoring Officer will normally acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

3 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and discuss it with the Council's Independent Persons. Independent Persons are not Councillors and have no connection with the Council. By law they must be consulted when a complaint has been investigated. However, the Council has chosen to involve them at other stages of the process as well to provide external oversight.

He will then take a decision as to whether the complaint merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint.

Before reaching a decision the Monitoring Officer may request further information from you or obtain information which is readily available to him such as notes of Council meetings. If the complaint relates to a Parish Councillor he may consult the Parish Council.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. If a Councillor makes a reasonable offer to settle a complaint informally, 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.

The Monitoring Officer will advise you whether he intends to investigate your complaint. If he decides not to he will explain why. There is no right of appeal against this decision but the Monitoring Officer reports his decisions to the Council's Standards Committee so there is oversight of how he deals with these matters.

If there is evidence that a crime may have been committed the Monitoring Officer has the power to call in the Police and other regulatory agencies.

4 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he will appoint an Investigating Officer. The Investigating Officer may be another officer of the authority, an officer of another authority or an external investigator.

The Investigating Officer will usually need to speak to you to discuss your complaint and may need to see relevant documents or interview other witnesses. You will be able to suggest what documents and which witnesses the Investigating Officer should consider seeing.

The Investigating Officer will also normally see the Councillor and provide him or her with the same opportunity to identify sources of evidence.

Unless the case is very straightforward, at the end of his/her investigation, the Investigating Officer will produce a draft report and share it with you and the Councillor concerned on a confidential basis. You will both then be able to identify any matter in that draft report which you disagree with or which you think needs more consideration.

The Investigating Officer will consider any comments you make before sending his/her final report to the Monitoring Officer.

5 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 may ask for further investigations to take place if he feels that is needed. If, however, he is satisfied that the report is sufficient, the Monitoring Officer send a copy of the Investigating Officer's final report to you and the Councillor concerned. If the case concerns a Parish

councillor he will also send a copy to the Parish Council concerned. That will be the end of the matter.

6 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer may either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

6.1 Local Resolution

If the Monitoring Officer thinks that the complaint can reasonably be resolved without the need for a hearing he will consult with the Independent Person and with you and seek to agree what you consider to be a fair resolution. It is important though that any resolution also helps to ensure higher standards of conduct for the future. Possible local resolutions might include the Councillor accepting that his/her conduct was unacceptable and offering an apology or a Councillor voluntarily giving up a position on a particular body. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and the Parish Council, where relevant) 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.

6.2 Local Hearing

If the complaint is not resolved through the local resolution process, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel.

The Hearings Panel will take evidence from yourself, the Investigating Officer and the Councillor as well as any witnesses. This is not a Court process but, in order to be fair to everyone, formalities are followed so that a proper decision can be reached.

The Hearings Panel is not bound to accept the Investigating Officer's finding that the Code has been breached but if it does conclude that the Councillor failed to comply with the Code of

Conduct, it will consider what action, if any, the Hearings Panel should take. In doing this, the Hearings Panel will consult the Independent Person.

7 What action can the Hearings Panel take where a Councillor has failed to comply with the Code of Conduct?

The Hearings Panel may –

- 7.1 Censure the Councillor;
- 7.2 Formally report its findings to the City Council *or Parish Council* for information;
- 7.3 Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 7.4 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 7.5 Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;
- 7.6 Remove *[or recommend to the Parish Council that the Councillor be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- 7.7 Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access; or

The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' or special responsibility allowances. If the Panel decides to withdraw facilities from the Councillor it must ensure that the Councillor is not thereby prevented from undertaking his/her representative duties.

8 What happens after the hearing?

The Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the Councillor and to the Parish Council. The decision notice will be available for public inspection.

9 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. It normally consists of three Members. *[more details required re composition]*

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 Councillor'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.

10 Appeals

There is no right of appeal for you as complainant or Councillor against a decision of the Monitoring Officer.

If a Hearings Panel finds that a Councillor has breached the Code then they have a right of appeal to a differently constituted Panel made up of members of the Standards Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.