

## **Standards Committee**

- To:** Mrs Christine Bainton (Independent Member, in the Chair)  
Cllrs Scott (Vice-Chair), Barton, Runciman and Taylor  
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:** Friday, 16 March 2012
- Time:** 2.30 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 - 8)  
To approve and sign the minutes of the meeting of the Standards Committee held on 20 January 2012.
- 3. 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 Thursday 15 March 2012.**

- 4. New Standards Arrangements** (Pages 9 - 28)  
This report updates Members 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.
- 5. Planning for Standards Arrangements** (Pages 29 - 32)  
This report outlines the tasks that are required to be performed to enable new standards arrangements to be implemented from 1 July 2012.
- 6. 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:

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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.

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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 from a published Cabinet (or Cabinet Member Decision Session) agenda. The Cabinet will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Cabinet meeting in the following week, 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

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City of York Council

Minutes

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MEETING	STANDARDS COMMITTEE
DATE	20 JANUARY 2012
PRESENT	MRS BAINTON (INDEPENDENT MEMBER, IN THE CHAIR) COUNCILLORS SCOTT (VICE-CHAIR) - ITEM 6 ONWARDS (MINUTE 13 REFERS), BARTON AND D'AGORNE (SUBSTITUTE FOR COUNCILLOR TAYLOR) (CITY OF YORK COUNCIL MEMBERS) COUNCILLORS CRAWFORD AND FORSTER (PARISH COUNCIL MEMBERS) MR DIXON AND MR HALL (INDEPENDENT MEMBERS)
APOLOGIES	COUNCILLORS RUNCIMAN AND TAYLOR (CYC MEMBERS) COUNCILLOR MELLORS (PARISH COUNCIL MEMBER)

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**8. 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.

Councillor Scott declared a prejudicial interest in agenda item 3 (minute 10 refers). It was noted that Councillor Scott had not been present at the meeting when this item was considered.

**9. MINUTES**

RESOLVED: That the minutes of the Standards Committee meeting held on 24 June 2011 be approved and signed by the Chair as a correct record.

**10. MINUTES OF SUB-COMMITTEES**

The minutes of the following meetings of sub-committees were approved and signed by the Members who had chaired the meetings:

- Assessment Sub-Committee meetings held on 24 June 2011, 20 July 2011 and 24 November 2011.

- Review Sub-Committee meetings held on 24 June 2011, 20 July 2011, 7 September 2011 and 21 December 2011.

**11. PUBLIC PARTICIPATION**

It was reported that there were no registrations to speak at the meeting under the Council's Public Participation Scheme.

**12. PREDETERMINATION AND BIAS**

Members considered a report that drew their attention to the coming into force of provisions in the Localism Act. Members' attention was drawn to the advice that had been given to Members of the City of York Council, as detailed in paragraph 2.6 of the report.

RESOLVED: That the report be noted.

REASON: To ensure that the committee is aware of the provisions in the Localism Act.

**13. ABOLITION OF THE STANDARDS REGIME**

Consideration was given to a report that described extensive changes to the current standards regime. Largely these were expected to take effect from 1 July 2012.

Discussion took place around the following issues:

(i) Code of Conduct

The requirement for each Council to adopt a Code of Conduct was noted. Members agreed that, in view of the work that was going on nationally to develop recommended Codes, it would be appropriate to consider this work before starting to draft a local Code. The Committee would give further consideration to this issue as more information became available and, in view of the timescales involved, an additional meeting would be convened.

(ii) Abolition of the Statutory Standards Committee

It was noted that the Act removed the requirement to have a statutory Standards Committee. Consideration was

given to the options detailed in the report as to the arrangements that could be put in place to deal with allegations that the Code had been breached.

Concerns were expressed regarding parish council representation. Members expressed their reservations at the option put forward that Parish Councillors be included in the membership of a Standards Committee of the Council but not be permitted voting rights. Officers explained the legal requirements with which the new arrangements must comply. Members agreed that it was important that consultation took place with Parish Councils prior to the Committee making its recommendations. It was suggested that the consultation take place via the Yorkshire Local Councils Association.

(iii) Managing Complaints

Members noted that there would be considerably more flexibility in deciding how to manage complaints. Consideration was given as to how some delegation to the Monitoring Officer could address problems inherent in the current system.

Members expressed general support for the arrangements outlined in the report but requested that consideration be given to including a review or appeal mechanism in the process.

(iv) The Independent Person

Details were given of the role of the independent person and the proposed arrangements for making this appointment. It was suggested that if recruitment proved difficult, consideration be given to working with neighbouring authorities to appoint suitably experienced candidates.

(v) Dispensations

Members noted the circumstances in which dispensations could be granted. Members requested further information in respect of the granting of dispensations for parish councillors.

(vi) Sanctions

Members reiterated their concerns at the limited sanctions that were available in respect of breaches of the code. Officers gave details of the legal opinion that had been provided when Counsel's advice had been sought on this issue.

RESOLVED:

- (i) That, subject to national models being produced, the Monitoring Officer be instructed to bring a draft Code to the next meeting.
- (ii) That consultation take place with Parish Councils in respect of future arrangements following the abolition of the statutory Standards Committee.
- (iii) That, at a future meeting, the Committee give further consideration to the arrangements having had the opportunity to take into account the views of the Parish Councils.
- (iv) That the Monitoring Officer be instructed to prepare for further consideration "arrangements" as follows:
  - a. That the Monitoring Officer be designated as the appropriate Officer to receive complaints of failure to comply with the Code of Conduct.
  - b. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report to the Standards Committee on the discharge of this function;
  - c. Where the investigation finds no evidence of failure to comply the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings



of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;

- d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;
  - e. That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct.
  - f. Options in respect of the inclusion of a review or appeal mechanism within the process.
- (v) That, once the Code has been published, the Monitoring Officer advertise a vacancy for the appointment of 1 Independent Person and 2 Reserve Independent Persons.

That, in due course, a Committee comprising the Chair and three other members of the Standards Committee be set up to short-list and interview candidates, and to make a recommendation to Council for appointment.

- (vi) That, in due course, the Monitoring Officer ensure that all members are informed of their duty to register interests;
- (vii) That, in due course, the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements
- (viii) That, in due course, the Standards Committee recommend the introduction of Standing Orders requiring Members to withdraw from the meeting

room during the consideration of any item of business in which he or she has a DPI unless a dispensation has been granted.

- (ix) That further information be provided in respect of the granting of dispensations for Parish Councillors.
- (x) That, whilst generally supporting recommendation 7 in the report, the Standards Committee would give further consideration to formalising their recommendations in respect of the granting of dispensations.
- (xi) That, subject to further information becoming available nationally, an additional meeting of the Committee be held on Friday 2 March 2012 at 3.00pm to give further consideration to issues arising from the Localism Act.

REASON: To ensure that appropriate arrangements are in place to implement the new standards regime.

C BAINTON

Independent Member, In the Chair

The meeting started at 3.00 pm and finished at 4.30 pm.



## **STANDARDS COMMITTEE**

**16<sup>th</sup> March 2012**

### **Report of the Monitoring Officer**

#### **New Standards Arrangements**

#### **1 Background**

- 1.1 This report updates Members 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<sup>st</sup> July 2012.

#### **2 Consultation with Parish Councils**

- 2.1 Since the last meeting the Monitoring Officer, in conjunction with the Yorkshire Association of Local Councils, has consulted Parish Councils on their views as regards the new arrangements. The consultation questions are annexed to this report as Annex 1 and a summary of the ten responses received is at Annex 2.

#### **3 The Code of Conduct**

- 3.1 The Act contains a duty for each relevant authority to adopt a code of conduct for their members and co-opted members.
- 3.2 The Code must contain the provisions which the Authority consider appropriate in respect of the registration and declaration of pecuniary and non pecuniary interests. However, the Act also requires the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs). Regulations will provide a definition of DPI's. At the time of writing this report Regulations have not been issued.
- 3.3 The Standards Committee has provisionally indicated support for ensuring a level of consistency with other Councils in terms of the Codes being adopted and a willingness to consider national models.

The consultation responses from Parish Councils are also supportive of the idea of ensuring consistency.

- 3.4 At a national level the Local Government Association has taken on work, which had been started by ACSES, to develop a model code and NALC have been working on a Parish Model Code. The publication of these is believed to have been delayed by the absence of Regulations.
- 3.5 This creates a timing difficulty for the City Council. It may be that the Council will not be in a position to adopt a new Code until its meeting on 19<sup>th</sup> July 2012. An interim position could be to resolve to adopt the “behavioural” provisions of the 2007 Code contained in paragraphs one to seven and simply add to them a requirement to register and declare DPI’s. Members may wish to make a recommendation in that regard.

#### **4 Standards Committee**

- 4.1 The Act removes the requirement to have a statutory Standards Committee. However, there will still be a need to deal with standards issue such as:
- Promoting high standards and monitoring the Council’s ethical framework
  - Granting dispensations from declaring interests
  - Dealing with case work – the City Council has a duty to put in place arrangements for investigating and making decisions in respect of complaints against its own and against Parish Councillors.
- 4.2 At the last meeting Members agreed that there was a continuing need for some kind of Standards Committee from which hearings panels would be drawn. It was recognised that the Committee would have to comply with general provisions of local government law and would not have the unique features of the statutory Standards Committee particularly as regards voting rights. All the future options identified had some disadvantages either lacking voting Parish Councillors or being excessively bureaucratic.
- 4.3 The consultation responses from Parish Councils indicate majority response for a joint committee with seven consultees supporting that option, one suggested an ordinary committee, one made no comment other than to support a reduction in bureaucracy and one wanted to maintain the status quo.
- 4.4 Members are invited to express a view on the way forward

## **5. Arrangements for dealing with complaints**

- 5.1 Attached at annex 3 is a draft set of arrangements for dealing with complaints, which builds on the recommendations made at the last meeting for introducing a system which allows speedy and fair resolution of complaints. Members are invited to approve those arrangements subject to any comments that they may have.

## **6. Independent Person(s)**

- 6.1 The independent person has to be consulted before there is a finding that a Member has breached the Code and before any action is taken and may be consulted at other stages. At the last meeting Members agreed to a recommendation that one independent person should be appointed with up to two reserves. On reflection the Monitoring Officer is now inclined to the view that two independent people should be appointed. It would not be a great burden to consult them both, having two of equal status may provide more opportunities for them to support each other and it would also avoid any questions as to whether the reserve had been properly called upon.
- 6.2 It is therefore recommended that two independent persons be appointed.

## **7. Dispensations**

- 7.1 At the last meeting the issue was raised as to how Parish Councillors would be able to obtain dispensations from requirements to disclose interests. This will be a function of the individual Council and not the Standards Committee as now. The problem for Parish Councils is that the need for a dispensation will invariably arise where most of the Council have the same interest.
- 7.2 The obvious options are for Parish Councils to delegate the dispensation decision to the Parish Clerk or to ask the Standards Committee to deal with the issue. Any request to the Standards Committee would need to be made before the issue arose and might best be dealt with as part of the process of establishing the Committee.
- 7.3 The Monitoring Officer will raise this issue with the Local Councils Association.

## 8. Recommendations

- a) The City Council be recommended to adopt an interim Code of Conduct as detailed in the report to take effect from 1<sup>st</sup> July 2012.
- b) The Standards Committee confirm its recommendation as to the formation of a new non-statutory Standards Committee
- c) The Standards Committee approve the arrangements for dealing with complaints set out in annex 3
- d) The City Council be recommended to appoint two independent persons to undertake the functions set out in the Act and the draft procedures

Reason: To recommend to Council new arrangements for dealing with standards issues.

<b>Author</b>	<b>Chief Officer Responsible for the report</b>		
<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>		
	<b>Report Approved</b>	√	<b>Date</b> 06/03/12

### Background papers

Parish Council responses to consultation

Annex 1 – Consultation questions

Annex 2 – Summary of responses

Annex 3 – Draft set of arrangements for dealing with complaints

## **NEW STANDARDS FRAMEWORK: A CONSULTATION BY THE CITY OF YORK COUNCIL**

### **Codes of Conduct**

As you know the current codes of conduct will be abolished and each Council will have to adopt their own. It seems to me that it would be sensible to achieve some consistency across Parish Councils in terms of their Codes. I understand that NALC might be doing some work to assist Parish Councils with this. I know that the Local Government Association is for upper tier Councils.

*It would be helpful for me to know whether Parish Councils are likely to be supportive of achieving consistency.*

### **Handling Complaints**

The City Council will be obliged to put in place arrangements for dealing with complaints that City and Parish Councillors have breached their code of conduct. At present complaints are submitted via the Monitoring Officer. He has very little discretion as to what he does with a complaint. Once properly made, a complaint has to be referred to a Standards Assessment Sub Committee. If the Sub Committee decides not to refer a case for investigation, the complainant has a right to require a review by a different Sub Committee. If an allegation is investigated a report must be considered by a Sub Committee and, if the investigator determines that there has been a breach of the Code, the case must be referred for a hearing – usually locally but, in serious cases, the referral could be to the national Tribunal.

The Standards Committee has been debating what replacement arrangements they should recommend to the City Council. There is a strong view that it is wrong that the current arrangements force all complaints whether trivial, manifestly ill founded, or capable of speedy resolution into a bureaucratic and potentially stressful process. They have therefore asked me to develop draft procedures which give the Monitoring Officer the power to determine whether or not a complaint should be investigated and to broker informal resolutions where appropriate. Under the new legal requirements there will be statutory duties to consult an “independent person” appointed by the City Council, at certain stages of the process. It is likely that the draft procedures will require the Monitoring Officer to consult the independent person before deciding whether or not to investigate and before agreeing any informal resolution of a complaint which has been investigated.

It is not proposed that there should be a formal right to request a review of a decision by the Monitoring Officer.

*Do Parish Councillors agree that these proposals strike the right balance?*

### **Hearings**

In the event that a complaint is investigated and the Monitoring Officer does not feel that it can be resolved there will be a need for a hearing. In the past this would normally have been a hearing before a Sub Committee of the Standards Committee. Inevitably the Committee would have consisted of one independent person, one Parish Councillor and one City Councillor. These arrangements have worked well in York on the very few occasions that a hearing has been required. However, these arrangements have been possible because there has been a statutory Standards Committee with a membership and voting rights set out in the Local Government Act 2000. Statutory Standards Committees are to be abolished and any new arrangements will have to comply with the general law for local authority committees.

The consensus on the Standards Committee is that the new Committee should not have independent members. There are a number of reasons for this but it is worth noting that the new independent person will have to be consulted by law on cases which reach a hearing, so the element of independence is there.

More difficult is the issue of Parish representation on any Committee. There is very strong support for this to continue. If the law allowed the Standards Committee would be recommending no change to the current arrangements. However, it doesn't. The options are that the City Council sets up an ordinary Committee of the Council or a Joint Committee with one or more Parishes. An ordinary Committee would be the most straightforward option. However, although it could have co-opted Parish Councillors (and I am sure that would be the recommendation) they would be non voting. A joint Committee would be less straightforward to establish and maintain but could have voting Parish Councillors. A joint Committee with all the Parishes would be too large to be effective but the City Council could establish a joint Committee with a smaller number of Parish Councils who could each nominate a Committee member. Hearing panels would be drawn from the membership of this Committee.

Before expressing a view on the options it may be worth reading the following sections on sanctions. However the key questions are:



*Do Parish Councils have a preference as to how the City Council should establish a hearings committee?*

*If Parish Councils suggest that there should be a joint Committee, how would they suggest that a decision is made as to which Parish Councils are represented on that Committee and therefore have the power to appoint to it?*

### **Sanctions**

Currently, there are a range of sanctions which can be imposed on a Member who has breached the code of conduct up to and including disqualification from Office. All these sanctions are abolished and no specific provisions have replaced them. Advice to date is that the sanctions which will be available will be for the Authority to:

- Write a formal letter to the Member
- Publicise the breach
- Censure the Member
- Remove a member from a committee of the Council (subject to certain procedural steps)

Of these sanctions a Standards Committee would only have the power to do the first two. The other sanctions could only be imposed by the Council itself unless a Council delegated the power to censure to the Standards Committee. Without such a delegation the most the Standards Committee could do would be to recommend that the Council censure the member, ie express official disapproval of the member's actions.

*Do Parish Councillors have a view as to whether the Standards Committee should be given delegated powers to censure?*

### **Standards Committee**

Besides dealing with hearings the Standards Committee currently has a more general role in promoting high standards and compliance with the Code. It is envisaged that a Committee would continue and would have a particular role in receiving monitoring reports about allegations which had been made but not resulted in hearings.

The Committee operates by consensus and formal votes have never been required. The Standards Committee currently has ten members –

Annex 1

four City Councillors, three Parish Councillors and three independent members.

*Do Parish Councillors have a view on the appropriate composition for the new Committee?*

**Register of Interests**

Members will be required to register “disclosable personal interests” which are to be defined in Regulations and local codes may contain other requirements. The City Council will be obliged to place Parish Councillors’ registers on its website. The City Council currently has an electronic system for allowing Members to securely update their own registers online and we are working with our software supplier to see whether this can be extended to Parish Councillors.

*Would an electronic system for updating registers be welcomed? To what extent would it be likely to be taken up?*

Thank you.

Andrew Docherty, Assistant Director, Legal Services

## Parish Council Consultation responses

Question	Nether Poppleton	Dunnington	Osbaldwick	Strensall	Elvington	Haxby	Earswick
Support for consistency re codes		Yes		Yes	Yes	Yes	Yes
Do assessment proposals strike right balance	Yes	Yes	Yes – previous arrangements were unnecessarily over bureaucratic	Yes	Yes	Yes	Yes
How should Committee be set up	As present	Ordinary Committee		Joint Committee	Joint Committee	Joint Committee	Joint Committee
If a Joint Committee how to appoint	As present	N/A		Decision is taken at a YLCA Branch meeting after circulating ALL parish councils (including non member parishes) requesting information about how parish councils are represented by up to the number of parish councillors to be	Seek nominations and vote through YLCA	Nominations though YLCA and vote	On a rotation basis

				<p>elected to serve. Volunteer members from Parishes (to represent all Parishes) could continue as under the present arrangement. An alternative arrangement could be that each Parish Council is represented in turn for a period on a rota basis – if 3 members are initially chosen from Parish Councils then one retires each year and is replaced by a representative from the next Parish Council and serves for three years. This arrangement would ensure all</p>			
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				Parish Councils become involved and there is continuity of common purpose amongst the Parish representatives. This arrangement could also cultivate relationships between Parishes and the City of York Council Officers.			
Should SC have power to censure	Yes	Yes		Yes but only if unanimous or by specified majority	Yes	Yes	Yes
Composition of new SC	As present	As now		As now	As present	As present	As present
Would electronic system for registration be welcome	Yes, should be updated by the Clerk	Only if manual system also retained		Through Clerk directly or via nominated CYC Officer	Broadly welcome (although not unanimously)	Yes	Yes – 100%

## Parish Council Consultation responses

<b>Question</b>	<b>Wigginton</b>	<b>Bishopthorpe</b>					
Support for consistency re codes	Very supportive	Agree all should work to same standards					
Do assessment proposals strike right balance	Yes	Yes but may need right of appeal against MO decision					
How should Committee be set up	Joint Committee	Joint Committee					
If a Joint Committee how to appoint	Revolving smaller number of PC's	Parish Councillors could be nominated by individual Parish Councils each year and a simple vote be taken of all Parish Councils to elect members to the Committee					
Should SC have power to censure	Yes if there are voting PC members. Need a right of appeal	If Parish Councils expect to play a full part in the Committee, yes					
Composition of new SC	Agree with monitoring reports and	City Councillors, Parish Councillors and					

	consensual approach	perhaps Independent Members					
Would electronic system for registration be welcome	Yes	Yes, could be delegated to Parish Clerk					

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## **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. Anne's Square  
York

Or –

[monitoringofficer@york.gov.uk](mailto: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 Independent Person. 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 for the Councillor against a decision of the Monitoring Officer or of the Hearings Panel

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



## STANDARDS COMMITTEE

16<sup>th</sup> March 2012

### Report of the Monitoring Officer

#### Planning for Standards Arrangements

#### 1 Background

- 1.1 There are a considerable number of tasks that are still to be performed to enable the new arrangements to be implemented from 1<sup>st</sup> July 2012. A task list showing key actions required is annexed to this report.

#### 2. Recommendations

- 2.1 Standards Committee are recommended to note the task list and to confirm their schedule of meetings for the forthcoming months.

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	<b>Report Approved</b>	√	<b>Date</b> O6/03/12

#### Background papers

None

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<b>Task</b>	<b>Sub Task</b>	<b>Steps</b>	<b>Completed</b>
<b>Code of Conduct</b>	Secure approval to Interim arrangements	SC 16/3/12	
		Council 29/3/12	
	Model code to SC	When produced	
	Code approved by Council	Council July 2012	
<b>Registers of Interest</b>	Electronic arrangements in place	By July 2102. Review April 2012	
	Advise Councillors and PC's of arrangements	June 2012	
	Confirm all registers completed	July 2012	
<b>Complaints handling</b>			
	Secure agreement to process	SC 16/3/12	
	Secure delegated powers to MO	Council 29/3/12	
	Confirm panel arrangements		
	Draft assessment criteria	TBC	
	Draft investigation procedure	TBC	
	Draft hearing procedure	TBC	

<b>Establish Committee</b>	Secure agreement of SC	SC 16/3/12	
	Report to Council	Council 29/3/12	
<b>Possible Joint Committee</b>	Draft terms of reference	SC	
	Confirm to YALC	After 29/3/12	
	Secure nominations from PC's	By 1 <sup>st</sup> week May	
	Formal agreement to JC and appointments	Annual Council 24/5/12	
<b>Independent members</b>			
	Agreement to number	SC 16/3/12	
		Council 29/3/12	
	Role description to be approved by SC		
	Advertisement	April/May 2012	
	Interviews	Early May 2012	
	Appointment	Council 24/5/2012	
<b>Dispensations</b>	Secure appointment of MO as Proper Officer	Council 24/5/12	
<b>Training/Awareness raising</b>	Ongoing.		