

## Joint Standards Committee

- To:** Cllrs Douglas (Chair), Baker, Carr, Fisher and Rowley  
(CYC Members)
- Cllrs Chambers Rawlings and Wiseman (Vice Chair)  
(Parish Council Members)
- Ms Davies and Mr Laverick (Independent Persons)
- Date:** Wednesday, 4 September 2019
- Time:** 4.00 pm
- Venue:** The Auden Room - Ground Floor, West Offices (G047)

### 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 interests

which 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 24 July 2019.

**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 Joint Standards Committee, may do so. The deadline for registering is **5:00 pm on Tuesday, 3 September 2019.**

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](http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

- 4. Monitoring Report on Complaints Received** (Pages 7 - 12)  
To receive a routine update report on recent standards complaints.
- 5. Review of the Procedures for dealing with Councillor Code of Conduct Complaints** (Pages 13 - 34)  
This report provides new Members of the Joint Standards Committee with information on the review of the above procedures undertaken by the previous committee in November 2018.
- 6. Whistleblowing Policy**  
To receive a verbal update from the Monitoring Officer on the current status of the review of the council's Whistleblowing Policy.
- 7. Joint Standards Committee Meetings - Transparency and Substitutes**  
To receive a verbal response from the Monitoring Officer to questions raised by Members regarding the recording of Joint Standards Committee meetings and the appointment of substitutes to the committee.

**8. Review of Work Plan** (Pages 35 - 36)

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

**9. 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](mailto: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

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Meeting	Joint Standards Committee
Date	24 July 2019
Present	Councillors Douglas (Chair), Baker, Carr, Fisher and Rowley (CYC Members) Councillors Chambers, Rawlings and Wiseman (Vice Chair) (Parish Council Members) Mr Laverick (Independent Person)
Apologies	Ms Davies (Independent Person)

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## 7. **Declarations of Interest**

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

## 8. **Minutes**

Resolved: That the minutes of the meeting of the Joint Standards Committee held on 17 June 2019 be approved and signed as a correct record.

## 9. **Public Participation**

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

Cllr Ayre spoke on matters within the Committee's remit, and with reference to Agenda Item 4 (Monitoring Report on Complaints Received). He detailed the impact on himself and his family of the delay in resolving a standards complaint made against him and urged Members to take steps to ensure this situation did not arise again.

Gwen Swinburn spoke on the same subject, expressing the view that an apology should be made to Cllr Ayre for the way in which he had been treated and that statutory officers had made errors in the process that had brought the council into disrepute.

## 10. **Monitoring Report on Complaints Received**

Members considered a report which provided an update on the position regarding ongoing complaints.

Anonymised information on the complaints and their current status was set out in the table at paragraph 2 of the report. These included two long running cases which the Monitoring Officer (MO) was seeking to bring to a conclusion and three new complaints to be progressed in line with the agreed procedure. Members were reminded that that there should be no discussion in public of the details of any individual cases.

In response to Members' questions, and comments made under Public Participation, the officer deputising for the MO at the meeting (Deputy MO) outlined the procedures for dealing with complaints and the MO's role in ensuring that these were correctly followed and an outcome achieved. The process did not include issuing an apology to the subject member if they were found not to have breached the code of conduct. The MO could be asked in future to include in the monitoring report a confirmation that each completed case had been formally closed and the subject member informed of the result. The procedures were available online and a training session could be arranged for new Members. The MO would provide an update to Members on the two long running cases before the next committee meeting.

Resolved: (i) That the report be noted.

Reason: To ensure that the Committee is aware of current levels of activity and is able to provide oversight of the complaints procedure.

(ii) That future monitoring reports include confirmation, in respect of completed complaints, that the result has been communicated to the subject member and the case formally closed.

Reason: So that the Committee can be assured that the subject members have been properly informed.

(iii) That an informal training session on the procedures for dealing with complaints be arranged for Members before the next meeting.

Reason: To ensure that all Members are fully informed on these procedures.

**11. Review of Work Undertaken by the Joint Standards Committee in 2017/18 and 2018/19**

Members considered a report which provided information on work undertaken by the Committee during the last two municipal years, as detailed in Annex 1.

The report highlighted that the review of the Code of Conduct remained outstanding and should be concluded as a matter of urgency. With regard to the Whistleblowing Policy, an extract from the minutes of the Audit & Governance Committee that considered the draft policy on 6 February 2019 was attached as Annex 2 to the report. The Deputy MO confirmed that the comments of the Joint Standards Committee's task group on the draft policy had been forwarded to internal audit (Veritau) as agreed.

Members were asked to consider how they wished to proceed in the light of the current position on the policy.

Resolved: (i) That the contents of the report and the annexes be noted, and used to inform the Committee's discussion on the work plan.

Reason: To ensure that the Committee has a work plan that reflects what it has already achieved and is relevant to its purpose.

(ii) That an update report be requested on the review of the CYC Code of Conduct for Members, to be considered at the Committee's meeting on 4 September 2019.

Reason: To ensure that the CYC Code of Conduct for Members is up to date and reflects good practice.

(iii) That it be noted that officers had collated the task group's views on the proposed update of the Whistleblowing Policy and submitted them to internal audit for consideration in producing the final policy.

Reason: To confirm that the Whistleblowing Policy has been considered by the committee responsible for the conduct of elected Members.

## 12. **Review of the Constitution**

The Deputy MO gave a verbal update on the planned review of the City of York Council's Constitution, suggesting how the Committee might feed into that review.

The matter was due to be considered at the Executive meeting on 26 September 2019 and was on the Forward Plan for that meeting. Executive Members would be asked to consider any issues they might have with the Constitution and whether these could be addressed by making minor changes or whether a full review was required. The process was intended to be Member-led, with the MO acting in an advisory and facilitating capacity.

Once the scope of the review had been decided, a work programme would be devised for the Committee to contribute, perhaps through a Task Group, focusing on those areas relevant to the Standards remit. It was for Executive to recommend, and Full Council to approve, any substantive changes to the Constitution.

Resolved: (i) That the update be noted.

(ii) That an item on the review of the Constitution be placed on the work plan for discussion at a future meeting, once the process has moved forward.

Reason: To ensure that the Committee can make an appropriate contribution to the review.

## 13. **Review of Work Plan**

Members considered the committee's work plan for the current municipal year.

Resolved: That the work plan be approved subject to the following additions:

### **Meeting on 4 September 2019**

- Review of the Code of Conduct
- Update on the Whistleblowing Policy



- Update on the position re substitutes on JSC
- Review of transparency of JSC meetings

**Meeting on 20 November 2019**

- Update on the review of the Constitution
- Information report on the Ethical Standards in Public Life review and its impact on standards work.
- Review of standards work in relation to parish councils (PCs to be informed via the YLCA)

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


**Parish Councillor Perrett**

At the close of the meeting, Members expressed their sadness at the recent death of Christopher Perrett, a former Parish Council Member of the Joint Standards Committee, and paid tribute to his work on the Committee.

Cllr C Douglas, Chair

The meeting started at 4.00 pm and finished at 5.18 pm.

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<b>Joint Standards Committee</b>	<b>4 September 2019</b>
<b>Report of the Interim Monitoring Officer</b>	

## Monitoring Report on Complaints Received

### Summary

1. This report is to update the Committee on the position regarding ongoing complaints.

### Background

2. The table below provides information about ongoing complaints and in particular the stage each one has now reached.

Case Ref.	City or Parish	Date Received	Nature of Complaint	Status
719	Parish	18/9/2018	The complainant alleges breach of confidentiality and attempt to secure an advantage for an individual in relation to a recruitment process.	Investigation report received. MO and IPs agree with findings in the report. Meeting arranged with subject member to discuss findings and explore possible local resolution. The original meeting was rescheduled at the subject member's request due to family commitments and will take place on 3 September 2019.

720	City	26/2/2019	The complainant alleges that the subject member's conduct was disrespectful.	The complaint was sent to the IPs in March 2019. A response from one of the IPs is awaited. MO has chased. The complainant has submitted further complaints in relation to this subject member and a number of other members (Ref 725 – 729) These have also been sent to the IPs for their consideration. In addition clarification has been sought from the complainant as to whether the complaints relating to this subject member (Ref 720 & 725) can be considered together.
722	City	14/6/2019	The complainant alleges that a comment by the subject member on social media was disrespectful.	The complaint was sent to the IPs on 24/6/2019. One response is outstanding the MO has chased. The MO and the IPs were of the view that the conduct was not covered by the Code of Conduct and no further action would be taken. The complainant and the subject member were advised of the outcome of the complaint on 19.8.19
723	Parish (x2)	24/6/2019	The complainant alleges that the subject members have behaved in a manner that is disrespectful.	The complaint was sent to the IPs on 5/7/2019. This matter has been referred for investigation. The complainant and the subject members were informed on 19.8.19

724	City	1/7/2019	The complainant concerns the subject members conduct during the election.	The complaint was sent to the IPs on 5/7/2019. The MO and the IPs were of the view that the conduct did not constitute a breach of the Code of Conduct and no further action would be taken. The complainant and the subject member were advised of the outcome of the complaint on 19.8.19
725	City	13/8/19	The complainant alleges that the subject member's conduct was disrespectful.	The complaint was sent to the IPs on 19/8/19. Responses have been received that require further consideration. In addition a response is awaited from the complainant.
726	City	13/8/19	The complainant alleges that the subject member failed to declare an interest and discriminated against the complainant.	The complaint was sent to the IPs on 19/8/19. One response remains outstanding.
727	City	13/8/19	The complainant alleges that the subject member disclosed information about the complainant to other members of council without the consent of the complainant.	The complaint was sent to the IPs on 19/8/19. One response remains outstanding.
728	City (x4)	13/8/19	The complainant alleges that the subject members discriminated against the complainant.	The complaint was sent to the IPs on 19/8/19. One response remains outstanding.

729	City (x4)	13/8/19	The complainant alleges that the subject members discriminated against the complainant.	The complaint was sent to the IPs on 19/8/19. One response remains outstanding.
730	City (x2)	19/8/19	The complainant alleges that the subject members failed to respond to emails requesting support and advice in relation to a planning issue.	The complaint was sent to the IPs on 19/8/19. One response remains outstanding.

3. Members will see that there are 2 complaints that are long running. A meeting has been arranged with the Subject Member in relation to Complaint Ref 719 to discuss the outcome of the investigation and to progress the matter to a conclusion. Complaint Ref 720 is now linked to Complaint Ref 725 and the Monitoring Officer is seeking to determine if these can be dealt with together. In addition the complainant in relation to Complaint Ref 720 & 725 has also submitted 4 further complaints in relation to 10 subject members. The Monitoring Officer is in discussions with the Independent Persons to determine the most appropriate way of dealing with these issue. The other new complaint will be progressed in accordance with the agreed procedure and further up dates will be brought to all future committee meetings.

### **Recommendations:**

4. Members are recommended to:

Note the report.

**Reason:** To ensure that the Committee is aware of the current levels of activity and to is able to provide oversight of the complaints procedure.

**Author:**

Suzan Harrington  
Interim Assistant Director  
Legal and Governance.

Tel No. 01904 554587

**Annexes**


None

**Background Papers**

None

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<b>Joint Standards Committee</b>	<b>4 September 2019</b>
<b>Report of the Interim Monitoring Officer</b>	

## **Review of the Procedures for dealing with Councillor Code of Conduct Complaints**

### **Summary:**

1. This report provides the new members of the Joint Standards Committee with information regarding the review of the procedures for dealing with Councillor Code of Conduct Complaints undertaken by the previous Joint Standards Committee in November 2018.

### **Background:**

2. At the meeting of the Joint Standards Committee on 21 November 2018 the members undertook a review of the procedures for dealing with Councillor Code of Conduct Complaints. Attached as Appendix 1 is the report and supporting documents considered by the Joint Standards Committee at that meeting.
3. At the meeting members resolved:
  - (i) That the amended Complaints Procedure at Annex 1 be approved and adopted, subject to the following additional amendments to the text on page 5 (p.17 of the agenda papers):
 

Remove the reference to “ *his* powers” in the last sentence under the heading “Will your complaint be investigated.”

Re-word the first part of the last paragraph under the heading “How is the investigation conducted” to read as follows:

*“Investigations will be completed within three months of the investigator being instructed. If there are good reasons why this is not possible...”*

- (ii) That the complaints flow chart at Annex 2 be approved and adopted, subject to the council’s Communications team being asked to improve the design of the chart and make it clearer.
  - (iii) That the Independent Persons’ Protocol at Annex 3 be approved and adopted.
  - (iv) That the Code of Conduct be brought back to the committee for approval and recommendation to Council at a later meeting, once the current ongoing complaints hearings have been concluded.
4. The original documents have been attached to this report so the new Joint Standards Committee members can have the opportunity to review the recommendations to amend in the context of the documents produced.

### **Recommendations:**

5. Members are recommended to:
- 5.1 Consider the report , documents and recommendations of the Joint Standards Committee on 21 November 2018 meeting and confirm if any further amendments to the documents are required.
  - 5.2 Recommend the Procedures for Dealing with Councillor Code of Conduct Complaints to Council at the meeting on 31 October 2019.

**Reason:**

To ensure that the procedures adopted by Council for dealing with complaints concerning the conduct of elected members are compliant with the legal requirements and fit for purpose.

**Wards Affected: All**

<b>Author:</b>
Suzan Harrington Interim Assistant Director Legal and Governance.  Tel No. 01904 554587

**Annexes**

Appendix 1 Report and annexes to Joint Standards Committee on 21 November 2018.

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**Joint Standards Committee****21 November 2018****Procedures for dealing with Councillor Code of Conduct Complaints****Summary**

- 1) This report updates Members on the progress of the Task Group in relation to reviewing the procedures for dealing with Councillor conduct complaints.

**Background**

- 2) On 13<sup>th</sup> 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. A Task Group was established and all of the procedures and documents were reviewed. Consultation also took place with political groups and YLCA.
- 3) The Task Group suggested amendments to the complaints procedure and also created new documents, including a flow chart for dealing with complaints and an Independent Persons Protocol.
- 4) The final version of the complaints procedure can be found at Annex One. The Flow chart can be found at Annex Two and the Independent Persons Protocol is at Annex Three.
- 5) The Task Group has also considered consultation comments on the proposed revised code of conduct. The Task Group is not minded to make any changes but the Committee has previously indicated that it would want to ensure any issues arising from ongoing cases are addressed and so it is intended to bring the code back for approval and recommendation to Council at a later meeting.

**Recommendations**

- 6) Members are asked to consider whether to accept the amendments within the Complaints Procedure and adopt the document and also to consider whether the complaints flow chart should form part of the procedure to be adopted in York to deal with Code of Conduct complaints.
- 7) Members are also asked to consider whether York should adopt the Independent Persons Protocol.

- 8) Members are asked to recommend that the code of conduct be brought back for approval and recommendation to Council at a later meeting.

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

### Contact Details

#### Author:

Rachel Antonelli, Senior Solicitor    **Report Approved**  
Legal Services  
Tel No. 01904 551043                      **Date 12 November2018**

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

All

**For further information please contact the author of the report**

### Annexes

Annex One –Complaints Procedure (track change copy)  
Annex Two –Code of Conduct Complaints Flowchart  
Annex Three – Independent Persons Protocol

**Background Papers: None**

## Complaints about the ethical conduct of Councillors

This document is intended to inform those who wish to make a complaint about a City or Parish Councillor where they believe that the Councillor may have breached the Code of Conduct.

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### 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:

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<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](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.

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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.

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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, ~~that would mean your identity or personal data would be in the public domain.~~

If you are concerned about your identity being revealed please advise the Monitoring Officer and he/she 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](mailto: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/she may ask you to clarify aspects of it before ~~hedeciding whether to accept~~s 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~~ ~~by~~ law the Independent Person must be consulted when a complaint has been investigated. ~~The~~ Council has decided that ~~the~~ at least one of the Independent Persons will also be consulted by the Monitoring Officer when the complaint is received so as to provide an external oversight. If an Independent Person is aware that he or she has a conflict of interest (such as being a friend of a party to the complaint) then the Independent Person will advise the Monitoring Officer and play no part in the consideration of that complaint.

~~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 ~~the Monitoring Officer~~ ~~he~~ may consult the Parish Council. If ~~he~~ ~~they~~ considers it appropriate to do so the Monitoring Officer may put the complaint to the Councillor involved and seek their response comments.

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

If there is evidence that a crime may have been committed the Monitoring Officer has the power to call in report matters to 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 usually 3 Members of the Joint Standards Committee which consists of City and Parish Councillors and Parish Councillors will meet to consider your complaint. At least 1one Independent Person will be present. 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/she 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 s 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, or w- 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/she feels that is needed. ~~He~~The Monitoring Officer will consult the Independent Persons on the draft report and following such consideration~~and~~, if he/she 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/she 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/she 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 to the satisfaction of the Monitoring Officer, the complainant's views will be given considerable weight. Although yourthe complainant's views will be carefully considered but the~~

decision as to whether a complaint can be resolved without a hearing rests with the Monitoring Officer if the breach is minor.

#### 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 of the Joint Standards Committee. ~~selected to demonstrate their impartiality.~~ The Council's usual practice is to seek to avoid where possible using Members of the Committee who belong to the same political party as Members involved in the complaint. At least one Member will be a Parish Councillor where the complaint relates to a Parish matter. Subject to that Hearings Panels are appointed by approaching Members of the Standards Committee in rotation with the Member being appointed if they are available to attend the hearing.

One or more Independent Persons will be present at the hearing.

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 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. The decision is that of the Hearings Panel, however, if the Independent Person's advice is contrary to the Panel decision, this will be recorded.

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## **109 Appeals**

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

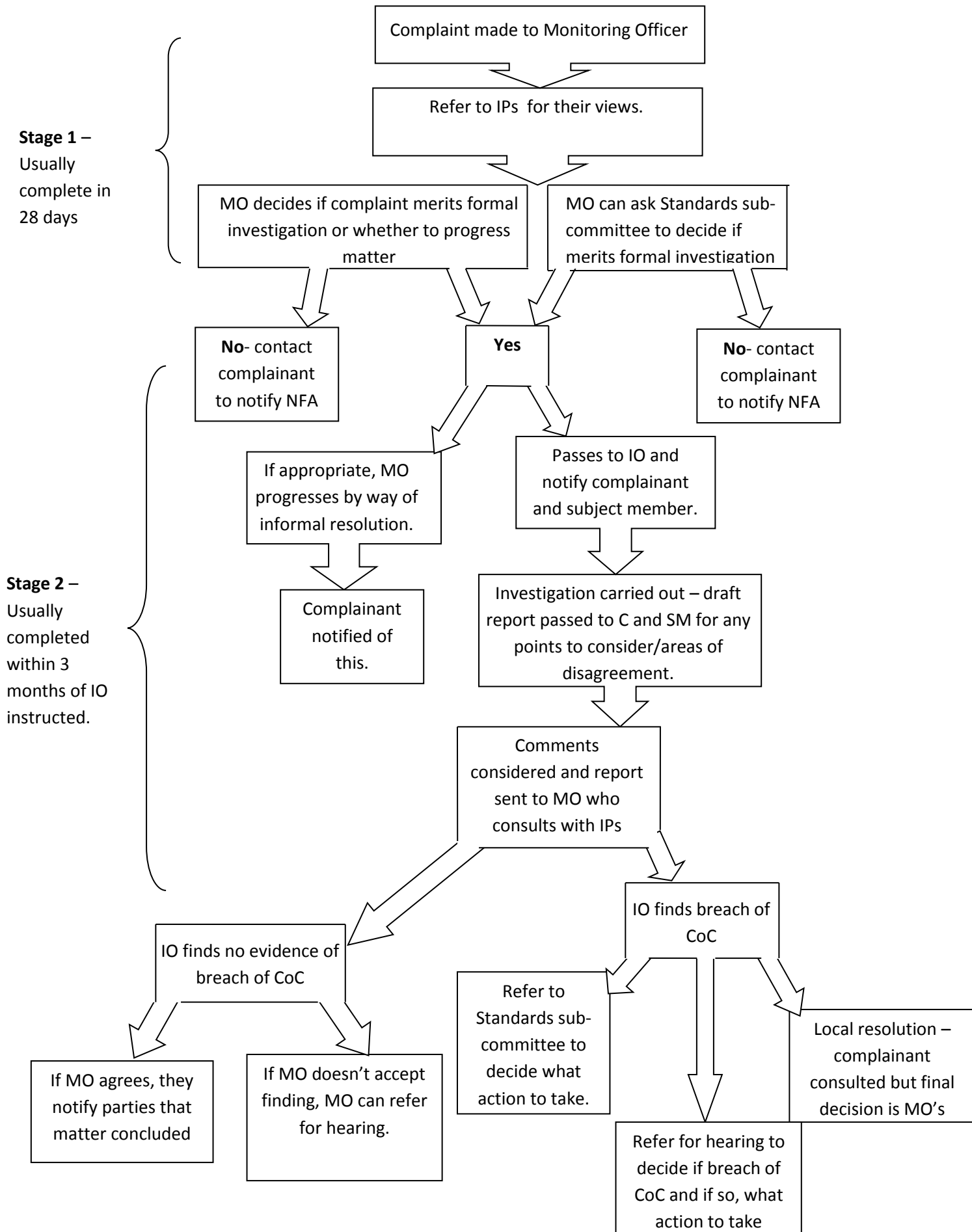
If a Hearings Panel finds that a Councillor has breached the Code then he/she has a right of appeal to a differently constituted Panel made up of members of the Joint Standards Committee.

If ~~you a complainant~~ feels that the authority has failed to deal with your complaint properly, ~~you they~~ may make a complaint to the Local Government Ombudsman. There may also be the possibility of an application for Judicial Review of the decision if there has been a legal flaw in the process followed.

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**Code of Conduct Complaints**



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## **Independent Person Protocol**

### **Introduction**

1. The Localism Act 2011 requires the Council to promote and maintain high standards of conduct by its members and co-opted members. To this end the Council has adopted a Councillors' Code of Conduct and has agreed arrangements for dealing with allegations that a member or co-opted member has breached the Code. In accordance with the requirements of the Act these arrangements include provision for the appointment of at least one Independent Person to undertake the duties described in the arrangements.
2. Disciplinary proceedings against the Council's Head of Paid Service, Monitoring Officer or Chief Finance Officer requires the undertaking of a statutory procedure and as part of that an Independent Panel must be established, the views, advice or recommendations of which must be considered by Full Council prior to any decision being made. The Independent Panel must include at least two Independent Persons.

### **Appointment**

3. To be eligible for appointment as Independent Person a person must not be or have been within the previous five years a member, co-opted member or officer of the Council or of a Parish Council of which the Council is the principal authority, nor a relative or close friend of such member or officer.
4. The person should not be involved actively in party politics and should be independent of local government. It is essential that the Independent Person demonstrates a keen interest in promoting high ethical standards in local government, have a general understanding of the principles behind the members' Code of Conduct and must be a person of good standing in whose impartiality and integrity elected members and the general public can have confidence. The Independent Person must also have good communication and interpersonal skills, be able to operate with tact and diplomacy, must be able to use logical reasoning and bring qualities of open-mindedness and impartiality and it is vital that the Independent Person understands and complies with confidentiality requirements.
5. An Independent Person may only be appointed pursuant to a formal recruitment process requiring a public advertisement, submission of applications and selection by interview. A person's appointment must be approved by Full Council. The term of office for each Independent Person will be 5 years and re-appointment will be for no more than 2 consecutive terms. An Independent Person is the holder of a statutory office and not an employee of the Council. No salary is payable but the Council may pay the independent Person's expenses by way of an allowance or expenses in connection with the duties of the appointment.

**Role of the Independent Person**

6. The primary role of the Independent person is to be available for consultation at various points in the arrangements for dealing with breach of code of conduct complaints as follows:
  - a. The Monitoring Officer will review every complaint received and once accepted will consult the Independent Person before taking a decision as to whether or not the complaint merits investigation. The Independent Person should provide an objective and impartial opinion which the Monitoring Officer will take into account in making the decision.
  - b. Where an investigation has been undertaken, a draft report will be submitted by the Investigating Officer to the Monitoring Officer. The Monitoring Officer will ask the Independent Person for a view upon whether the report is satisfactory, whether further investigation is necessary and whether or not the report should be submitted to the Standards Committee. The Monitoring Officer will take the Independent Person's view into account when deciding the next step to take. The Monitoring Officer may consider that the matter can reasonably be resolved without a hearing and may consult the Independent person for their view on this.
  - c. Where a complaint is the subject of a Standards Committee hearing, at least 1 Independent Person must attend. After all the evidence has been presented the panel will seek the views of the Independent Person before determining whether or not the member breached the Code of Conduct and if so, what action should be taken. The Independent Person does not take part in the final decision made nor vote upon the decision.
  - d. The Independent Person may be consulted by the Monitoring Officer or other authorised representative of the Council at any stage in the arrangements for dealing with Code of Conduct complaints. In such instances, the Independent Person does not represent the Council or any other party to a complaint and is an impartial point of reference and source of advice. Consultations with the Independent Person are confidential between the parties and the content or outcome of such consultation may only be disclosed, if both parties agree to such disclosure.
  - e. Occasionally the Council may need to use the services of a neighbouring Local Authority, for example, where there is a conflict of interest involving the Independent Person(s).
7. When the Council has more than one Independent Person, the Monitoring Officer shall ensure that the workload is shared out between those persons as the Monitoring Officer considers appropriate.

8. The Independent Person is also invited to attend meetings of the Standards Committee and may participate in all aspects of the Committee's work in a non-voting capacity. The Independent Person will be consulted in respect of changes to the Council's ethical framework.
9. A further role of the Independent Person arises from the Local Authorities (Standing Orders (England) Regulations 2001 (as amended). There is a prescribed statutory process for disciplining or dismissing an authority's Head of Paid Service, Monitoring Officer or Chief Finance Officer. A decision to discipline or dismiss must be taken by Full Council which must consider, amongst other things, advice, views or recommendations from an independent panel. That panel must include at least 2 Independent Persons appointed under Section 28(7) of the Localism Act 2011 by the Council or by another local authority.

#### **Declaration of Interests**

10. The Independent Person shall promptly disclose in writing where possible, any actual or potential declaration of interest that they have in a matter at any stage, including instances where the Monitoring Officer asks the advice of the Independent Person at any stage. The Independent Person shall also disclose any actual or potential declaration of interest they have at the beginning of any Hearing Panel.

#### **Right of Access to Documentation**

11. The Independent Persons shall have a right of access of such files and other documents as are necessary to fulfill their duties and obligations as set out in this protocol and the arrangements adopted by the Council for dealing with standards complaints. Access to files will be through the Monitoring Officer or their Deputy, or other officer appointed on their behalf.

#### **Training**

12. Training for the roles of the Independent Person with particular reference to local government governance and practice will be provided in-house by the Monitoring Officer and other senior officers and where appropriate through external courses. Training for disciplinary and/or dismissal proceedings against a statutory officer will be provided externally.

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## Work Plan for Joint Standards Committee 2019-2020

<b><u>Meeting Date</u></b> (4.00pm start time)	<b><u>Items</u></b>	<b><u>Notes</u></b>
Wednesday 24 July 2019	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received and any 2018/19 cases still ongoing.</li> <li>• Update on the committee's recent work, including items on the last work plan for 2018/19.</li> <li>• Update on the review of the whistleblowing policy.</li> <li>• Discussion on how the committee can feed into the review of the Constitution.</li> <li>• 2019/20 work plan.</li> </ul>	Standard item
Wednesday 4 September 2019	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> <li>• Review of the Code of Conduct</li> <li>• Update on Whistleblowing Policy</li> <li>• Update on the position re substitutes on JSC</li> <li>• Review of transparency of JSC meetings</li> </ul>	Standard item
Wednesday 20 November 2019	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> <li>• Update on review of the</li> </ul>	Standard item
Wednesday 22 January 2020	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> </ul>	Standard item
Wednesday 15 April 2020	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> </ul>	Standard item

