

City of York Council

Standards Committee Local Assessment Sub Committee

Terms of Reference and Assessment Criteria

ASSESSMENT SUB-COMMITTEE

1 Composition

- 1.1 The Assessment Sub-Committee shall comprise all members, for the time being, of the Standards Committee. These members shall, in effect, form a panel from which members will be drawn to populate the sub-committee as required.

2 Quorum

- 2.1 The quorum shall be 3 of which at least 1 must be a Co-opted Independent Member and at least one a CYC member. Where the complaint in hand concerns the conduct of a person acting in their capacity as a parish council member, the quorum must include a parish council representative.

3 Chair

- 3.1 The meetings of the Assessment Sub-Committee shall be chaired by an independent Co-opted Member.

4 Terms of Reference

- 4.1 To consider allegations that a member of CYC, or any parish within the administrative area of CYC, has failed to comply with the Code of Conduct.
- 4.2 On receipt of each allegation and any accompanying report by the Monitoring Officer, the Assessment Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:-
- 4.2.1 Refer the allegation to the Monitoring Officer, with an instruction that s/he arrange a formal investigation of the allegation; or
- 4.2.2 Refer the matter to the Monitoring Officer directing that s/he arrange training, conciliation or such other appropriate alternative steps as permitted by the Regulations; or

- 4.2.3 Refer the allegation to the Standards Board for England;
or
 - 4.2.4 Decide that no action should be taken in respect of the allegation; or
 - 4.2.5 Where the allegation is in respect of someone who is no longer a member of CYC or one of its parishes, but is a member of another relevant authority, refer the allegation to the Monitoring Officer of that other authority.
- 4.3 Upon completion of an investigation of a complaint, the Assessment Sub-Committee shall be responsible for determining whether:
- 4.3.1 It accepts the Investigating Officer's finding of no failure to observe the Code of Conduct;
 - 4.3.2 The matter should be referred for consideration at a hearing before the Hearings Sub-Committee; or
 - 4.3.3 The matter should be referred to the Adjudication Panel for determination.
- 4.4 Where the Assessment Sub-Committee resolves to do any of the actions set out in para 4.2 or 4.3 above, the Sub-Committee shall state its reasons for that decision.

5. Frequency of Meetings

- 5.1 The Assessment Sub-Committee shall meet as and when required.

Assessment Criteria

1. Background and Context

- 1.1 **Irrelevant Complaints:** It is likely that complaints will be received which do not relate to the Code of Conduct for members. Such complaints might include complaints relating to the provision of services by the Council or the manner in which matters have been dealt with by the Council which should properly be dealt with through the Council's Corporate Complaints Procedure. They

may be matters relating to other authorities or matters relating to a member's private life which do not therefore fall within the remit of the Standards Committee.

- 1.2 Such complaints will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer who, if appropriate, will refer it to the appropriate avenue for further consideration.

2. Local Resolution

- 2.1 The Standards Committee is acutely aware that investigations are costly and time consuming. Moreover complaints can often be dealt with more effectively if an early resolution of the matter can be achieved.
- 2.2 The Standards Committee would therefore encourage complainants to explore whether the matter can be resolved locally prior to a formal written complaint being made to the Standards Committee.

3. Initial Tests

- 3.1 Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that the complaint meets the following tests: -
 - 3.1.1 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)
 - 3.1.2 Was the named member in office at the time the alleged misconduct took place?
 - 3.1.3 Was the Code of Conduct in force at the time the alleged misconduct took place?
 - 3.1.4 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?
- 3.2 If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

4. Sufficiency of Information

- 4.1 The complainant must provide sufficient information to enable the Assessment Sub-Committee to conclude that there is prima facie

evidence of a breach of the Code of Conduct. If insufficient information is available, the Assessment Sub-Committee will not refer the complaint for investigation or other action.

5. Seriousness of the Complaint

- 5.1 The Assessment Sub-Committee will not normally refer a matter for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.

6. Length of Time Which Has Elapsed

- 6.1 The Assessment Sub-Committee will have regard to the length of time which has elapsed since the events the subject of the complaint occurred. It will not normally investigate or pursue other action where the events took place more than 6 months prior to the complaint being submitted other than in exceptional circumstances (for example, where the conduct relates to a pattern of behaviour which has recently been repeated).

7. Public Interest

- 7.1 The Assessment Sub-Committee will determine 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. Similarly if a member has offered an apology or other remedial action the Assessment Sub-Committee may decide that no further action should be taken.
- 7.2 Similarly, 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.

8. Anonymous Complaints

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

9. Multiple Complaints

- 9.1 It is not uncommon that one event may give rise to similar complaints from a number of different complainants. Whenever possible these complaints will be considered at the same meeting

of the Assessment Sub-Committee. However each complaint will be separately considered.

10. Confidentiality

10.1 As a matter of fairness and natural justice, a member should usually be told who has complained about them. There may be occasions where the complainant requests that their identity is withheld. Such a request should only be granted in circumstances that the Assessment Committee consider to be exceptional, for example: -

10.1.1 the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.

10.1.2 the complainant is an officer who works closely with the member and they are afraid of the consequences to their employment if their identity is disclosed.

10.1.3 the complainant suffers from a serious health condition which might be adversely affected if their identity is disclosed. The Assessment Sub-Committee may wish to request medical evidence.

11. Withdrawing Complaints

11.1 A complainant may ask to withdraw their complaint before the Assessment Sub-Committee has made a decision on it. The Sub-Committee will have to decide whether to grant the request.

For example, the Sub-Committee may consider the following:-

11.1.1 Does the public interest in taking some action outweigh complainants request to withdraw the complaint?

11.1.2 Could action, such as an investigation, be carried out without the complainants participation?

11.1.3 Is there a reason why the complainant has been asked to withdraw the complaint? (For example, have they been pressurised by a member against whom the allegation has been made?)