

**Public Meeting of
Joint Standards Committee**

To: Councillors Runciman (Chair), Barton, Horton and Taylor (City of York Councillors)
Councillors Martin (Vice-Chair), Crawford and Simpson (Parish Councillors)
Mr Hall (Independent Person) and Mr Laverick (Independent Person)

Date: Tuesday, 29 April 2014

Time: 3.30 pm

Venue: The Rowntree Room (GO62) - West Offices

AGENDA

1. Declarations of Interest

At this point, 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 may have in respect of business on this agenda.

2. Minutes (Pages 1 - 4)

To approve and sign the minutes of the meeting of the Joint Standards Committee held on 19 February 2014.

- 3. Minutes of Sub-Committees** (Pages 5 - 10)
To approve and sign the minutes of the Hearings Sub-Committee meeting held on 20 March 2014.

- 4. Public Participation**
At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Joint Standards Committee, may do so. The deadline for registering is **5:00 pm on Monday 28 April 2014.**

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/downloads/download/3130/protocol_for_webcasting_filming_and_recording_of_council_meetings

- 5. Attendance by Representatives of Parish Councils**
Parish Council representatives have been invited to attend the meeting to discuss any issues relating to monitoring standards of conduct and the committee's arrangements for dealing with complaints, including any feedback from the investigating process.

6. Standards Hearing (Pages 11 - 18)

The Committee recently concluded its first hearing under the new standards arrangements. This report invites Members to consider whether the experience of that case suggests that any improvements can be made to the Committee's protocols.

7. Monitoring Report in Respect of Complaints Received

The Monitoring Officer will give a verbal report in respect of complaints received.

8. Review of Work Plan (Pages 19 - 22)

Members are asked to review the Committee's work plan and suggest items for consideration at future meetings.

9. Urgent Business

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

Democracy Officer:

Name: Jayne Carr

Contact Details:

Telephone – (01904) 552030

Email – jayne.carr@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 and
- For receiving reports in other formats

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 (Polish)
własnym języku.**

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

Meeting	Joint Standards Committee
Date	19 February 2014
Present	Councillor Runciman (Chair) (CYC Member) Councillor Crawford (Parish Councillor) Councillor Galvin (CYC Member) – Substitute for Councillor Barton Councillor Horton (CYC Member) Councillor Martin (Vice-Chair) (Parish Councillor) Councillor Simpson (Parish Councillor)
In attendance	Mr Hall (Independent Person) Mr Laverick (Independent Person)
Apologies	Councillors Barton and Taylor

21. **Declarations of Interest**

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

22. **Minutes**

Resolved: That the minutes of the Joint Standards Committee meeting held on 11 September 2013 be confirmed and signed by the Chair as a correct record.

23. **Public Participation**

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

24. **Update on Parish Council Protocol on Parish Councillors/Employee Relations**

It was reported that there had been no further feedback from parish council representatives in respect of the Parish Council Protocol on Parish Councillors/Employee Relations (minute 18 of the meeting of 11 September 2013 refers).

25. Guidance on Disclosable Pecuniary Interests

Consideration was given to a report which presented recently revised guidance issued by the Department of Communities and Local Government on Disclosable Pecuniary Interests. The guidance - "Openness and transparency on personal interests" was included as an annex to the report.

Members were asked to consider whether any changes were necessary to the existing City or Parish Codes in light of the guidance.

Members discussed issues that had arisen for some Parish Councils regarding the declaring of interests in respect of planning issues, including the Local Plan and Neighbourhood Plans. Whilst it was acknowledged that the declaring of interests in respect of spouses and civil partners was required, clarification was sought as to whether councillors should declare an interest if this related to a member of their extended family. Members were advised that note would need to be taken of the Code of Conduct adopted by the parish council but the general advice was to be open and transparent and declare any such interest. A decision could then be taken as to whether the interest was prejudicial.

Resolved: (i) That the report be noted.

(ii) That no changes be made to the City or Parish Codes.

Reasons: (i) To ensure that Members are aware of the recent guidance and are satisfied that current arrangements are consistent with them.

(ii) Members were satisfied that the existing Codes of Conduct complied with the guidance on Openness and Transparency on Personal Interests.

26. Meeting of Standards Committee Chairs, Vice-Chairs and Independent Persons

Members considered a report that gave details of a recent meeting between North Yorkshire and York Standards

Committee Chairs, Independent Persons and Monitoring Officers.

Members were asked to identify any issues arising from the meeting which the Committee may wish to pursue. It was noted that discussions were ongoing regarding the delivery of training on the Codes of Conduct.

Resolved: That the report be noted.

Reason: To enable the committee to benefit from the sharing of good practice with other authorities.

27. Monitoring Report in Respect of Complaints Received

The Monitoring Officer gave a verbal report in respect of four complaints that had been received:

- (i) A complaint about a parish councillor had been investigated by a member of the legal team at City of York Council. The draft report had been shared with the parties for their observations.
- (ii) A complaint had been made against a City of York Councillor by other City of York Councillors. An independent investigator had determined that there had been no breach of the Code of Conduct. Having consulted the Independent Person, and in line with the procedures put in place by the Committee, the Monitoring Officer had confirmed that the matter was closed.
- (iii) A complaint had been made by a member of the public against a City of York Councillor regarding a planning issue. The Monitoring Officer had concurred with the advice of the Independent Persons that the complaint did not disclose a potential breach of the Code requiring investigation.
- (iv) A complaint had been made against three Parish Councillors. The complaint had been investigated by the former Chair of the Standards Committee. It had been determined that there had no breach of the Code of Conduct by two of the parish councillors but that the third had breached the Code. It had not been possible for a

local settlement to be agreed and hence a meeting of the Hearings Committee would be convened.

Resolved: That the update on complaints received be noted.

Reason: To ensure that the Committee is kept updated on complaints received.

28. Review of Work Plan

Consideration was given to the committee's work plan. Members were asked to identify any items they would wish to see included on the work plan.

It was agreed that, as local and parliamentary elections were due to be held in 2015, it would be appropriate for the committee to consider issues in respect of electoral probity.

It was noted that some issues had arisen for Parish Councils in respect of the drawing up of neighbourhood plans. Mr Hall offered to provide points of contact to assist in this process. This information would be circulated to Members following the meeting.

Resolved: That the committee's work plan be approved subject to the inclusion of an item on electoral probity and further consideration of the issue relating to neighbourhood plans.

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

Councillor Runciman, Chair

The meeting started at 3.00 pm and finished at 3.50 pm.

City of York Council

Committee Minutes

Meeting	Joint Standards Committee Hearings Sub-Committee
Date	20 March 2014
Present	Councillor Runciman (City of York Council Member) in the Chair Councillor Crawford (Parish Councillor) Councillor Simpson (Parish Councillor)
In Attendance	Mr Laverick (Independent Person) Mrs Bainton (Investigating Officer) Mr Docherty (Monitoring Officer) Mr Friend (Complainant) Mr Hammerton (Complainant) Mr Wilson (Complainant)

1. **Declarations of Interest**

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

2. **Public or Private Hearing**

Consideration was given as to whether the hearing of the case should be dealt with in public or private.

Resolved: That the hearing be held in public but the committee's deliberations be held in private.

3. **Complaint against a member of Osbaldwick Parish Council**

Consideration was given to a complaint that Councillor Laurence Pye may have breached the Code of Conduct of Osbaldwick Parish Council. The matter had been referred to the Hearings Sub-Committee for determination following an investigation.

Introductions were carried out.

The Monitoring Officer referred to an email sent by the Chair of Osbaldwick Parish Council stating why Councillor Pye would not be attending the hearing.

The Chair asked if any further submissions had been received from either party. An email from Mr Wilson, one of the Complainants, was tabled. The email elaborated on Mr Wilson's recollection of what had occurred at the Parish Council meeting.

The Monitoring Officer drew Members' attention to Annex E of the report which detailed the agreed facts.

The Investigating Officer presented her report and responded to questions.

The Complainants presented their case, detailing their recollections of the meeting at which the alleged breach of the Code of Conduct had taken place, and responding to questions. They stated that since that meeting the Parish Council had implemented changes regarding public participation at meetings.

It was noted that the subject Member had declined to attend the hearing.

The Investigating Officer confirmed that she had nothing further to add.

The Complainants and Investigating Officer withdrew from the meeting whilst the Sub-Committee determined its factual findings.

The Sub-Committee agreed the following findings of fact:

- That Councillor Pye was a member of Osbaldwick Parish Council
- That the Parish Council had adopted a Code of Conduct and that Councillor Pye, by accepting the office of Parish Councillor, had accepted that he was bound by that Code.
- That Councillor Pye had made the comment which had been complained of in that he referred to a member of the

public as a “pain in the arse”. The comment had later been retracted but an apology had not been given.

- The failure to give an apology was the only issue before the Sub-Committee.
- It was unclear as to whether the Parish Council had formal standing orders in place for its meetings but it was noted that procedures for public participation had changed following the event which occurred in September 2013.

The Complainants and Investigating Officer were recalled and informed of the Sub-Committee’s findings of fact.

The Chair invited the investigating officer to make submissions about whether the facts as found by the Sub-Committee, constituted a breach of the Code. The investigating officer stated that it was her view that the Code had been breached.

The views of the Independent Person were sought. He drew the Sub-Committee’s attention to the obligation in the Code for Members to “behave in such a way that a reasonable person would regard as respectful” and suggested that the Sub-Committee would need to determine whether the words used by Councillor Pye towards a member of the public would be regarded by a reasonable person as being respectful.

Members unanimously agreed that Councillor Pye had breached the Code of Conduct. In particular the comments breached the requirement of the Code that Members “shall behave in such a way that a reasonable person would regard as respectful”.

Consideration was given as to the sanction that was to be imposed in response to the breach of the Code.

The Investigating Officer was asked if she wished to make a submission about factors to be taken into account when the Sub-Committee decided on the appropriate penalty. She referred to Councillor Pye having declined to be interviewed in spite of the fact that she had shown flexibility regarding the arrangements for any such interview.

The Independent Person was asked if he wished to make any submission about factors to be taken into account in respect of an appropriate sanction. He drew Members’ attention to

paragraphs 10 and 11 of the report, which detailed possible sanctions that could be applied. He commented that it did not appear that Councillor Pye had shown any remorse for the incident. The Independent Member stated that it would not, however, be appropriate to increase the severity of any sanction because of Councillor Pye's behaviour during the course of the investigation.

The Complainants drew attention to the comment in their letter dated 27 September 2013 which stated that they hoped that "the outcome can be constructive".

The Complainants and Investigating Officer withdrew from the meeting whilst the Sub-Committee decided on the appropriate penalty.

Having considered all the evidence presented, it was

- RESOLVED:
- (i) That the findings of the Sub-Committee that Councillor Pye had breached the Code of Conduct be formally reported to Osbaldwick Parish Council.
 - (ii) That the Sub-Committee's regret that Councillor Pye has not yet taken the opportunity to apologise be recorded.
 - (iii) That it be recommended to Osbaldwick Parish Council that:
 - Members of the Parish Council be recommended to remind themselves of the requirements of the Code of Conduct which they have adopted.
 - The Parish Council be advised to consult Yorkshire Local Councils Association about ways of appropriately enabling the public to participate at Parish Council meetings and ensuring that effective standing orders are in place for meetings.

The Complainants and the Investigating Officer were recalled and informed of the decisions.

Councillor Runciman, Chair

[The meeting started at 9.00 am and finished at 10.45 am].

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Joint Standards Committee**29th April 2014****Report of the Monitoring Officer****Standards Hearing****Summary**

1. The Committee recently concluded its first hearing under the new standards arrangements. This report invites Members to consider whether the experience of that case suggests that any improvements can be made to the Committee's procedures.

Background

2. On 28th September last a complaint was received in relation to three Parish Councillors. As with all complaints this was handled in accordance with the Standards published procedures which are available online here:
http://www.york.gov.uk/downloads/file/11346/complaints_procedure
3. Initially the Monitoring Officer consulted with the Independent Person, although due to a conflict of interest, only one of them felt able to participate in advising on this case. The Monitoring Officer considered that advice and also had regard to the Committee's assessment criteria which are published here:
http://www.york.gov.uk/downloads/file/11347/city_of_york_council_joint_standards_committee_assessment_criteria_for_complaints

The Monitoring Officer considered at this stage whether a local settlement might be achievable in respect of part or all of the complaint. A decision was though reached to refer all three matters for investigation. That decision was communicated to the parties in mid October.

4. The former Chair of the Standards Committee was appointed to investigate. She interviewed all the relevant parties except one, who declined to be interviewed. She shared her draft report at the

beginning of January and, having taken on board comments made by the parties, completed her final report before the end of that month. The report concluded that the evidence did not substantiate breaches of the Code by two of the Members involved but that a third had breached the Code. That report was then considered by the Independent Person and Monitoring Officer and the findings of “no breach” were accepted. The parties were advised of this at the beginning of February and were also advised that there would be a hearing in respect of the remaining issue.

5. In the run up to the hearing the Monitoring Officer liaised with the parties and, largely speaking, was able to confirm the factual matters in dispute.
6. As with previous practice notice of the meeting was published but no papers were made public in advance of the Sub Committee determining to do so. However, advice was given the Sub Committee in the following terms:

“Members will need to consider whether to exclude the Press and public from the meeting. As the Committee is dealing with information relating to an individual its proceedings are exempt from the usual access to information provisions so long as, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In taking this decision Members will wish to consider the fact that the complaint relates to events which occurred in a public meeting and the extent to which the facts are agreed. Members will also take into account the public interest in transparent decision making on standards matters. It is, of course, possible for the Sub Committee to exclude the public from part of the meeting such as when any particularly sensitive information is being considered or during the Sub Committee’s deliberations as to whether the Code has been breached and as to sanction.”

7. The hearing took place on 20th March and was conducted following procedures which essentially mirror those used under the previous regime. A copy of the procedures is annexed to this report. Unsolicited feedback from the complainants suggests that they were happy with the way the hearing was conducted.

Issues for Members' consideration

8. Members will no doubt wish to see whether anything can be learned from this first case to reach a hearing under the new standards regime which might improve the handling of future cases. Some particular issues (and there may well be others) which Members may wish to consider are:
 - Timescales for investigations
 - Publicity for Hearings
 - The hearing procedure
9. This case was not unusually complex and took just under six months from complaint to conclusion. That is very much in line with the timescales being reported nationally under the previous regime. The last case handled in York took closer to eight months. The question is whether this is an acceptable timescale. If not, how could it be reduced?
10. There is a case to be made that a Member, who has not yet had a complaint proven against him or her, should not face adverse publicity. However, the clear public interest in the transparency of decision making on these matters will, in most cases outweigh the Member's individual interest. Members of the Committee may wish to discuss the future approach to publishing reports in relation to hearings.
11. The hearing procedure appears quite complex although, in practice, it is not as daunting as it first appears. It does follow a rather adversarial model and could set up a hearing to be about the investigation rather than what has happened. This model is in line with that which was recommended previously by the Standards Board. The Committee is free to change those procedures if it so wishes. One option would be to adopt a more inquisitorial model where the Committee takes responsibility for identifying the facts rather than simply relying on parties to present their cases.

Recommendations

12. Members are recommended to:

- 1) Consider the report and identify any areas where existing procedures might be improved.

Reason: To ensure that the Committee has strong arrangements in place for handling complaints.

Contact Details

Author:

Andrew Docherty

Monitoring Officer

CBSS

Tel No. 01904 551004

**Report
Approved**

Date 09/04/14

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

All

For further information please contact the author of the report

Background Papers:

None

Annex

Hearing Procedures

Hearing Procedure – Standards Sub Committee

This is the normal procedure adopted by the Sub Committee. However, the Chair may vary the procedure where the circumstances warrant doing so.

Setting the scene

1. Chair introduces Sub Committee and Monitoring Officer and invites others present to introduce themselves.
2. Chair explains the hearings process or invites the Monitoring Officer to do so.

Decision as to whether the meeting is in public or private

3. Chair invites representations from the parties.
4. Sub Committee make decisions after taking legal advice if necessary.

Other submissions

5. Any submissions by either party about the conduct of the case including disputes about witnesses, potential new information, new supporting documents and so on.

Factual issues

6. The Monitoring Officer reports on any pre hearing discussions with the parties and identifies facts which are agreed or in dispute
7. The Chair asks parties to confirm that their position remains as outlined by the Monitoring Officer
8. The Chair invites the investigating officer to present his report.
9. The Chair calls the complainant to give evidence in relation to disputed facts. The Chair will confirm that Members have already seen the original complaint and the statement he submitted to the investigator.
10. The Sub Committee, the Member complained of and the investigating officer to ask questions of the complainant.

11. The Chair invites the subject Member (if present) to present the evidence of fact on which they rely and to call any witnesses. If the subject member is not present the Chair will confirm that the Sub Committee have read the written evidence submitted on behalf of the subject member.
12. The investigating officer and members of the Sub Committee to ask questions of the Member and/or their witnesses.
13. The investigating officer and subject Member to make submissions on questions of fact.
14. The Chair indicates that the Sub Committee will adjourn to decide its factual findings.
15. Findings of fact are outlined to the parties by Chair.

Whether the facts as found amount to a breach of the Code

16. The Chair invites the investigating officer to make submissions about whether the facts as found by the Sub Committee constitute a breach of the Code.
17. Members of the Sub Committee to ask questions of clarification.
18. The Chair invites the investigating officer to make submissions about whether the facts as found by the Sub Committee constitute a breach of the Code
19. Members of the Sub Committee to ask questions of clarification.
20. The Chair invites the subject Member to make submissions about whether the facts as found by the Sub Committee constitute a breach of the Code.
21. Members of the Sub Committee to ask questions of clarification.
22. The Chair asks the Independent Person for any observations
23. The Chair indicates that the Sub Committee will adjourn to decide whether there has been a breach of the Code.

What sanction to impose if a breach is found

24. The Chair invites the investigating officer to make submissions about factors to be taken into account when the Sub Committee decides on the appropriate penalty.
25. Members of the Sub Committee to ask questions of clarification.
26. The subject Member to make submissions about factors to be taken into account when the Sub Committee decides on the appropriate penalty.
27. Members of the Sub Committee to ask questions of clarification.
28. The Chair asks the Independent Person for any observations
29. The Sub Committee adjourns to decide on the appropriate penalty.
30. The Sub Committee will usually announce its decision at the end of the hearing. If possible, a short written notice may be provided on the day but in any event a full written decision will be provided to the parties within two weeks of the hearing

Recommendations from the Hearing Sub Committee

31. The Sub Committee will consider whether it should make any recommendations to the Parish Council, with a view to promoting high standards of conduct among members.

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Work Plan for Joint Standards Committee

<u>Meeting Date</u>	<u>Items</u>	<u>Notes</u>
26 June 2013 at 3.00pm	<ul style="list-style-type: none"> • <i>Appointment of Chair for municipal year</i> • <i>Appointment of Vice-Chair for municipal year</i> • <i>Monitoring report in respect of complaints received</i> • <i>Update on Planning Code of Practice</i> • <i>Update on the recruitment of independent person</i> • <i>Committee on Standards in Public Life Triennial Review</i> 	<p><i>Standard item</i></p> <p><i>As agreed at meeting of 20 February 2013 (minute 29)</i></p> <p><i>As agreed at meeting of 20 February 2013 (minute 30)</i></p>
11 September 2013 at 3.00pm	<ul style="list-style-type: none"> • <i>Monitoring report in respect of complaints received (to include summary report re complaints for last municipal year)</i> • <i>Summary of the arrangements in place for the initial handling of complaints by Monitoring Officer and Independent Persons</i> • <i>Update on Planning Code of Conduct (in respect of City and Parish Councils)</i> • <i>Parish Council Protocol on Parish Councillors/Employee Relations</i> 	<p><i>Standard item</i></p> <p><i>As agreed at meeting of 26 June (minute 4)</i></p> <p><i>As agreed at meeting of 26 June (minute 7)</i></p> <p><i>As agreed at meeting of 17 April 2013 (minute 36)</i></p>

13 November 2013 at 3.00pm [Meeting cancelled]	<ul style="list-style-type: none"> • <i>Monitoring report in respect of complaints received</i> • <i>Update on Parish Council Protocol on Parish Councillors/Employees Relations</i> 	Standard item As agreed at meeting of 11 September 2013
19 February 2014 at 3.00pm	<ul style="list-style-type: none"> • <i>Monitoring report in respect of complaints received</i> • <i>Feedback on meeting arranged by North Yorkshire County Council for Monitoring Officers, Chairs and Vice-Chairs and Independent Persons</i> • <i>Guidance on Disclosable Pecuniary Interests</i> 	Standard item As agreed at meeting of 11 September 2013
29 April 2014 at 3.00pm	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Parish Council Representatives to be invited to meet with the Committee • Report on Standards Hearing 	Standard item As agreed at meeting of 17 April 2013 (minute 38)
18 June 2014 at 3.00pm	<ul style="list-style-type: none"> • Appointment of Chair for municipal year • Appointment of Vice-Chair for municipal year • Monitoring report in respect of complaints received • Review of the arrangements for handling complaints. 	Standard item As agreed at meeting of 28 November 2012 (minute 19)
10 September 2014 at 3.00pm	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
12 November 2014 at 3.00pm	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
18 February 2015 at 3.00pm	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
22 April 2015 at 3.00pm	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item

To be included:

- *Promoting ethical standards (as agreed at meeting of 20 February 2013 – minute 25)*
- *Review of the Code of Conduct (as agreed at meeting of 20 February 2013 – minute 28)*
- *Guidance on hospitality (as agreed at meeting of 20 February 2013 – minute 28)*
- *Electoral Probity (as agreed at meeting of 19 February 2014 – minute 28 refers)*
- *Issues in respect of neighbourhood plans (as agreed at meeting of 19 February 2014 – minute 28 refers)*

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