

Joint Standards Committee

- To:** Councillors Runciman (Chair), Cannon, Hayes, Kramm and Richardson (CYC Members)
Councillors Chambers (Parish Council Member), Thornton (Parish Council Member) and Wiseman (Parish Council Member)
Mr Laverick and Ms Davies (Independent Persons)
- Date:** Wednesday, 5 September 2018
- Time:** 4.00 pm
- Venue:** The Craven Room - Ground Floor, West Offices (G048)

AGENDA

- 1. Declarations of Interest**
Members are asked to declare:
 - any personal interests not included on the Register of Interests
 - any prejudicial interests or
 - any disclosable pecuniary interestswhich they might have in respect of business on this agenda.
- 2. Minutes** (Pages 1 - 6)
To approve and sign the minutes of the meeting of the Joint Standards Committee held on 13 June 2018.
- 3. Minutes of Sub-Committees** (Pages 7 - 8)
To approve and sign the minutes of the meeting of the Joint Standards Assessment Sub-Committee held on 1 August and adjourned to 8 August 2018.
- 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 Joint Standards Committee, may do so. The deadline for registering is **5:00 pm on Tuesday, 4 September 2018.**

To register to speak please contact the Democracy Officer for the meeting on the details at the foot of the agenda.

Filming or Recording Meetings

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

- 5. Monitoring Report on Complaints Received** (Pages 9 - 12)
To receive a routine update report on recent standards complaints.
- 6. Standards Committee Terms of Reference and Procedures, Including Vexatious Complaints** (Pages 13 - 30)
This report informs Members of the progress of the task group set up to review the Committee's Terms of Reference and Procedures and seeks their views on the inclusion of further guidance in the procedures on dealing with vexatious Code of Conduct complaints.
- 7. Member / Officer Relations Protocol** (Pages 31 - 44)
This report seeks the Committee's views on a review of the current protocol on Officer / Member Relations.
- 8. Civic Gifts and Hospitality** (Pages 45 - 50)
This report seeks Members' views on proposed guidance to the Civic Party in respect of gifts and hospitality.

9. Intimidation in Public Life (Pages 51 - 56)

This report advises Members on work undertaken by the Committee on Standards in Public Life in respect of intimidation in public life.

10. Review of Work Plan (Pages 57 - 58)

To consider the Committee's work plan for the current year and decide whether any amendments or additions are required.

11. Urgent Business

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

Democracy Officer:

Name: Fiona Young

Contact Details:

Telephone – (01904) 552030

Email – fiona.young@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.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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City of York Council

Minutes

Meeting	Joint Standards Committee
Date	13 June 2018
Present	Councillors Runciman (Chair), Cannon, Kramm and Richardson (CYC Members) Mr Laverick (Independent Person)
Apologies	Councillor Hayes (CYC Member) Councillor Wiseman (Parish Council Member) Ms Davies (Independent Person)

1. **Declarations of Interest**

Members were asked to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in respect of business on the agenda. None were declared.

2. **Minutes**

Resolved: That the minutes of the Joint Standards Committee held on 18 April 2018 be approved and signed by the Chair as a correct record.

3. **Minutes of Sub-Committees**

Resolved: That the minutes of the Assessments Sub-Committee meeting held on 22 September 2017 be approved and signed by the Chair as a correct record.

4. **Public Participation**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Gwen Swinburn spoke on matters within the committee's remit, touching on the substantive items on the agenda. She expressed concerns about the handling of complaints, the manner in which cases were reported to the committee and the council's approach to registration of interests.

5. Review of Complaints for the last Municipal Year

Members considered a report which provided an overview of standards complaints received during the 2017/18 municipal year.

The complaints were summarised in the table at paragraph 2 of the report. Twelve complaints had been received, slightly more than in recent years. Only two related to parish councillors, in line with the general trend over several years. One of the three investigations initiated had been outsourced to specialist solicitors due to its complexity. Three of the five cases decided by the Monitoring Officer under delegated powers had been resolved within three weeks. On average, cases referred to the Assessment Sub Committee had taken longer. No hearings had taken place.

During their debate, Members discussed actions required to ensure that the Register of Interests was kept up to date and the need for clarity in reporting the outcome of complaints.

Resolved: (i) That the report be noted.

(ii) That Members request their respective Group Leaders to ask their members to check their registered interests and update them if necessary.

(iii) That the terms used in future reports to describe the outcome of complaints be standardised where possible, with a column included in the table to record additional, anonymised, details of each case.

Reason: To ensure that the committee continues to make an effective contribution to ethical standards within the City of York Council.

6. Monitoring Report on Complaints Received

Members received a routine update report on recent standards complaints.

Of the cases reported as ongoing on 18 April, one had been concluded and two were still current. The report provided details of these cases in a new format, as requested by

Members at the last meeting. A further complaint had been received after publication of the report and the Monitoring Officer was awaiting clarification on this.

It was noted that the date of receipt of complaint no. 225 in the table at paragraph 2 of the report should read 29/8/**2017** instead of 2018.

Resolved: (i) That the report be noted.

(ii) That the new style of reporting ongoing casework be accepted as providing sufficient information for the committee.

Reason: To ensure that the committee is aware of current levels of activity and that the standards complaints system is used for its primary purpose.

7. Standards Committee's Terms of Reference and Procedures

Members considered a report which sought their views on the continued suitability of procedures adopted in York for handling matters relating to ethical governance.

The report summarised events resulting in the establishment of the Joint Standards Committee and adoption of its Terms of Reference, Assessment Criteria and Complaints Procedures, as attached at Annexes 1, 2 and 3 respectively. Suggestions for possible changes were provided in paragraphs 4 to 8 of the report.

Members discussed whether to request input from other local authorities and the Yorkshire Local Councils Association (YLCA), as well as the council's political groups. The Monitoring Officer advised that there were no recognised 'leaders' in this field but it was open to Members to seek information as they saw fit.

Resolved: (i) That the terms of references and procedures be considered initially by a Task Group comprising all members of the committee.

(ii) That the first meeting of the Task Group be held at 4:00pm on Wednesday, 18 July.

(iii) That the Monitoring Officer circulate the terms of reference and procedures to Group Leaders, Deputy Group Leaders and Independent Council Members in sufficient time for their comments to be put before the first meeting of the Task Group.

Reason: To give proper consideration to this matter and whether the procedures adopted by the committee remain fit for purpose.

8. Review of Work Plan

Members considered the committee's work plan for the 2018-19 municipal year.

In relation to items listed on the plan for the 5 September meeting, it was clarified that:

- the item on 'Wider issues of intimidation' related to a parliamentary debate on intimidation during the election campaign, particularly on social media.
- the views of political groups, Officers and Trades Unions would be sought on the Review of the Protocol on Officer / Member Relations.

Resolved: That the work plan be approved.

Reason: To ensure that the committee has a planned programme of work in place.

9. Update on Parish Membership

The Monitoring Officer gave a verbal update on the recruitment of new Parish Council Members to the committee. He confirmed that four nominations had been received to fill the current vacancies and that the Yorkshire Local Councils Association (YLCA) were conducting a ballot and aimed to report the outcome on 2 July.

Resolved: (i) That the information provided be noted.

(ii) That the proposed new membership be reported directly to Full Council for approval.

(iii) That the Chair and the Monitoring Officer be authorised to arrange the necessary induction and training for the new members.

Reason: To enable the current vacancies to be filled, and the new members to participate in committee business, as soon as possible.

10. Chair's Comments - Review of Local Government Ethical Standards

The Chair requested an update on the progress of the committee's response to the consultation on the review of Local Government Ethical Standards, as agreed at the meeting on 18 April (Minute 35 refers).

The Monitoring Officer confirmed that the government had acknowledged receipt of the response but no further correspondence had been received to date. The response was not a confidential document and could be made publicly available online.

Note: The finalised response has since been circulated to Members and published as a supplement to the agenda for the meeting on 18 April 2018.

Cllr C Runciman, Chair

[The meeting started at 4.00 pm and finished at 5.02 pm.]

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City of York Council

Committee Minutes

Meeting	Joint Standards Committee - Assessments Sub-Committee
Date	1 August 2018, adjourned to 8 August 2018
Present	Councillors Cannon and Kramm (CYC Members) Councillor Wiseman (Parish Council Member)
In Attendance	Mr Laverick (Independent Person)

1. Appointment of Chair

Resolved: That Cllr Kramm be appointed to act as Chair of the meeting.

2. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in the business on the agenda. No interests were declared.

3. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during consideration of Agenda Item 4 (Complaint about a Member of a Council covered by the Joint Standards Committee), on the grounds that it includes information relating to an individual, which is classed as exempt under paragraph 1 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

4. Complaint about a Member of a Council covered by the Joint Standards Committee

Members considered a report on a complaint made against a Member of a Council covered by the Joint Standards Committee.

The complaint related to a potential breach of the Councillor Code of Conduct by the subject Member in relation to the disclosure of confidential information.

Members were informed that the complainant was currently seeking legal advice with regard to the draft report of the Investigating Officer attached at Annex 2. After debating the matter, they

Resolved: That the meeting be adjourned to Wednesday, 8 August 2018 at 5:00pm.

Reason: To allow time for the legal advice sought by the complainant to be received, and to receive further information on the advice offered to the subject Member at the time of the alleged breach.

The meeting was re-convened on the 8 August as agreed and the additional information was circulated to Members, who then considered the following options:

- To decide that no further action be taken
- To ask for further investigation
- To refer the matter for a hearing.

Having considered the evidence before them, and taking into account the comments of the Independent Person, Members

Resolved: That the matter be referred for a hearing, the remit of which will be limited to the specific point of whether or not the disclosure of the confidential information was reasonable, in the public interest and made in good faith, and therefore falls within the exemption in paragraph 3(5) (d) of the Code of Conduct.

Reason: The Sub-Committee is of the view that this is the only issue in dispute in this case and that a hearing is required to ensure that all relevant evidence can be properly considered before a decision is made.

Cllr L Kramm, Chair

[The meeting started at 5.00 pm and finished at 5.53 pm on 1 August, then resumed at 5:00pm on 8 August and finished at 5:53pm].



Joint Standards Committee
5 September 2018
Report of the Monitoring Officer
Monitoring Report on Complaints Received
Summary

1. This is a routine report to update the Committee on recent standard complaints.

Background

2. Since the Committee last met in April 2018 no new complaints have been received. The table below gives information about ongoing casework handled during the period:

Case ref.	City or Parish	Date complaint accepted	Nature of Complaint	Status
225	City (x2)	29/8/2017	Standards issues raised during investigation of whistleblowing complaint	Assessment sub committee 22/9/2017 referred for investigation Cases referred for hearings
688	City	31/3/2018	Breach of confidentiality	MO referred for investigation Case considered by Sub Committee 8/8/2018 and referred for hearing

706	Parish	25/6/2018	The case relates to joint work between Parish Councils. The complaint relates to the way the subject Member is alleged to have behaved towards other Councils and councillors	Referred for investigation by MO 18/07/2018
711	City	27/07/2018	The complaint relates to the way a planning application was handled. In part it is being considered through the corporate complaints procedure. The standards issue relates to the conduct of a member at a site visit	Determined 20/08/2018 No breach MO and IP's agree that the behaviour complained of does not breach the code of conduct
712	City	23/8/2018	The complaint relates to comments made by a Councillor during debate at a Council meeting.	Determined 24/08/2018 MO and IPs agree that the behaviour complained of does not breach the code of conduct. The high level of protection given to freedom of speech in a political context being one significant factor

3. The complainant in the Parish case is a councillor from another Parish. The complainants in relation to the City cases are members of the public.

Recommendations

4. Members are recommended to:
 - 1) Note the report.

Reason: To ensure that the Committee is aware of current levels of activity and that the standards complaints system is used for its primary purpose.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Corporate
Services
Tel No. 01904 551004

**Report
Approved**



Date 20/0818

Wards Affected: *List wards or tick box to indicate all*

All



For further information please contact the author of the report

Background Papers: None

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Joint Standards Committee**5 September 2018****Standards Committee Terms of Reference and Procedures,
including Vexatious Complaints****Summary**

- 1) This report updates Members on the progress of the Task Group in relation to reviewing the Standards Committee Terms of Reference and Procedures and also seeks Members' views on the inclusion of further guidance within the Standards Committee Procedures in relation to dealing with vexatious Code of Conduct complaints.

Background

- 2) On 13 June 2018 Members were asked to consider a report seeking their views on the continued sustainability of procedures adopted in York for handling matters relating to ethical governance.
- 3) Members resolved that the terms of reference and procedures should be considered initially by a Task Group. Group Leaders, Deputy Group Leaders and Independent Council Members were asked to comment on the existing terms of reference and procedures ahead of the first Task Group meeting, which took place on 18 July 2018.
- 4) The Task Group suggested amendments to the complaints procedure, which included setting guideline timescales for the investigation of a complaint and for obtaining the Independent Persons views as well as adding a provision about privacy. A further meeting took place on 14 August 2018 where the topic of vexatious complaints was discussed as well as an Independent Persons Protocol.
- 5) The draft procedure will now be sent to the Groups and YLCA for their consideration and comments, which are to be received by 25 September 2018, which is the date of the next Task Group meeting. A copy of the draft amended procedure is attached to this report at Annex one.
- 6) The current Joint Standards Committee Assessment Criteria, which can be found at Annex two, deals with the criteria applied for dealing with vexatious complaints. Section 4 of the Criteria deals with the seriousness of a complaint and provides at 4.1: "a complaint will not

normally be referred for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat". The Task Group have looked at other Local Authority arrangements for dealing with vexatious complaints and have considered Leicester City Council's procedures. Leicester City Council's arrangements for dealing with such complaints can be found at Annex three of this report.

- 7) The Task Group has further work to do in relation to the suggested Independent Persons protocol.

Recommendations

- 8) Members are asked to consider the contents of the report and note the work done to date by the Task Group. In addition, Members are asked to consider whether the current vexatious complaints guidance found within the Assessment Criteria is sufficient or whether a more detailed process similar to the Leicester City Council guidance should be adopted.

Reason: To ensure that the procedures adopted by the Committee remain fit for purpose.

Contact Details

Author:

Rachel Antonelli, Senior Solicitor
Legal Services
Tel No. 01904 551043

Report Approved

Date 23 August 2018

Wards Affected: *List wards or tick box to indicate all* **All**

For further information please contact the author of the report

Annexes

Annex One – Draft amended Complaints Procedure
Annex Two – Assessment Criteria
Annex Three – Leicester City Council's vexatious complaints arrangements.

Background Papers: None

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 on this link:

<http://democracy.york.gov.uk/ecSDDisplay.aspx?NAME=SD569&ID=569&RPID=6449972&sch=doc&cat=12830&path=12830>

or inspect a paper copy by contacting the Democratic Services team who are based at West Offices telephone number (01904) 551550.

Parish Council's Codes of Conduct can be inspected by contacting the Clerk to the relevant Parish Council.

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 Independent Persons who are 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
West Offices
Station Rise
York
YO1 6GA

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 and is available on request from the Democratic Services team at West Offices.

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.

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3. Your Privacy

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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. We only use the information you provide for the purposes of dealing with your complaint.

Your contact details will not normally be shared unless that is essential for the handling of the complaint – such as where knowing your address is important to understanding the context of the complaint.

The Monitoring Officer will normally though share your name with:

- o The Councillor concerned
- o The Independent Persons who advise on the handling of complaints.
- o The Parish clerk if the councillor concerned is a member of a Parish Council
- o Any investigator appointed to deal with the case
- o Members of any Committee or Sub Committee of the Council who are handling the case
- o Any witnesses to the allegations where that is necessary to enable a proper investigation

We may be required or permitted, under data protection legislation, to disclose your personal data without your explicit consent, e.g. if we have a legal obligation to do so, such as law enforcement, regulation and licensing, criminal prosecutions and court proceedings.

You should note that if your complaint is investigated and results in a hearing these are normally conducted in public.

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.

We will retain details of standards complaints for six years and will then delete or destroy those details securely

You can find more information about your rights at <https://www.york.gov.uk/privacy> and further information is available from the Information Commissioners Office (ICO) <https://ico.org.uk/for-the-public/>

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If you have any questions about this privacy information, want to exercise your rights, or if you have a complaint about how your information has been used, please contact us at foi@york.gov.uk or on 01904 554145 or write to the

Data Protection Officer
City of York Council
West Offices
Station Rise
York. YO1 6GA.

3 4Will your complaint be investigated?

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The Monitoring Officer will review every complaint received. He may ask you to clarify aspects of it before he accepts it as a formal complaint.

Once the complaint has been accepted the Monitoring Officer will and discuss it with the Council's Independent Persons. Independent Persons are not Councillors and have no connection with the Council. ~~Though b~~By law the Independent Person must be consulted when a complaint has been investigated. ~~T~~he Council has decided that the Independent Persons will also be consulted by the Monitoring Officer when the complaint is received so as to provide an external oversight.

~~He~~The Monitoring Officer will then normally take a decision as to whether the complaint merits formal investigation. This decision will usually be taken within ~~14~~28 days of receipt of your complaint being accepted.

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. If he considers it appropriate to do so the Monitoring Officer may put the complaint to the Councillor involved and seek their response.

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 Joint 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.

Occasionally the Monitoring Officer may decide that the decision as to whether a complaint should be investigated should be made by members of the Joint Standards Committee. In this case a small Sub Committee of Councillors ~~and Parish Councillors~~ will meet to consider your complaint. In the rest of this procedure we have assumed that the Monitoring Officer will use his powers to make decisions but any Sub Committee appointed will have the same powers as the Monitoring Officer.

43 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 with 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.

We aim to complete investigations within three months of the investigator being instructed. There may be very good reasons why that is not possible – where the case is complex or witnesses are not available, for example. Where there are delays though this will be reported to the Chair of the Standards Committee.

54 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. He will consult the Independent Persons on the draft report and, if he is satisfied that the report is sufficient and accepts the finding, the Monitoring Officer will 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.

It is possible that the Monitoring Officer may accept that the report is complete but does not accept the Investigating Officer's judgment that there has been no breach of the Code. In that case the Monitoring

Officer may refer the case for a hearing following the procedures set out below.

65 **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 Persons, seek local resolution.

6.15.1 **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 Persons 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 Joint Standards Committee (and the Parish Council, where relevant) for information, but will take no further action.

In making a decision about whether a matter can be resolved locally the complainant's views will be ~~given considerable weight~~considered but the decision rests with the Monitoring Officer.

6.25.2 **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. Ordinarily a sub-committee will be chaired by the Chair or Vice-Chair of the Joint Standards Committee and comprise of other members selected to demonstrate their impartiality.

The Hearings Panel will take evidence ~~from yourself, the Investigating Officer and the Councillor as well as any witnesses~~and reach a decision. 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. [A detailed hearings procedure is available for you to view.](#)

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 be taken. In doing this, the Hearings Panel will consult the Independent Persons.

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

The Hearings Panel may –

7.16.1 Censure the Councillor;

7.26.2 Formally report its findings to the City Council or Parish Council for information;

7.36.3 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;

7.46.4 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;

7.56.5 Recommend to Council that the Leader be removed from Office

7.66.6 Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;

7.76.7 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]*;

~~7.86.8~~ 7.86.8 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.

The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic 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.

87 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.

98 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Joint Standards Committee. It normally consists of three Members.

The Independent Persons are invited to attend all meetings of the Hearings Panel and ~~his/her~~their 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.

109 Appeals

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

If a Hearings Panel finds that a Councillor has breached the Code then he/she has a right of appeal to a differently constituted Panel made up of members of the Joint 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.

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City of York Council Joint Standards Committee Assessment Criteria for complaints

1. Background and Context

- 1.1 The Joint Standards Committee's arrangements for dealing with complaints are described in more detail in a separate document available from the Monitoring Officer and on the City Council's website.
- 1.2 The first decision to be made when a complaint is received is whether or not it should be referred for investigation. That decision is normally made by the Monitoring Officer but may be made by a Sub Committee of Members of the Standards Committee. In making the decision regard will be had to the following criteria.

2. Is the complaint covered by the Code?

- 2.1 Is the complaint about the conduct of a member?

The complaint must relate to one or more named elected or co-opted members of the district or parish councils covered by the Standard Committee i.e. within the City of York Council Area.

- 2.2 Was the named member in office at the time the alleged misconduct took place?

- 2.3 Does the allegation relate to the Member's conduct as a Councillor?

Complaints which relate to a Councillor's private life rather than their Council business are unlikely to be covered by the Code.

- 2.4 If the complaint is proven, would there be a breach of the Code under which the member was operating at the time of the alleged misconduct?

Codes of Conduct are concerned with Members' ethical behaviour. Sometimes complaints are received about decisions which

Councillors have made or about the quality of service provided by a Councillor. These are unlikely to be covered by the Code.

- 2.5 If the complaint is not covered by the Code then it cannot be investigated.

3. Sufficiency of Information

- 3.1 The complainant must provide sufficient information to show that there is a real possibility that there has been a breach of the Code of Conduct. If insufficient information is available the case will not normally be referred for investigation.

4. Seriousness of the Complaint

- 4.1 A complaint will not normally be referred for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.

5. Length of Time Which Has Elapsed

- 5.1 A complaint will not normally be investigated where the events took place more than 6 months prior to the complaint being submitted. An exception to this may arise where the conduct relates to a pattern of behaviour which has recently been repeated.

6. Public Interest

- 6.1 Consideration will be given as to whether the public interest would be served by referring a complaint for investigation or other action. They may consider that the public interest would not be served where, for instance, a member has died, resigned or is seriously ill.
- 6.2 The Standards Committee encourages informal resolution of complaints where it is in the public interest to do so. In some cases a speedy apology to the complainant may be the most effective outcome. In a case where the Code has been breached through ignorance an acceptance of fault from the Councillor together with an offer of training or a briefing from the Monitoring Officer, may be sufficient.

6.3 If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely that it will be referred for investigation or other action unless it is evident that the public interest will be served by further action being taken.

7. Anonymous Complaints

7.1 Anonymous complaints will not normally be entertained unless there is additional documentary evidence to support the complaint.

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Vexatious Complaints – Member Misconduct process

Standards complaints are to be handled in accordance with the 'Arrangements for dealing with Standards Complaints at Leicester City Council'. This procedure was brought in following the new standards regime introduced by Chapter 7 of the Localism Act 2011.

One of the initial actions open to the Monitoring Officer (MO), after consultation with the Independent Person (IP), is to reject the complaint 'on the basis that it is:

*"... i) trivial or ii) not in the public interest to pursue or iii) **vexatious...**"*

No definition is provided within our Arrangements of 'vexatious'. The Localism Act and associated guidance make it clear that it is for the local authority to decide how they will investigate allegations for breach of conduct code and handle complaints. They do not specify what those arrangements must be.

Wherever possible, every effort should be made to find out what someone is complaining about, to investigate and respond. However, on occasion, complaints will be made that clearly do not substantiate claims or even justify further investigation. These types of complaints can be termed "vexatious complaints". It is important that the complaints procedure is correctly implemented and all elements of a complaint are considered as even repeated or vexatious complaints may have issues that contain some genuine substance.

It is important to note that it is the complaint itself that must be judged vexatious, oppressive or an abuse, not the complainant. Consideration of this ground should therefore focus primarily on the current complaint. The complainant's past complaint history may, however, be taken into account where it is relevant to show that the current complaint is vexatious, oppressive or an abuse.

The MO and IP should be able to demonstrate with evidence a reasonable belief that the complaint is vexatious, oppressive or an abuse of process before deciding to disapply the Standards process. Some assessment of the complaint will be required in order to demonstrate this.

- The LGO defines unreasonable and unreasonably persistent complainants as:
"those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's complaints"
- Examples of unacceptable or vexatious behaviour, as defined by the LGO, include any action or series of actions which are perceived by the staff member to be

Whenever the issue is raised, the IP and the MO must discuss the designation and reach a unanimous view. Exceptionally, where they cannot do so the second IP may be consulted and a majority view shall prevail.

The designation of a complaint as “vexatious” will be recorded with brief reasons given and communicated to the complainant and the Subject Member, with a right of “review” afforded as per the Arrangements.

Kamal Adatia
City Barrister & Head of Standards
October 2014



Joint Standards Committee**5 September 2018****Report of the Monitoring Officer****Member / Officer Relations Protocol****Summary**

1. This report seeks Members' views on a review of the current protocol.

Background

2. Like many Councils the City Council has a protocol on Member/Officer relations. The current protocol appears at Annex A. The contents of the protocol are very much in line with those found elsewhere and previous reviews by the Committee have not resulted in substantial changes.
3. The Task group which has been reviewing the code of conduct has recommended that the code should contain a provision that members must comply with the protocol. It is therefore an opportune time to review the protocol again.
4. The Committee has already given an indication that it would like to see consultation with political groups and trades unions as part of this review. That has not begun as yet.
5. It seems appropriate for this review to be referred to the Task group given its connection to other work conducted by the Task group.

Recommendations

6. Members are recommended to refer this review to the Task group and confirm their wish that it be informed by the consultation process referred to in the report.

Reason: To promote good Member/Officer relations

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

**Report
Approved**

Date 24/08/2018

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers: None

Annex A – Member officer relations protocol

Section 5C - Protocol on Officer/Member Relations

1 Introduction and Principles

1.1 The purpose of this protocol is to provide a set of principles to guide Members and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

1.2 This Protocol should be read in conjunction with the Members' Code of Conduct, Employees' Code of Conduct, the Council's Constitution, Whistle-blowing Policy and any guidance issued by the Joint Standards Committee, Audit and Governance Committee and/or the Monitoring Officer.

1.3 Certain employees, e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the statutory Chief Officers have responsibilities in law over and above their obligations to the Council and its Members that they must be allowed to discharge.

2 The Relationship: General Points

2.1 Both Councillors and officers are servants of the public, and they are indispensable to one another. But their roles and responsibilities are different.

2.1.1 Councillors are responsible to the electorate and serve only so long as their term of office lasts. Members are representatives of the ward constituents and they also develop policies which will be implemented by the officers.

2.1.2 Officers are responsible to the Council as a whole, they are employed by and ultimately responsible to the Chief Executive as Head of Paid Service. Their job is to provide professional advice and support to relevant parts of the Council in developing and implementing the policies and decisions.

2.2 These are very different roles and this may in some circumstances give rise to tensions and, as such, it is essential

that the working relationship between officers and Members is businesslike and founded upon mutual respect.

- 2.3 Member/officer relationships should be conducted in a positive and constructive way. Therefore it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influences on the other party.

3 Expectations

- 3.1 What can Members expect from officers:

- Political neutrality;
- A commitment to act in the interests of the Council as a whole and not to any one political group;
- A professional approach to the working relationship;
- An understanding of their role and its pressures;
- Timely response to enquiries;
- Professional advice;
- Confidentiality where appropriate;
- Courtesy and respect;
- Compliance with the Officers' Code of Conduct.

- 3.2 What can officers expect from Members:

- Understanding of the requirements of their roles and an appreciation of competing calls on their time;
- A partnership working approach;
- Courtesy and respect;
- Political leadership and direction;
- Not to be bullied or subjected to inappropriate pressure;
- Respect for their professional advice.
- Members shall act within the Code of Conduct at all times.

4 Specific Issues

- 4.1 Officer advice and preparation of reports: – The provision of advice and the preparation of reports are central to the roles of many senior officers and they are under a duty to give their best

advice in the interests of the Council as a whole. When carrying out these duties it is essential that they feel able to give full and frank advice even where this may not be supportive of a particular policy or decision promoted by a Member. Members must not seek to unduly influence the content of any report or try to persuade an officer to change their professional advice when drafting their reports.

- 4.2 Social contact between Members and officers:- Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and Members that transcends the normal employer/employee relationship can potentially undermine Members' confidence in the political neutrality or even-handedness of an officer, and therefore, care should be exercised.

5 When Things Go Wrong

- 5.1 Procedure for Members:- From time to time the relationship between a Member and an officer may become strained for various reasons, including the tensions mentioned above. In such circumstances, it is essential that the Member should not raise such matters in a manner that is incompatible with the objectives of this protocol. An officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy, or has any concerns about the conduct or capability of an officer he/she should raise the matter with the respective Head of Service/Assistant Director. The Head of Service/Assistant Director will then look into the facts and report back to the Member. If the Member continues to feel concern then he/she should report the facts to the appropriate Director, or if, after doing so is still dissatisfied, should raise the issue with the Chief Executive. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 5.2 Where an officer feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her Head of Service/Assistant Director, Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these

circumstances the Head of Service/ Assistant Director, Director or the Chief Executive will take appropriate action either by approaching the individual Member and/or Group Leader or by referring the matter to the Assistant Director Legal and Governance for advice on how to proceed.

6 Officer Support: Member and Party Groups

6.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

Party groups are a recognised part of local authorities and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality.

6.2 In providing this support to party groups certain points must be understood by both officers and Members:

- (a) Officer support must be limited to providing information and advice in relation to matters of a Council business. Officers must not be involved in advising on matters of party business. It is recommended that officers are not present at meetings or parts of meetings where matters of party business are to be discussed.
- (a) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- (b) Where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary

information and advice to the relevant committee or sub-committee when the matter in question is considered.

- 6.3 Special care needs to be exercised whenever officers are involved in providing information and advice to party groups or other meetings which include persons who are not Members of the Council or Elected Members. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning declarations of interest and confidentiality) and, for this and other reasons, officers may not be able to provide the same level of information and advice as they would to a Member only meeting.
- 6.4 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, but officers must have regard to a Member's right of access to information and Council documents which are referred to in paragraphs 9.1 and 9.2 below. However the confidentiality of information discussed in the presence of an officer cannot be guaranteed in all cases as it may be subject to the Freedom of Information Act.
- 6.5 In relation to budget proposals;
- (a) The administration shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Executive /Council meetings, whichever is the earlier;
 - (b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Executive/Council meetings, whichever is the earlier.
- 6.6 Any particular difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

7 Officer Support: The Executive

- 7.1 It is important that there should be a close working relationship between Executive Members and the officers who support and/or interact with them. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and other party groups.
- 7.2 Whilst Executive Members will be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. A Director, Head of Service/Assistant Director will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report.
- 7.3 Under Executive arrangements, individual Members of the Executive may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Executive Member seeks advice from relevant Members and officers before making a decision with his/her delegated authority. This includes taking legal advice, financial advice and professional officer advice as well as consulting the Monitoring Officer where there is doubt about powers to act.
- 7.4 Officers will continue to work for and serve the Council as a whole. However, as the majority of functions will be the responsibility of the Executive it is likely that in practice many officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the officers. Officers must ensure that their political neutrality does not appear to be compromised.

8 Officer Support: Overview and Scrutiny

- 8.1 It is not the role of scrutiny to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role

of officers to become involved in what would amount to disciplinary investigations on a panel's behalf. This means:

- (a) Policy and Scrutiny's questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame;
- (b) In these circumstances, it is for the Chief Executive to institute a formal enquiry, and Policy and Scrutiny may ask (but not require) him to do so.

8.2 Policy and Scrutiny should not act as a "Court of Appeal" against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, eg the Corporate Complaints Procedure, and external/statutory, eg Local Government Ombudsman or appeal to the Courts. However:

- (a) Policy and Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits of a decision in individual cases;
- (b) They can comment on the merits of a particular policy affecting individuals.

8.3 Wherever possible Policy and Scrutiny should provide written questions or details of indicative topics to someone invited to appear before a panel to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel has previously indicated.

9 Members' Access to Information and to Council Documents

9.1 Members need to have access to information held by the Council in order to perform their roles but their rights to access are not absolute. The starting point is that Members have the same rights as any other person and, as such, they are entitled to copies of any published information held by the Council. They

can also make a request under the Freedom of Information Act 2000 if they wish.

9.2 Members also have additional legal rights to access information held by the Council which would not normally be made public. They are given these extra rights of access in order to enable them to undertake their roles as Councillors. However, care should be exercised in this regard as Councillors are only entitled to confidential information where they either, have a right under S.100 of the Local Government Act 1972 or, where they can show that they have a 'need to know' the information in order to conduct their council duties.

9.3 S.100(F) LGA 1972.

This provides that any document held by the Council containing material relating to any business to be transacted at any meeting of the Council, committee or sub-committee must be available for inspection by any member of the Council unless it is deemed by the proper officer to fall within certain categories of 'exempt' information as defined by Schedule 12A to the Local Government Act 1972. This applies to all categories of exempt information except those under paragraph 3 (except to the extent that the information relates to proposed terms of a contract), and paragraph 6 of Schedule 12A.

9.4 Need to Know

Even where the above statutory rights do not apply to the information in question the Member also has a common law right to inspect information which it is necessary for them to inspect in order to carry out their function as a Councillor. This will normally cover all the information

9.5 In cases of doubt Members should approach the Assistant Director Legal and Governance for assistance.

9.6 The common law rights of Members are based on the principle that any Member has a right to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a

Member of the Council. This principle is commonly referred to as the “need to know” principle.

- 9.7 The exercise of this common law right depends upon an individual Member being able to demonstrate that he or she has the necessary “need to know”. In this respect a Member has no right to a “roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must be determined by the particular Director or Assistant Director with advice from the Assistant Director Legal and Governance.
- 9.8 In some circumstances the Member will be expected to justify the request to inspect a document. In addition there will be a range of documents, which, because of their nature are either not accessible to Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the premature disclosure of which might be against the Council’s and/or the public interest.
- 9.9 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member’s duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied, i.e. to brief the Member.
- 9.10 The Members Code of Conduct also contains specific rules about confidential information held by councils which prohibit members from disclosing such information unless it can be shown that it is in the public interest to do so.

10 Correspondence

- 10.1 Correspondence between an individual Member and an officer should not be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy to another Member, this should be made clear to the original Member.

10.2 Official letters and electronic communications on behalf of the Council should be sent in the name of the appropriate officer, rather than in the name of the Member. It may be appropriate in certain limited circumstances (eg, representations to a Government Minister) for a letter to appear in the name of a Executive Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

11 Communication of Officer Delegated Decisions

11.1 Notwithstanding the rights of Members to information and to Council documents set out in this protocol, officers taking decisions under delegated authority from the Executive must ensure that relevant Members have prompt information regarding the decision, the reasons for the decision and the impact of the decision.

11.2 For the purposes of this protocol “relevant Member” will include:

- (a) Members of any Ward upon which the decision is likely to impact.
- (b) Members of the Executive where the decision falls within their portfolio area.
- (c) Members of any relevant Committee where if it was not for delegation to officers, the decision would be taken by that Committee.
- (d) All Members of the Council where the decision is likely to have a corporate impact.

11.3 If any Member becomes aware that they have not been provided with the information in accordance with this protocol the matter should be raised with the appropriate Director and/or the Chief Executive.

12 Publicity and Press Releases

- 12.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential to ensure that decisions on publicity are properly made in accordance with the Code of recommended Practice on Local Authority Publicity and the Council's Media Protocol.
- 12.2 Officers and/or Members should seek advice from the Assistant Director Customer Services and Digital when making decisions on publicity, and particular care should be paid to any publicity used by the Council around the time of an election.

13 Involvement of Ward Councillors

- 13.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. In addition officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

14 Monitoring and Review

- 14.1 The application and implementation of this Protocol will be monitored and reviewed by the Council's Joint Standards Committee in consultation with the Council's Monitoring Officer.

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Joint Standards Committee**5 September 2018****Report of the Monitoring Officer****Civic Gifts and Hospitality****Summary**

1. This report seeks Members' views on proposed guidance to the Civic Party in respect of gifts and hospitality.

Background

2. At the meeting of the Committee held on 18 April 2018 Members considered current guidance contained within the Civic Guide in respect of code of conduct issues together with guidance issued by the National Association of Civic Officers in respect of the acceptance of gifts and hospitality. A decision was made to consult former Lord Mayors and Groups.
3. Before consulting with the former Lord Mayors, the current Lord Mayor was provided with a draft and his comments were reflected in a second draft shared with five former Lord Mayors. Their comments are supportive of the need for the guidance with one former Lord Mayor making specific reference to the need to offer firm advice to incoming members of civic parties who are not councillors and may, therefore, have less of an awareness of the appropriateness of accepting gifts and hospitality than those who have served as councillors.
4. The content of the document has generally been welcomed. Some minor amendments have been made to the draft in response to comments made. A small number of comments though seem to be worthy of discussion by the Committee.
5. In relation to a paragraph in the draft which read:

“There are a number of functions each year which Lord Mayor and/or members of the Civic party will traditionally attend and at

which hospitality, including formal dinners, will be offered. The Civic Office will be able to advise on which events fall into this category. Accepting such hospitality is likely to be acceptable.”

Comment was that we should be careful about referring to ‘traditional’ functions. Events become traditional when the invitations come in fairly regularly - much of what is seen to be traditional has only been so for a few years. Also new traditions can evolve as Lord Mayors become more inclusive and reach out to wider sections of the community, and this means that hospitality may be offered from more sources.

6. In part, in response to that comment, reference has been included to Guild dinners as an example of the “traditional” functions. Members may wish to consider whether this goes far enough.

7. An amendment has also been suggested as follows:

The acceptance of more substantial hospitality when not linked to one of the traditional functions is more likely to be acceptable, **for example**, where it is clearly linked to the promotion of the City and where the attendance of a member of the Civic party has been requested ~~by the Leader, Council Officers or a key partner of the Council.~~

8. This suggestion raises two questions which Members may wish to discuss:

a) Does the addition of the words: “for example” open the door too far? It was not of course wholly closed to other circumstances by the original wording.

b) By deleting the final words the judgment on acceptability would be left wholly with the Civic party; is that sufficient?

Recommendations

10. Members are recommended to consider the draft guidance and the questions raised above and approve guidance for inclusion within the Civic guide.

Reason: To ensure that members of the Civic party are supported to make proper decisions about accepting gifts and hospitality.

Contact Details

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**Report
Approved**

Date 24/08/2018

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Annexes:

Annex 1- draft guidance on civic gifts and hospitality

Background Papers: None

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Hospitality

There are no hard and fast rules about accepting hospitality. Members of the Civic party must judge whether doing so can be justified without causing damage to the reputation of the Office which they hold. The following guidelines will though help with that judgement:

- There are a number of functions each year which Lord Mayor and/or members of the Civic party will traditionally attend and at which hospitality, including formal dinners, will be offered. This includes functions such as Guild dinners. The Civic Office will be able to advise on which events fall into this category. Accepting such hospitality is acceptable.
- At other civic engagements the acceptance of reasonable refreshment, such as a lunch, is likely to be acceptable.
- The acceptance of more substantial hospitality when not linked to one of the traditional functions is more likely to be acceptable where it is clearly linked to the promotion of the City and where the attendance of a member of the Civic party has been requested by the Leader, Council Officers or a key partner of the Council.
- Offers of foreign travel should only be accepted where the Chief Executive has confirmed that it is appropriate to do so in the interests of promoting the City.
- Great caution should be exercised in accepting hospitality from any organisation which is known to be engaged in a current procurement exercise or has a current planning, licensing or similar application before the Council.

Where the Lord Mayor (or any member of the Civic party who is a councillor) accepts hospitality in line with these guidelines the receipt of that hospitality does not have to be declared in the register of Members' interests.

Accepting Gifts

Gifts of more than a nominal value (exceeding £50) should be accepted on behalf of the Council and not retained personally. Such gifts should

be passed to the Civic Office who shall manage such gifts on behalf of the Council.

More minor tokens of goodwill, such as flowers, can be accepted as personal gifts.

In either of these cases it is not necessary to register the receipt of the gift in the register of Members' interests.

Occasionally gifts may be offered which are clearly intended to be personal gifts but are more than a minor token of goodwill. Where the value of the gift appears to exceed £50 the advice of the Monitoring Officer should be sought before the gift is retained by the recipient.



Joint Standards Committee

5 September 2018

Report of the Monitoring Officer

Intimidation in Public Life

Summary

1. This report advises Members on work undertaken by the Committee on Standards in Public Life in respect of intimidation in public life.

Background

2. In December 2017 the Committee on Standards in Public Life issued a report in respect of a review it conducted at the request of the Prime Minister. The remit of the Committee's work was to undertake a review on the intimidation of Parliamentary candidates in July 2017, considering the wider implications for public office-holders, and producing recommendations for action which could be taken in the short- and the long-term. The report is available here: <https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>
3. The review received a positive response from the Government in March 2018: <https://www.gov.uk/government/publications/government-response-to-the-committee-on-standards-in-public-life-review-of-intimidation-in-public-life>
4. The review identifies:

“Intimidation as words and/or behaviour intended or likely to block or deter participation, which could reasonably lead to an individual wanting to withdraw from public life

It says that this can include physical violence, threats of violence, damage to property, and abusive online and offline communications, amongst other activities. It notes that sometimes, the collective impact of a number of individual actions can also be intimidating, for example where people become subject to co-ordinated social media attacks.

5. Key conclusions of the review were that:

- Intimidation in public life presents a threat to the very nature of representative democracy in the UK.
- While intimidation in public life is nothing new, the scale and intensity of intimidation is now shaping public life in ways which are a serious issue. Social media companies have been too slow in taking action on online intimidation to protect their users. The political parties have failed to show leadership in calling out intimidating behaviour and changing the tone of political debate. Police authorities have shown inconsistency in supporting those facing illegal intimidating activities, and electoral law is out of date on this issue.
- Intimidation also reflects broader issues with our public political culture. Those in public life must take responsibility for shaping that culture. They must take steps to ensure that their behaviour does not open the door for intimidation and work to build public trust in public life. They should uphold high ethical standards, and should never themselves engage in, incite or encourage derogatory or dehumanising political debate.

6. York is not immune to this. Members and Officers have been and are subject to intimidation. At the more extreme end there are examples in York of:

- Campaigns designed to attack individuals professionalism seeking to ensure their dismissal from office
- Unevidenced allegations of criminal behaviour
- Racist mail being received

- E-mails containing threats supported by graphic images of dead bodies
 - Sexualised threats
 - Instances of physical violence
7. The Committee made 33 recommendations. Those which may be of the most interest to the Committee are set out in Annex 1 together with some commentary indicating how the issues are being tackled in York and identifying those which the Committee may feel require further consideration or action.

Recommendations

8. Members are recommended to:
- 1) Consider the report and identify how the recommendations of the Review should be taken forward

Reason: To ensure that the can make an effective contribution to creating a culture in York where intimidator behaviour is unacceptable.

Contact Details

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**Report
Approved**



Date 24/0818

Wards Affected: *List wards or tick box to indicate all*

All



For further information please contact the author of the report

Annexes:

Annex 1 - Recommendations of the Committee on Standards in Public Life

Background Papers: None

Recommendation	Response
Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.	The Committee has agreed to consider guidance to members on their behaviour during the elections next May at its meeting in February. This issue can be considered then
Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.	This is primarily an issue of political parties but Members may wish to note that the Council's code of conduct already prohibits Intimidation or attempts to intimidate.
Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011	<p>This issue is addressed with new City Councillors as part of the induction. Sensitive interests are mentioned in the current code of conduct and additional guidance is contained in the draft revised code and guidance currently in circulation.</p> <p>Clerks would be expected to advise Parish Members but the NALC model code says: "A member need only declare the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.</p> <p>Requests to treat interests as sensitive are received. Three have been agreed in 2018 and they have been granted to both City and Parish Councillors.</p>
Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.	The Standards Committee may wish to consider further
Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.	The Code of conduct for Members and the work of the Committee are aimed at meeting this recommendation
Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate	The Standards Committee may wish to consider further

in public life.	
Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.	The Standards Committee may wish to consider further
Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards	The Standards Committee may wish to consider further

Work Plan for Joint Standards Committee 2018-2019

<u>Meeting Date</u> (4.00pm start time)	<u>Items</u>	<u>Notes</u>
Wednesday 21 November 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Updating the Member Code of Conduct (following consultation with groups) 	Standard item
Wednesday 13 February 2019	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Guidance for elected Members on their behaviour during the election process 	Standard item
TBC	<ul style="list-style-type: none"> • The city council's Whistleblowing policy and its link to ethical standards 	

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