

## **Joint Standards Committee**

**To:** Councillor Martin Rowley BEM (Chair), Douglas, Baker, Carr and Fisher (CYC Members)

Cllrs Rawlings (Vice-Chair), Chambers and Waudby (Parish Council Members)

Angharad Davies and David Laverick (Independent Members)

**Date:** Thursday, 23 September 2021

**Time:** 4.45 pm

**Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

## **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. Exclusion of Press and Public**

To consider the exclusion of the public and press from the meeting during consideration of Annexes A and B to Agenda Item 11 (Monitoring Report in respect of Complaints received), on the grounds that it contains information which is likely to reveal the identity of individuals.

This information is classed as exempt under Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation) Order 2006.

- 3. Minutes** (Pages 1 - 6)  
To approve and sign the minutes of the meeting of the Joint Standards Committee held on 6 July 2021.

- 4. Urgent Business**  
Any other business which the Chair decides is urgent under the Local Government Act 1972.

- 5. Public Participation**  
At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

**Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at remote meetings. The deadline for registering at this meeting is 5:00pm on Tuesday, 21 September 2021.**

To register to speak please visit [www.york.gov.uk/AttendCouncilMeetings](http://www.york.gov.uk/AttendCouncilMeetings) to fill in an online registration form. If you have any questions about the registration form or the meeting, please contact Democratic Services. Contact details can be found at the foot of this agenda.

### **Webcasting of Public Meetings**

Please note that, subject to available resources, this meeting will be webcast, including any registered public speakers who have given their permission. The meeting can be viewed live and on demand at [www.york.gov.uk/webcasts](http://www.york.gov.uk/webcasts).

During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates ([www.york.gov.uk/COVIDDemocracy](http://www.york.gov.uk/COVIDDemocracy)) for more information on meetings and decisions.

**6. Update on the Recruitment of Independent Persons** (Pages 7 - 8)

The Committee will consider a report which will provide them with an update on the recruitment process for Independent Persons for the Committee.

**7. Terms of Reference of the Committee** (Pages 9 - 16)

As part of the review of the Council's Constitution, Joint Standards Committee is asked to note the terms of reference for the Committee which will be included within the revised Constitution.

**8. Model Code of Conduct** (Pages 17 - 18)

The Committee will consider a report which will provide it with an update on progress of the adoption of the LGA Model Code of Conduct.

**9. Model Code of Conduct Update - Review of Procedures** (Pages 19 - 50)

The Committee will consider a report which will provide it with the current procedures in place, which will need to be reviewed in light of the new Model Code of Conduct.

**10. Review of Work Plan** (Pages 51 - 52)

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

**11. Monitoring Report in respect of Complaints Received** (Pages 53 - 92)

To receive a routine update report on recent standards complaints.

Democracy Officer:

Name: Joseph Kennally

Contact Details:

Telephone – (01904) 551573

Email – [joseph.kennally@york.gov.uk](mailto:joseph.kennally@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**

City of York Council

Minutes

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Meeting	Joint Standards Committee
Date	6 July 2021
Present	Councillors Rowley (Chair), Carr and Fisher  Councillors Rawlings (Vice-Chair), Chambers and M Waudby (for Agenda Items 1-8) (Parish Council Members)  Mr Laverick (Independent Person)
Apologies	Councillors Baker and Douglas  Ms Davies (Independent Person)

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#### 10. **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.

#### 11. **Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of the 'exempt' versions of Annexes A and B to Agenda Item 11 (Monitoring Report in Respect of Complaints Received), on the grounds that they contain information likely to reveal the identity of individuals, which is classed as exempt under Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006.

#### 12. **Minutes**

Members agreed that in future no distinction should be made in the minutes between City of York and parish council Members, except in the list of those present and apologies.

Resolved: That the minutes of the meeting held on 23 June 2021 be approved, and signed by the Chair as a correct record.

**13. Public Participation**

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

Gwen Swinburn spoke on matters within the remit of the committee. She raised concerns about the Monitoring Officer's dismissal of a complaint she had made, differences in the treatment accorded to complaints against Executive Members compared with other Members, and the content of the draft Annual Report.

Antony Green spoke on Agenda Item 11 (Monitoring Report on Complaints Received). He queried the Monitoring Officer's decision to dismiss a recent complaint made on behalf of the York Taxi trade, representing 800 taxi drivers.

Cllr Warters also spoke on Item 11. He raised concerns about the systems for dealing with complaints and stated that the committee should demand to be more involved in the process.

**14. Annual Report for Municipal Year 2020-2021**

Members considered the amended finalised version of the committee's draft Annual Report to Council for the 2020-21 Municipal Year contained in Agenda Supplement 1.

A further amendment was reported to the Chair's Foreword in the draft, replacing the word 'statutory' in the first line with 'discretionary'.

In respect of the section headed 'Dispensation of the 6 Month Rule during Lockdown', Members queried whether this dispensation extended to members of parish councils.

Resolved: (i) That the draft, as amended, be formally accepted as the committee's Annual Report for 2020-21.

Reason: So that the Annual Report can be presented to Council later in the year.

(ii) That the Monitoring Officer be requested to provide further clarification regarding dispensation of the 6-month rule during lockdown.

Reason: To determine whether the dispensation extends to parish councillors.

#### **15. Update on the Recruitment of Independent Persons**

Members considered a report which provided an update on the process of recruiting Independent Persons to the committee.

The terms of office of the current Independent Persons, Mr Laverick and Ms Davies, had come to an end. It was therefore necessary to recruit two replacements, with scope for a third person to add resilience. The recruitment process was under way; an advertisement had been placed on the council's website and interviews were due to take place in the week commencing 26 July. It was proposed that a panel comprising the Chair, Vice-Chair, Monitoring Officer and Deputy MO interview the applicants and make recommendations to Council on the appointments.

Resolved: (i) That Mr Laverick and Ms Davies be thanked for their continuing contribution to the work of the committee.

(ii) That the appointment of an interview panel be agreed.

Reason: In order to progress the recruitment process and satisfy the requirements of the Localism Act.

#### **16. Review of York's Parish Charter**

Members considered a report which presented the results of a review of the charter between City of York Council and the 31 parish and town councils within the York local authority area, 30 of which were represented by the York Branch of the Yorkshire Local Councils Association (YLCA).

The review of the charter, which was last reviewed in 2016, had been co-ordinated by the York Parish Council Liaison Group, which included 6 parish councillors appointed by YLCA and

representatives of City of York Council. The draft revised charter was attached as Annex 1 to the report. Members were invited to comment on the draft and either recommended it for signing or suggest amendments.

Members commented that members of parish councils that did not belong to YLCA should also be kept informed. With regard to paragraph 7 of the draft, the Chair remarked on the treatment of Ward Members by some parish councils when attending parish meetings. With reference to paragraph 13, it was noted that it would be helpful to include details of proposed traffic diversions in the highway works weekly bulletins.

Resolved: That the draft revised charter be recommended to the Executive and to the York Branch of the YLCA for signature, subject to an amendment to paragraph 12 to clarify the regulations referred to and, after '2012', replace the words '*the Neighbourhood Plans adopted will be used*' with '*account will be taken of the Neighbourhood Plans adopted*'.

## 17. **Model Code of Conduct for Elected Members**

Members considered a report which sought their views on the Local Government Association's Model Code of Conduct, following the workshop with Hoey Ainscough on 23 June 2021.

The LGA had produced an updated version of the Model Code attached at Annex A to the report, and this had been published in Agenda Supplement 2. Members were invited to decide whether to accept this version in its current form or whether any amendments or additions were required.

It was noted that the policies and procedures that underpinned the Code were currently being re-written. The Chair requested that consideration of these documents be scheduled for a future meeting.

Resolved: That the Model Code of Conduct at Annex A to the report (as published in Agenda Supplement 2) be accepted, subject to the following amendment:

- In paragraph 10.2 (Gifts and hospitality), delete '£50' and insert '£25'.



Reason: To ensure that the Code fits the needs of City of York Council before the final draft is considered by Full Council.

## **18. 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 to the agenda for the next meeting, in September 2021:

- Update on the recruitment of Independent Persons.
- Update on the Parish Charter.
- Update on implementation of the Model Code of Conduct and its adoption by parish councils.
- Member Training.

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

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

Members considered a report which provided an update on current business regarding complaints.

An anonymised list of live complaints was attached at Annex A to the report, and an anonymised list of closed complaints at Annex B. Full details were provided in an exempt version of each annex. Discussion of the exempt lists took place in private session, in accordance with the resolution in Minute 11 above.

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 reports include a simple flow diagram to illustrate the progress of each case.

Reason: To provide further clarity on the process for dealing with complaints.

Cllr M Rowley BEM, Chair

The meeting started at 4.30 pm and finished at 6.40 pm.



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23September 2021

## **Joint Standards Committee**

Report of the Monitoring Officer

### **Update on recruitment of Independent Persons**

#### **Summary**

This report provides the Joint Standards Committee with an update on the recruitment process for Independent Persons for the Committee.

#### **Background**

The Committee will recall that an update on recruitment for Independent Persons was brought to the last Meeting. At that time, the recruitment campaign was live and ongoing. The closing date passed and whilst there was some interest in the positions, no applications were received.

The Council are aware that no fee was offered as part of the role, therefore, the view of the Independent Remuneration Panel is going to be sought as to whether a fee should be offered to any incoming Independent Persons. The positions will be advertised again once the Independent Remuneration Panel have responded to this request.

#### **Implications**

##### **Financial**

Not applicable to this report.

##### **Human Resources (HR)**

Not applicable to this report.

##### **Equalities**

The Equality Act 2010 places specific duties on Local Authorities, and Members, including Members of the Joint Standards Committee and Independent Members who play a vital role in ensuring that equality issues are integral to the aims and performance of a Local Authority.

**Legal**

As detailed within the report.

**Crime and Disorder, Information Technology and Property**

Not applicable to this report.

**Recommendations**

Members are recommended to:

1. Note the contents of the report.

**Author:**

Rachel Antonelli  
Head of Democratic  
Governance & Deputy  
Monitoring Officer  
Tel: 01904 551043

**Chief Officer Responsible for the**

**report:** Janie Berry  
Director of Governance &  
Monitoring Officer  
Tel: 01904 555385

**Report  
Approved**

**Date** 14  
September  
2021

**Specialist Implications Officer(s):**

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

**All**

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

**Background Papers:**

**None**



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## JOINT STANDARDS COMMITTEE

23<sup>rd</sup> September 2021

Report of the Director of Governance

### Joint Standards Committee – Terms of Reference of the Committee

#### Summary

As part of the review of the Council's Constitution, Joint Standards Committee is asked to note the terms of reference for the Committee which will be included within the revised Constitution.

#### Background

The Joint Standards Committee has previously updated its terms of reference following the change in membership from Parish councils. The Committee is aware that the Audit & Governance Committee is now undertaking a review of the Council's Constitution and therefore as part of this process, the Joint Standards Committee is asked to note the proposed terms of reference for inclusion in the revised constitution.

It is good practice for the committee to periodically review its terms of reference to ensure it remains fit for purpose.

#### Implications

**Financial** - none directly arising from this report

**Human Resources (HR)** - none directly arising from this report

**Equalities** - none directly arising from this report

**Legal** - none directly arising from this report

**Crime and Disorder, Information Technology and Property** - none directly arising from this report

## Recommendations

The Joint Standards Committee is asked to note the proposed terms of reference for inclusion in the revised constitution

**Author & Chief Officer** Janie Berry, Director of Governance &  
**responsible for the report:** Monitoring Officer

**Report**  **Date** 15/09/2021  
**Approved**

**Specialist Implications Officer(s):**

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

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

**Background Papers:** Council's Constitution

**Annex 1** – proposed Terms of Reference for the Joint Standards Committee

## ARTICLE 10 - THE JOINT STANDARDS COMMITTEE

### 1 Composition

- 1.1 The Joint Standards Committee shall be a joint committee established pursuant to section 102 of the Local Government Act 1972 consisting of the City of York Council and Parish Councils within the boundary of York. In addition, three Independent Persons will be appointed to the Joint Standards Committee who will each serve no more than two consecutive 4 year terms of office.
- 1.2 The Chair and Vice Chair of the Joint Standards Committee will be appointed at the first meeting of this Committee in the municipal calendar.
- 1.3 The Chair should be appointed from City of York Councillors, and the Vice Chair from Parish Councillors.
- 1.4 The proportionality rules do not apply to the composition of this Committee.
- 1.5 Any reference to Parish Council within this Article shall include both Parish Councils and Town Councils.
- 1.6 There is no provision for substitutes to attend this Committee in the event that an appointed committee member is unable to attend a meeting.

### 2 Role and Functions of the Joint Standards Committee

- 2.1 The Joint Standards Committee will be responsible for the following functions:
- a) The promotion of a culture of openness, accountability, probity and the maintenance of high standards of conduct by members and co-opted Members of the Councils and other Parish Councils for which the City Council is the principal authority;
  - b) To support the Monitoring Officer by establishing arrangements for investigating and making decisions in respect of allegations that the code of conduct of either the

City Council or a Parish Council for which the City Council is the principal authority has been breached;

- c) To undertake an annual review of the Council's Code of Conduct which responds to the annual review of the Model Code undertaken by the LGA;
- d) To respond to consultation documents and raise awareness of proposed changes to the Code of Conduct but adoption and revisions to the Members Code of Conduct shall be reserved to Full Council;
- e) To lead on the design and implementation and subsequent review of the Member Development programme, including the induction programme for City of York Councillors, and where necessary and appropriate work in conjunction/collaboration with the Audit and Governance Committee;
- f) To oversee programmes of guidance, advice and training on ethics, standards and probity for Members and Officers on the Members Code of Conduct;
- g) To be responsible for the Council's Register of Members Interests and to receive reports from the Monitoring Officer on the operation of the register from time to time;
- h) To be responsible for written guidance and advice on the operation of the system of declarations of Members' Interests and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time;
- i) To be responsible for written advice and guidance on the operation of gifts and hospitality for both Councillors and Officers and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time.



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### **3 Membership of the Joint Standards Committee**

3.1 The Joint Standards Committee shall consist of:

- a) Five voting Members of the City Council (one from each of the main political groups);
- b) Three voting Members representing Parish Councils;
- c) No more than three non-voting Independent Persons.

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

### **4 Term of office and casual vacancies**

4.1 An Elected member of the Joint Standards Committee will hold Office until one of the following occurs:

- a) They resign by giving written notice to the Monitoring Officer of the Council that appointed them;
- b) They are removed or replaced by the Council that appointed them;
- c) They are disqualified from membership of the Joint Standards Committee;
- d) They cease to be eligible for appointment to the Joint Standards Committee in the capacity in which they were appointed;
- e) The Constituent Authority which appointed them ceases to participate in the Joint Standards Committee.

4.2 A casual vacancy (a vacancy which arises during the municipal year regardless of reason) shall be filled as soon as practicable by the relevant Council. A casual vacancy in the case of a Parish Councillor shall be reported to the Yorkshire Local Councils Association who will seek nominations from the Parish Councils in York. A ballot will then be held, in order to fill the Parish Councillor vacancy on the Committee.

4.3 Three Independent Persons will be appointed to the Joint Standards Committee who will each serve no more than two consecutive 4 year terms of Office.

## **5 Sub Committees**

5.1 The Joint Standards Committee may appoint a Sub Committee in the exercise of its functions, namely an Assessments Sub Committee and a Hearings Sub Committee.

5.2 Save for the purposes of considering complaints pursuant to the Code of Conduct, each person appointed as a member of a Sub Committee must be a voting Member of the Joint Standards Committee.

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

5.4 If the Joint Standards Committee appoints more than one Sub Committee to exercise one or more of its functions then it shall ensure that the Monitoring Officer allocates particular matters to a Sub Committee first on the basis of the availability of the Members required to constitute the Sub Committee, and thereafter by rotation, and summonses Meetings accordingly.

## **6 Meetings and proceedings**

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

6.2 The Joint Standards Committee may determine procedure rules for its Sub Committees, in particular the Hearing Sub Committee.

## **7 Withdrawal from the Joint Standards Committee**

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

**8 Expenses of the Joint Committee**

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

**9 Annual Report**

- 9.1 The Chair of the Joint Standards Committee will provide an annual report of the work of the Committee to Full Council.

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**Joint Standards Committee****23 September 2021**

Report of the Monitoring Officer

**Update on Model Code of Conduct****Summary**

This report provides the Joint Standards Committee with an update on progress of the adoption of the LGA Model Code of Conduct.

**Background**

The Committee will recall that at their last meeting the Model Code of Conduct was accepted with an amendment to the limit for gifts and hospitality only. The final draft of the Model Code of Conduct was then due to be considered by Full Council.

At the meeting of Full Council in July 2021, there was insufficient time for Members to consider the Model Code, therefore, it will be brought to the next Meeting of Full Council which is due to take place on 21 October 2021.

Hoey Ainscough, who are assisting the Council with the implementation of the Model Code, have started conducting training to Members and Officers, with the aim of an update being provided after Full Council.

**Implications****Financial**

Not applicable to this report.

**Human Resources (HR)**

Not applicable to this report.

**Equalities**

The Equality Act 2010 places specific duties on Local Authorities. Having a clear and concise Code of Conduct which clearly prohibits unlawful discrimination gives the public confidence in Members and the Council as a whole.

**Legal**

As detailed within the report.

**Crime and Disorder, Information Technology and Property**

Not applicable to this report.

**Recommendations**

Members are asked to note the update contained within the report.

**Author:**

Rachel Antonelli  
Head of Democratic  
Governance & Deputy  
Monitoring Officer  
Tel: 01904 551043

**Chief Officer Responsible for the  
report:** Janie Berry

Director of Governance &  
Monitoring Officer  
Tel: 01904 555385

**Report  
Approved**

**Date** 14/09/2021

**Specialist Implications Officer(s):**

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

**All**

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

**Background Papers:**

- **Model Code of Conduct**



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**Joint Standards Committee****23 September 2021**

Report of the Monitoring Officer

**Model Code Update – Review of Procedures****Summary**

This report provides the Joint Standards Committee with the current procedures in place, which will need to be reviewed in light of the new Model Code of Conduct.

**Background**

The Committee will be aware that a set of procedures are in place which deal with different stages in Standards complaints. The Committee had indicated that they wished to review the procedures after the Model Code of Conduct had been considered by Full Council and implemented, however, recent Joint Standards Committee Hearing Panels has brought to light procedural issues which has led to the Chair and Vice Chair of the Committee, along with other Members of the Committee to request that the procedures be reconsidered as a matter of urgency.

The procedures are annexed as follows:

- Annex A – Complaints Procedure
- Annex B - Assessment Criteria
- Annex C – Pre Hearing Procedure
- Annex D – Pre Hearing Checklist
- Annex E – Hearing Procedure

**Implications****Financial**

Not applicable to this report.

**Human Resources (HR)**

Not applicable to this report.

**Equalities**

The Equality Act 2010 places specific duties on Local Authorities. Having a clear and concise Code of Conduct and procedures which aid the process and prohibits unlawful discrimination gives the public confidence in Members and the Council as a whole.

**Legal**

As detailed within the report.

**Crime and Disorder, Information Technology and Property**

Not applicable to this report.

**Recommendations**

Members are asked to consider whether a review of the procedures is required now and if so, how this review will be conducted.

**Author:**

Rachel Antonelli  
Head of Democratic  
Governance & Deputy  
Monitoring Officer  
Tel: 01904 551043

**Chief Officer Responsible for the**

**report:** Janie Berry  
Director of Governance &  
Monitoring Officer  
Tel: 01904 555385

**Report  
Approved**

**Date** 14/09/2021

**Specialist Implications Officer(s):**

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

**All**

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



**Background Papers:**

- Annex A – Complaints Procedure
- Annex B - Assessment Criteria
- Annex C – Pre Hearing Procedure
- Annex D – Pre Hearing Checklist
- Annex E – Hearing Procedure

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## 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. The Council want to ensure that the process is as transparent as possible and that complaints are dealt with as quickly as possible.

### 1 The Code of Conduct

All City and Parish Councillors must follow a Code of Conduct which their Council has agreed. You can find a copy of the City Council's Code on the Council's website on this link:

[http://democracy.york.gov.uk/ecSDDisplay.aspx?NAME=SD569&ID=569&RPID=6449972&sch=doc&cat=12830&path=12830,](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 are 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.

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.

This complaints procedure allows for a Councillor to refer themselves if they so desire, or if they feel it is in the interests of clarity. The referral will be dealt with in the same way as a complaint made by anyone else using this procedure.

The Monitoring Officer will normally acknowledge receipt of your complaint within 7 working days of receiving it, and will keep you informed of the progress of your complaint, including reasons as to why they decide to close the complaint or not progress further. Regardless of the outcome of your complaint or the stage the complaint is concluded, you will be advised as to the outcome of the complaint.

### **3 Privacy**

We ask you to provide your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. This also guards against malicious complaints. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. We only use the information you provide for the purposes of dealing with your complaint.

Your contact details will not normally be shared unless it 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 share your name with:

- The Councillor concerned;
- The Independent Persons who advise on the handling of complaints;
- The Parish clerk if the councillor concerned is a member of a Parish Council;
- Any investigator appointed to deal with the case;

- Members of any Committee or Sub Committee of the Council who are handling the case;
- 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.

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.

The identity of the Councillor who is the subject of the complaint should remain confidential, particularly during the assessment and investigation stages of the complaints process. This is vital to ensure that the investigation is not prejudiced; therefore, you should not divulge the identity of the Councillor, nor the nature of the complaint to the public whilst the complaint is being investigated. The Monitoring Officer will also request that the Councillor maintains privacy and confidentiality, particularly in relation to your personal details whilst the complaint is being investigated.

You should note that if your complaint is investigated and results in a hearing these are usually conducted in public, that would mean your identity or personal data would be in the public domain.

We will retain details of standards complaints for 6 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/>.

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](tel:01904554145) or write to:

The Data Protection Officer  
City of York Council

West Offices, Station Rise  
York, YO1 6GA.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received. He/she may ask you to clarify aspects of it before deciding whether to accept it as a formal complaint.

The Monitoring Officer will then take a decision as to whether the complaint merits formal investigation. Where the Monitoring Officer feels that the case does merit formal investigation, he/she will consult with 1 of the Independent Persons in order to provide an external oversight. This decision will usually be taken within 7 working days of your complaint being accepted. The Monitoring Officer will also notify the Councillor involved in the complaint within 7 working days 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/her such as notes of Council meetings. If the complaint relates to a Parish Councillor the Monitoring Officer may consult the Parish Council. If they consider it appropriate to do so, the Monitoring Officer may put the complaint to the Councillor involved and seek their 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 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 their decisions to the Council's Joint Standards Committee so there is oversight of how these matters are dealt with.

If there is evidence that a crime may have been committed the Monitoring Officer has the power to 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 2 Members of the Joint Standards Committee which consists of City and Parish Councillors will meet to consider your complaint. At least 1 Independent Person will be present or will be consulted ahead of the Sub Committee considering your complaint.

Examples of matters which the Sub Committee will consider include multiple complaints made about the same Councillor, counter complaints made by Councillors about each other, vexatious or repeated complaints or where special procedures may need to be implemented to classify complaints.

In the rest of this procedure we have assumed that the Monitoring Officer will use their powers to make decisions but any Sub Committee appointed will have the same powers as the Monitoring Officer.

If the Monitoring Officer makes the decision to investigate your complaint, he or she will advise you of this within 7 working days. If the decision has been referred to a Sub Committee, a decision will be made as soon as is practicable.

### **3 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 or which you think need more consideration.

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

Investigations will be completed within 3 months of the investigator being instructed. There may be very good reasons why this is not possible, for example, where the case is complex or witnesses are not available. Where there are delays, this will be reported to the Chair of the Standards Committee, the complainant and the Councillor who is the subject of the complaint prior to the end of the 3 month period.

The complainant and Councillor are expected to keep the circumstances of the complaint confidential and failure to do so could have a detrimental impact on the complaint or the complaints process.

#### **4 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 investigation to take place if he/she feels that is needed. The Monitoring Officer will consult the Independent Persons on the draft report and following such consideration, 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.

#### **5 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.



## 5.1 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.

Although the complainant's views will be carefully considered the decision as to whether a complaint can be resolved without a hearing rests with the Monitoring Officer if the breach is minor.

## 5.2 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. 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. 1 or more Independent Persons will be present at the hearing.

The Hearings Panel will take evidence 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 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, should be taken. In

doing this, the Hearings Panel will consult the Independent Person(s).

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

The Hearings Panel may –

- 6.1 Censure the Councillor;
- 6.2 Formally report its findings to the City Council or Parish Council for information;
- 6.3 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;
- 6.4 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 6.5 Recommend to Council that the Leader be removed from Office;
- 6.6 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Councillor;
- 6.7 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);
- 6.8 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.

## **7 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, the Councillor and if applicable, to the Parish Council. The decision notice will be available for public inspection.

## **8 Who are the Hearings Panel?**

The Hearings Panel is a Sub Committee of the Council's Joint Standards Committee. It normally consists of 3 Members.

The Independent Persons are invited to attend all meetings of the Hearings Panel and 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.

## **9 Appeals**

There is no internal right of appeal for either the complainant or for a Councillor against a decision of a Monitoring Officer, however, if, as a complainant you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman. There may also be the possibility of an application for Judicial Review of the decision.

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## City of York Council Joint Standards Committee Assessment Criteria for complaints

### 1. Background and Context

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

### 2. Is the complaint covered by the Code?

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

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

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

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

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

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

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

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

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

### **3. Sufficiency of Information**

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

### **4. Seriousness of the Complaint**

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

### **5. Length of Time Which Has Elapsed**

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

### **6. Public Interest**

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

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

## **7. Anonymous Complaints**

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

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### Pre Hearing Procedure

1. Where a decision has been made that a complaint needs to be referred for a hearing then a Sub Committee meeting will be arranged for that purpose. The Sub Committee will sit as a Hearing Panel.
2. A copy of the final investigation report will be sent to the Subject Member, the complainant and to the Independent Persons. If the complaint relates to the Subject Member's conduct as a parish councillor then a copy will also be sent to the Clerk to the Parish Council.
3. The Subject Member and the complainant will be asked to confirm within fifteen working days whether he/she:
  - Disagrees with any of the findings of fact in the report and the reasons for any disagreement
  - Wishes to be represented by a solicitor or barrister, or by any other person (such representation should not normally be necessary)
  - Wishes to attend the hearing
  - Wishes relevant witnesses to be called to give evidence to the Panel
  - Wishes any part of the hearing to be held in private<sup>i</sup>
  - Wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the public<sup>ii</sup>
4. The Subject Member and the complainant will be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.

5. Upon receipt of the Member's and complainant's responses, the Investigating Officer shall be invited to comment on it within ten working days, and to say whether or not he/she:
  - Considers that the Committee should request other witnesses to give evidence or submit written or other evidence to the Committee
  - Believes any part of the hearing should be held in private
  - Believes any part of the report or other relevant documents should be withheld from the public
6. The Monitoring Officer will consider the responses and set a date for the hearing in consultation with the Chair of the Panel.
7. The Monitoring Officer together with the Chair of the Hearing Panel will consider which witnesses should be invited to attend. Witnesses may not be called if the number requested is unreasonable and it appears that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Panel to reach its decision.
8. The Chair of the Hearing Panel may request the attendance of any additional witnesses whose evidence he/she considers would assist the Panel to reach its decision. The Panel does not though have powers to compel any witness to attend.
9. The Monitoring Officer will:
  - Confirm a date, time and place for the hearing
  - Confirm the main facts of the case that are agreed
  - Confirm the main facts that are not agreed
  - Provide the Panel with a copy of the investigating officer's report
  - Provide copies of any other written evidence to the relevant parties and the Panel


- Confirm which witnesses will be called by the parties
- Provide the parties with copies of the proposed procedure for the hearing.

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<sup>i</sup> The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Proper Officer of the Council will decide whether papers should be publicly available in advance and the Sub Committee will determine whether all or part of the meeting should be in private.

<sup>ii</sup> See note i

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<b>City of York Council Standards Committee</b>	
<b>Pre Hearing checklist</b>	
<b>Complainant</b>	
<b>Subject Member</b>	Councillor
<b>Investigating Officer</b>	
<b>Do you intend to attend the proposed hearing to give evidence or make representations</b>	
Yes/No	
<b>Do you wish to be represented at the hearing by a solicitor, barrister or another person.<sup>1</sup></b>	
Yes/No	
<b>If so by who?</b>	
<i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i>	
<b>Do you wish the whole or any part of the hearing to be in private?</b>	
Yes/No	
<b>If yes please explain why<sup>2</sup></b>	

<sup>1</sup> Although there has to be a degree of formality to the proceedings of the committee it will be unusual for subject members to be represented. The procedure is not adversarial. The Committee will act in an inquisitorial manner to ensure that the circumstances of the case are fully understood.

<sup>2</sup> The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

<b>Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public?</b>
<i>Yes/No</i>
<b>If yes please explain why<sup>3</sup></b>
<b>Do you disagree with any of the <u>facts</u> found by the investigating officer as set out in his her report?</b>
<i>Yes/No</i>
<b>If yes please set out briefly the facts that you dispute and your view as to the true factual position</b>

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<sup>3</sup> The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

<b>Do you believe that witnesses should be called to the Hearing</b>
<i>Yes/No</i>
<b>If yes please identify the witnesses who you wish to be called and briefly identify the issues that they will be able to give evidence about<sup>4</sup></b>

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<sup>4</sup> The Monitoring Officer and Chair will consider whether any witnesses you name are likely to be able to give evidence which will be of value to the Hearing Panel. If they are then those witnesses will be invited to attend. The Panel cannot compel the attendance of any witness.

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## CITY OF YORK COUNCIL STANDARDS COMMITTEE HEARING PROCEDURE

### General Matters

1. In this procedure the term “interested parties” is used to cover the complainant, the subject member and the investigating officer. The interested parties will all be invited to attend the hearing as potential witnesses.
2. The Independent Persons will also be invited to attend the hearing in an advisory, non-voting capacity. Their views will be sought as to whether the evidence establishes a breach of the code of conduct and, if so, as to what if any penalty should be imposed.
3. The Hearing Panel will be made up of members of the Standards Committee and there will normally be three members. The Panel will be supported by the Monitoring Officer or his representative and a democratic services officer.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed. The Standards Committee considers that in general the public interest in seeing that complaints relating to Councillors are handled properly will outweigh any considerations relating to the privacy of the Councillor concerned but each case will be considered on its own merits including consideration of the privacy of other parties.
5. The hearing will normally follow the procedure set out below but the Chair has the discretion to vary it at any time. Such a variation may be considered where, for example, the Chair believes that doing so will be in the interests of fairness or help in establishing the facts of the case.
6. It will not usually be necessary for the Subject Member to be represented at a hearing but he or she may choose to arrange such representation which may be by a solicitor, barrister or another person.
7. The Panel may take legal advice at any time during the hearing or during its deliberations. The substance of any advice given to the Panel will normally be shared with the parties.

**Preliminary procedures**

8. Prior to the hearing commencing the Panel may meet privately to review the material presented and to agree the main lines of enquiry.
9. At the start of the hearing, the Chair will arrange introductions of the Panel, its Officers, the Independent Persons and the interested parties. The Chair will briefly explain the procedure which the Panel will follow in the conduct of the hearing. The Chair will confirm that each interested party has seen the final report of the investigating officer and has had the opportunity to engage in the pre hearing procedures.
10. The Monitoring Officer will identify whether the pre hearing procedures have identified any significant disagreements about the facts contained in the Investigating Officer's report. The Panel will record the agreed facts and establish the facts in dispute which they will be required to rule upon.
11. If a party raises an issue which has not been raised previously then that party shall be required to give a full explanation to the Panel as to why it was not raised earlier. The Panel may then:
  - a. Consider whether or not to allow the issue that has been raised to be dealt with at the hearing
  - b. Consider whether the hearing should be adjourned for further investigations to take place.

**Determining factual disputes**

12. If there are disputed facts which the Panel consider relevant to establishing whether the Code has been breached or as to the seriousness of the breach then, the Panel will adopt an inquisitorial approach in establishing the facts. The Chair will invite members of the Panel to ask questions of the interested parties or any other potential witness present. The Monitoring Officer may also ask questions.

13. Once a witness has answered questions from the Panel then the Chair will ask the interested parties whether there are other issues which ought properly to be raised with the witness. The Chair (or another Member) may put any such issues to the witness him or herself or may allow the relevant party to ask questions directly.
14. The Panel must reach a decision as to the facts it finds to be proven. The Panel must also make a decision as to whether the proven facts (including those which are agreed) show a breach of the code of conduct. Depending on the complexity of the case the Panel may consider each of those issues separately or deal with them together. In either case the Chair will invite the parties to make representations on each matter before the Panel reaches its decision.

### **Panel deliberations**

15. When the Panel is considering its finding of facts and whether those facts amount to a breach of the Code of conduct it will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
16. At the conclusion of the Panel's deliberations, the Chair will publicly announce the Panel's findings as to the facts and as to whether those facts show a breach of the code of conduct. The Panel will give reasons for their findings. It will be normal practice to share the substance of any advice given by the Monitoring Officer and Independent persons at this stage.

### **Determining Sanctions**

17. If the Panel concludes that the Subject Member has failed to comply with the Code of Conduct, the Chair will invite representations from the interested parties as to what action, if any, it should take.
18. The Panel will then consider whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect. It will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
19. The sanctions available to the Hearings Panel are to –

- Censure the Councillor;
  - Formally report its findings to the City Council or Parish Council for information;
  - 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 Panels or Sub-Committees of the Council;
  - Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - Recommend to Council that the Leader be removed from Office (if it is the Leader's conduct that is being considered)
  - Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;
  - 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]*;
  - 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.
20. 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.
21. The Chair will publicly announce the decision of the Panel. The substance of any further advice given by the Independent Person and Monitoring Officer will also be shared. Written notice of the findings of the Panel will be given as soon as is reasonably practicable to the Subject Member. They will also be placed on the

council's website. If the complaint was against the Subject Member as a parish councillor, written notice of the findings of the Panel will be sent to the clerk to the parish council.

**Other action**

22. The Panel may also consider making any recommendations to the Council concerned with a view to promoting higher standards of conduct among its members.

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## Work Plan for Joint Standards Committee 2021-22

<b>Meeting Date</b> (4.00pm start time)	<b>Items</b>	<b>Notes</b>
Wednesday 23 June 2021	<ul style="list-style-type: none"> <li>• Appointment of Chair and Vice Chair</li> <li>• Workshop around Model Code of Conduct</li> </ul>	
Tuesday 6 July 2021	<ul style="list-style-type: none"> <li>• Annual Report for Municipal Year 2020-2021</li> <li>• Update on recruitment of Independent Persons</li> <li>• Review of York's Parish Charter</li> <li>• Model Code of Conduct for Elected Members</li> <li>• Review of Work Plan</li> <li>• Monitoring report in respect of complaints received</li> </ul>	Standard item
Thursday 23 September 2021	<ul style="list-style-type: none"> <li>• Update on recruitment of Independent Persons</li> <li>• Terms of Reference for the Committee</li> <li>• Model Code of Conduct for Elected Members</li> </ul>	

	<ul style="list-style-type: none"> <li>• Model Code of Conduct – Review of Procedures</li> <li>• Review of Work Plan</li> <li>• Monitoring report in respect of complaints received</li> </ul>	Standard Item
Monday 24 January 2022	<ul style="list-style-type: none"> <li>• Review of York’s Parish Charter</li> <li>• Monitoring report in respect of complaints received</li> <li>• Review of Work Plan</li> </ul>	Standard Items
Wednesday 20 April 2022	<ul style="list-style-type: none"> <li>• Monitoring report in respect of complaints received</li> <li>• Review of Work Plan</li> </ul>	Standard Items





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**Joint Standards Committee****23 September 2021**

Report of the Monitoring Officer

**Monitoring Report in respect of Complaints Received****Summary**

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

**Background**

The table attached at Annex A provides information about ongoing complaints and the table attached at Annex B provides the list of closed complaints.

Case references 739, 740, 741 and 2021/06 are still being investigated by an external investigating officer. 2021/11 is also now being investigated by an external investigating officer.

Case references 2020/20, 2021/08, 2021/09, 2021/13 and 2021/14 are all currently under investigation.

Case references 2020/12, has been investigated and the Monitoring Officer has determined that the findings of the investigating officer are upheld, no breach having been found.

2020/13 has been investigated and the Monitoring Officer accepts the investigating officer's findings that there has been a breach of the Code of Conduct. The Monitoring Officer has dealt with the matter by way of local resolution and this matter is now closed.

Case reference 2020/10 has been investigated further and is due to be considered by a Sub Committee of the Joint Standards Committee later this month.

Case reference 2020/14 has been passed to a Joint Standards Committee Hearing Panel which has been adjourned to a date later this month, where

the matter will be heard. Case reference 2021/01 was recently considered by a Hearing Panel where they determined that there had not been a breach of the Code of Conduct.

Case reference 2020/17 is linked to other complaints which are currently under investigation. The Investigating Officer found a breach of the Code of Conduct, which the Monitoring Officer has accepted, however, is awaiting the outcome of the linked investigations before deciding how best to progress this complaint.

Finally, case reference 2021/11 was assessed by the Monitoring Officer who determined that the complaint would not progress. This complaint is now closed.

## **Implications**

### **Financial**

Not applicable to this report.

### **Human Resources (HR)**

Not applicable to this report.

### **Equalities**

Maintaining standards across the City through the Code of Conduct ensures that an ethical framework can be adhered to, including ensuring that equality issues form an integral part of that framework.

### **Legal**

As detailed within the report.

### **Crime and Disorder, Information Technology and Property**

Not applicable to this report.

## **Recommendations**

1. That the Joint Standards Committee notes the report, in order to ensure that the Committee is aware of the current levels of activity and is able to provide oversight of the complaints procedure.

**Author:**

Rachel Antonelli

Head of Democratic  
Governance & Deputy  
Monitoring Officer

Tel: 01904 551043

**Chief Officer Responsible for the**

**report:** Janie Berry

Director of Governance &  
Monitoring Officer

Tel: 01904 555385

**Report  
Approved**

**Date** 14/09/2021

**Specialist Implications Officer(s):**

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

**All**

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

**Background Papers:**

- **Annex A – Table showing open complaints received.**
- **Annex B – Table showing closed complaints received.**

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of the Local Government Act 1972.

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of the Local Government Act 1972.

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## ANNEX A

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status	Updates
739	Parish	Parish Councillor	15/11/19	Allegations that the subject member behaved aggressively towards the complainant.	External investigation ongoing.	<p>The complaint is on hold pending the outcome of investigations into the conduct by another party. The 3<sup>rd</sup> party investigation is now complete, therefore, the Code of Conduct complaint can now proceed. Parties to be notified.</p> <p>Assessment Sub Committee to be formed.</p> <p>Sub-Committee determined that investigation is required – sourcing an external investigating officer.</p> <p>External investigating officer has now been appointed.</p>
740	Parish	Parish Councillor	13/11/19	Allegations that the subject member behaved aggressively towards a Clerk.	External investigation ongoing.	<p>The complaint is on hold pending the outcome of investigations into the conduct by another party. The 3<sup>rd</sup> party investigation is now complete, therefore, the Code of Conduct complaint can now proceed. Parties to be notified.</p> <p>Assessment Sub Committee to be formed.</p> <p>Sub-Committee determined that investigation is required – sourcing an external investigating officer.</p>

## ANNEX A

						External investigating officer has now been appointed.
741	Parish	Parish Councillor	15/11/19	Allegations that the subject member verbally attacked the Chair and the Clerk and sent threatening emails.	External investigation ongoing.	<p>The complaint is on hold pending the outcome of investigations into the conduct by another party. The 3<sup>rd</sup> party investigation is now complete, therefore, the Code of Conduct complaint can now proceed. Parties to be notified.</p> <p>Assessment Sub Committee to be formed.</p> <p>Sub-Committee determined that investigation is required – sourcing an external investigating officer.</p> <p>External investigating officer has now been appointed.</p>
2020/10	City	Residents	12/07/20 - 24/07/20	Numerous complaints were received with regards to the Councillor's comments and behaviour on social media.	Investigation completed now – referred back to Sub-Committee.	<p>This complaint is currently being investigated.</p> <p>Draft report now finalised and sent to subject Councillor for comment.</p> <p>Comments received, sub committee to be reconvened to review findings.</p> <p>Sub-Committee determined that further investigation is required – passed back to investigating officer.</p>

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						Investigation completed now – referred back to Sub-Committee.
2020/12	CYC	Resident	11/09/20 / 16/09/20 (officially)	The complaint is in relation to the resident’s planning application. The complainant claims the Councillor supported a council officer rather than providing a fair and neutral opinion as a Councillor and was inextricably linked to personal interests in relation to a committee meeting.	MO reviewed report. No breach found, matter closed.	The subject matter of this complaint has been investigated by a 3 <sup>rd</sup> party, that has now concluded, therefore, this can now proceed.  Investigation ongoing.  MO reviewed report. No breach found, matter closed.
2020/13	CYC	Parish	05/11/20	The complaint is in relation to an email sent by the Councillor – the complainant believes this is an offensive email in breach of the code of conduct.	Local Resolution accepted by subject Member. Matter closed.	This complaint has been passed to an investigating officer. Draft report prepared and to be sent to parties w/c 15.03.21 for comment.  Draft report finalised and breach found. MO assessing whether local resolution is suitable.  Breach to be dealt with through local resolution – parties informed.  Local Resolution accepted by Subject Member. Matter closed.
2020/14	Parish	Resident	18/11/20	The complainant would like a Parish Councillor investigated as personal animosity has been preventing the PC to serve the parishioners.	Hearing Panel adjourned to end of September.	This complaint has been assessed and is due to be allocated to an investigating officer.  Draft report to be distributed to parties w/c 15.03.21.

## ANNEX A

						<p>Parties have responded, draft report to be passed to MO for consideration.</p> <p>Breach found, being referred for hearing.</p> <p>Hearing Panel adjourned to end of September.</p>
2020/17	Parish	Parish	01/12/20	The complainant claims the Councillor had an emotional outburst at an online parish council meeting which is claimed to have publicly impugned the integrity of the complainant.	MO has accepted the draft report, currently considering whether to deal with the matter informally or by way of hearing.	<p>This complaint has been assessed and is due to be allocated to an investigating officer.</p> <p>Investigation ongoing.</p> <p>Meeting arranged with Investigating Officer on 20 April 2021 when she returns from leave. Update will be provided then.</p> <p>Investigation now completed, breach in part found. With MO to determine next steps.</p> <p>MO has accepted the draft report, currently considering whether to deal with the matter informally or by way of hearing.</p>
2020/20	CYC	CYC	13/12/20	The complainant claims the councillors breached the code of conduct. It is alleged the	This complaint is currently being investigated.	Assessment can now be completed as IP view now received.

## ANNEX A

				councillors made potentially libellous allegations against the complainant and others, and it is alleged they have set out a series of untruths about City of York Council within a newsletter sent out.		Investigation ongoing.
2021/01	CYC	York Residents	03/01/21	The complainant alleges the Cllr chose to be “aggressive, narrow minded and discriminative” against him and his business, “rather than take a pragmatic, reasonable approach to this incident”.	Closed. Hearing Panel determined no breach.	<p>Assessment of complaint currently taking place.</p> <p>Passed for investigation.</p> <p>Draft report sent to parties, asked for comments by 19.03.21.</p> <p>No comments so passed draft report to MO.</p> <p>Breach found, MO upholds the finding. Local resolution offered but not accepted. Hearing to be arranged.</p> <p>Closed. Hearing Panel determined no breach.</p>
2021/06	Parish Councillor	Parish Councillor	11/02/20	The complainant alleges that the Cllr behaved in an intimidatory and bullying manner.	External investigation ongoing.	<p>This complaint is now being looked into as the criminal proceedings have now concluded (in 2021).</p> <p>The 3<sup>rd</sup> party investigation is now complete, therefore, the Code of</p>

## ANNEX A

						<p>Conduct complaint can now proceed. Parties to be notified.</p> <p>Assessment Sub Committee to be formed.</p> <p>External investigating officer has now been appointed.</p> <p>External investigation ongoing.</p>
2021/08	Parish Councillor	Parish Councillor	06/04/21	This is an additional complaint in respect of the Parish Council meeting in February 2021 in which the Chairman and to some extent the Council have acted “unlawfully” in respect to actions taken at the meeting.	This complaint is currently being investigated.	Matter currently under investigation.
2021/09	Parish Councillor	York Resident	06/04/21	This complaint is in addition to 2020/19. This complaint pertains to the actions taken during the February 2021 Parish Council meeting in which the complainant feels further adds to the issues raised in the original complaint in respect to the conduct of the councillor.	This complaint is currently being investigated.	Matter currently under investigation.
2021/11	Parish	Parish	23/06/2021	The complaint relates to allegations of threats and false statements amongst Parish Councillors.	Closed.	<p>Currently being assessed by MO.</p> <p>Complaint assessed. Complaint dismissed in relation to the Clerk, as they do not fall within the remit of the Code of Conduct. Complaint in relation to Town Councillors not</p>

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						progressing due to insufficient information and tit for tat. Closed.
2021/12	Parish	Parish	01/07/2021	The complainant alleges the Parish Councillor has repeatedly bullied, threatened and harassed Councillors and staff.	This complaint is currently being investigated by the external investigating officer.	Complaint assessed and the allegations set out in the complaint are covered by the code, sufficient information is within the complaint to refer for investigation and the allegations are serious in nature. It is also in the public interest to refer for investigation.
2021/13	CYC	CYC	15/07/2021	The complainant alleges the Cllr has breached the following standards codes: failure to treat others with respect, bullying and intimidation, and bringing the council into disrepute.	This complaint is currently being investigated.	Complaint assessed and will progress to investigation.
2021/14	CYC	CYC	19/08/2021	The complainant alleges the Cllr has breached the following standards codes: 3.1: You must treat others with respect. 3.2 You must not do anything which may cause the Council to break any equality enactment. 3.3 You must not bully or intimidate any person, or attempt to bully or intimate them. 3.7 You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into	This complaint is currently being investigated.	

**ANNEX A**

				disrepute, or your position as a councillor into disrepute.		
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## ANNEX B

Case ref	City or Parish	Complainant	Date Received	Nature of Complaint	Status	Updates
723	Parish	Former Parish Council Clerk	24/6/19	The complainant alleges that the subject members have behaved in a manner that is disrespectful.	Closed – the Monitoring Officer has considered the Investigation Officer’s report and agrees with her findings of no breach of the Code of Conduct.	<p>Closed – the Monitoring Officer has considered the Investigation Officer’s report and agrees with her findings of no breach of the Code of Conduct.</p> <p>The investigation was initially on hold as it was related to another complaint.</p>
2020/01	Parish	Resident	05/02/20	The complainant alleges the Parish Councillor was supporting a planning application on a personal level and was not acting impartially. The complainant claims the Councillor did not acknowledge their objections.	Closed - after investigation, the Monitoring Officer advised this matter will not be taken further.	<p>The Chairman of the PC has contacted the Monitoring Officer to discuss this matter.</p> <p>A Parish Councillor has resigned from their post following the incidents with the Parish Councillor.</p> <p>Response sent to the complainant on 28/04/20. Chair of PC also sent a copy. This matter will not be taken further.</p>
2020/02	City	Resident	10/04/20	The complainant put in a complaint with regards to how a Councillor spoke to him online on Twitter.	Closed – the Monitoring Officer advised the complainant that this complaint does not merit further investigation as it appears that the thread consists of a series of comments between the complainant and the Councillor in which they were both providing views on whether a	

## ANNEX B

					previous comment made on Twitter was defamatory.	
2020/03	City	Councillor	26/06/20	The complainant alleges a Councillor had a personal and prejudicial interest in the matter of the decision to grant and fund early retirement of a Chief Officer.	Closed – the complaint was assessed and the views of an Independent Person were sought. Complaint did not progress to an investigation and the complaint was dismissed.	
2020/04	Parish	Parish Councillor	08/07/20	The complainant has put in 3 complaints about the behaviour of another Parish Councillor towards them.	Closed	<p>The case has been passed to an investigating officer to investigate.</p> <p>Parties have been interviewed and draft report is currently being finalised.</p> <p>Draft report now sent to the parties, they have until 19.03.21 to respond. Complainant has responded, awaiting comments from Subject PC.</p> <p>No comments received so draft report passed to MO.</p> <p>Draft report passed to Monitoring Officer who agrees with conclusion in that the complaint is not upheld. Parties contacted on 7 April 2021 and notified of outcome. Closed.</p>
2020/05	City	City	11/07/20	The complainant has submitted a formal complaint with regards to 4 CYC Councillors not submitting a	Closed - the complaint was assessed and the views of an Independent Person were	

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				Declaration of Interest at a Planning Committee meeting on 9 <sup>th</sup> July 2020. It is claimed one Councillor in particular attended with a predetermined and biased mind-set.	sought. It was determined the complaint would not be taken further as the points raised do not amount to a breach of the code of conduct.	
2020/06	City	Resident	14/07/20	The complaint concerns a Councillor's participation at the Staffing and Urgency Committee that discussed the early retirement of a Chief Officer and the lack of Declaration of Interest.	Closed - the complaint was assessed and the views of an Independent Person were sought. It was determined the complaint would not be taken further.	Subject matter of complaint has already been subject of an investigation or other action relating to the Code of Conduct or subject of an investigation by other regulatory authorities.
2020/07	Parish	Parish	16/07/20	The complainants have put in a joint complaint about their fellow Councillor. The complaint focuses on the Councillor's attendance at meetings, his general tone of communication and behaviour amongst other things.	Closed as subject Parish Councillor has resigned.	This complaint is currently being investigated.  Closed as subject Parish Councillor has resigned.
2020/08	Parish	Resident	23/07/20	The formal complaint submitted is with regards to the integrity, honesty and bullying behaviour of the Councillor.	Closed as subject Parish Councillor has resigned.	This complaint is currently being investigated.  Closed as subject Parish Councillor has resigned.
2020/09	Parish	Parish	24/07/20	The complainant has put in a formal complaint with regards to the Councillor behaving in a 'disrespectful and intimidatory' manner. The complainant has given multiple examples of the behaviour.	Closed - the complaint was assessed and the views of an Independent Person were sought. It was determined the complaint would not be taken further. The documents provided did not provide sufficient evidence of disrespectful and intimidatory	Closed

## ANNEX B

					behaviour. Comments made amount to freedom of speech and does not extend beyond that.	
2020/11	Parish	Parish Councillor	27/08/20	The complainant has put in a formal complaint with regards to a Councillor's behaviour at council meetings. The complainant has given multiple examples of the behaviour. This is a counter complaint to 2020/09.	Closed - the complaint was assessed and the views of an Independent Person were sought. It was determined the complaint would not be taken further. The evidence provided did not provide sufficient evidence of behaviour amounting to a breach of the Code. Comments made would amount to freedom of speech and did not extend beyond that.	Closed
2020/15	Parish	Parish	18/11/20	The complainant claims a Parish Councillor does not abide by the Code of Conduct in his behaviour towards the PC or to the residents that he should represent. The complainant states it is bullying and harassment.	Closed	<p>This complaint has been assessed and is due to be allocated to an investigating officer.</p> <p>Draft report to be distributed to parties w/c 15.03.21.</p> <p>Parties have responded, draft report to be passed to MO for consideration.</p> <p>Draft report passed to MO who agrees with the conclusion in that the complaint is not upheld and no breach was found. Parties contacted</p>

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						on 22 April 2021 and notified of outcome. Closed.
2020/16	Parish	Parish	25/11/20	The complainant claims the councillors displayed bullying behaviour at meetings and over email. The complainant advised the councillor's behaviour towards the PC has been unreasonable and unprofessional. Multiple examples of behaviour provided.	Closed	This complaint has been assessed and is due to be allocated to an investigating officer.  Complaint withdrawn at request of complainant.
2020/18	CYC	CYC	08/12/20	The complainant claims the Councillor's attitude was unprofessional, undermining and intimidating, both to the complainant and other members of the committee during a meeting.	Closed.	This complaint is currently under investigation.  Draft report sent to parties, comments now received.  Complainant would like their opportunity to raise concerns around the investigation.  Complaints procedure considered, but no mechanism for this. Draft report considered by MO and findings accepted, parties notified. Closed.
2020/19	Parish	Parish	10/12/20	The complainant claims the Councillor was discriminatory against them in relation to co-option and at a public meeting.	Investigating officer found no breach found. MO has reviewed the draft report and upholds the investigating officer's findings. Closed.	This complaint has been assessed and is due to be allocated to an investigating officer.  Investigation ongoing.

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						<p>Meeting arranged with Investigating Officer on 20 April 2021 when she returns from leave. Update will be provided then.</p> <p>Investigating officer found no breach found. MO has reviewed the draft report and upholds the investigating officer's findings. Closed.</p>
2021/02	CYC	York Resident	16/01/21	The complainant alleges that proper process was not followed at a Committee meeting and sufficient information was not provided to attendees at the meeting to make an informed judgement.	Closed – the complaint was assessed and the views of an Independent Person sought. It was determined the complaint would not be taken further as the allegations do not breach the code of conduct.	
2021/03	Parish	Parish	29/01/21	The complainant has put in a formal complaint with regards to the councillor's behaviour. The complainant has requested an old complaint be revisited.	No breach found. Decision of investigating officer upheld by MO. Closed.	<p>Investigation ongoing.</p> <p>Meeting arranged with Investigating Officer on 20 April 2021 when she returns from leave. Update will be provided then.</p> <p>No breach found. Decision of investigating officer upheld by MO. Closed.</p>
2021/04	CYC	CYC	04/03/21	During a Council Planning Meeting, the Councillor publicly criticised Planning Officers in a disrespectful manner in a clear breach of Member Standards.	Closed	<p>Currently being assessed, awaiting IP view.</p> <p>IP chased but no response yet.</p>

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						Complaint closed. Complaint appears to be politically motivated and in addition, as there is another route for this complaint to be dealt with, in accordance with the protocol on Officer/Member relations, it is not felt that the public interest would be served by progressing this matter further.
2021/05	CYC	York resident	11/03/21	The complainant alleges that the Cllr portrayed a biased view of a scheme during a Planning Committee Meeting, as well as attempting to influence a Planning Officer.	Closed.	Currently being assessed, IP view now received, with MO for determination.  The complaint was assessed and IP view obtained. Complaint not progressing. Reason: whilst the complainant and the Councillor do not share the same views on the merits of the application, this does not justify a Code of Conduct complaint progressing any further.
2021/07	Parish Councillor	York Resident	20/03/21	The complaint alleges the Parish Council did not allow residents to join a virtual PC meeting as the meeting time was changed without making residents aware.	Closed.	IP views being sought.  The complaint was assessed and IP view obtained. Complaint not progressing. Reason: complaint does not fall within remit of Standards/Code of Conduct issue and does not raise issues in relation to a particular Parish Councillor, suggested complainant raises the issue with the Parish Council Clerk.

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2021/10	CYC	York resident	17/06/2021	The complaint is in relation to a Tweet sent by the Cllr online. The complainant implies the Cllr has a prejudicial interest against taxis and does not see how the Cllr can continue as an Executive Member or remain on a Committee when it is dealing with issues related to taxi licensing.	Closed	Currently being assessed by MO.  Closed - the reason for this decision is that the contents of the complaint are not covered by the Code, and after reviewing the Bio on the Cllrs Twitter account, it has been made clear that statements are made in a personal capacity. Code of Conduct complaints must relate to conduct in the course of acting as a Councillor.
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