

Joint Standards Committee

- To:** Cllrs Runciman, Cannon, Hayes, Kramm and Richardson
(CYC Members)
Cllr Wiseman (Parish Council Member)
David Laverick and Angharad Davies (Independent
Persons)
- Date:** Wednesday, 18 April 2018
- Time:** 4.00 pm
- Venue:** The King Richard III Room (GO49) - West Offices

AGENDA

1. Declarations of Interest

Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they might have in respect of business on this agenda.

2. Minutes (Pages 1 - 4)

To approve and sign the minutes of the meeting of the Joint Standards Committee held on 31 January 2018.

3. Minutes of Sub-Committees (Pages 5 - 10)

To approve and sign the minutes of any meetings of the Standards Committee Sub-Committees that have taken place since the last Standards Committee meeting. Minutes of the meetings of the Assessments Sub-Committee held on 23 February and 8 March are attached.

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 Tuesday, 17 April 2018**. To register to speak please contact the Democracy Officer for the meeting on the details at the foot of the agenda.

Filming or Recording Meetings

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

5. Monitoring Report on Complaints Received (Pages 11 - 12)

To receive a routine update report on recent standards complaints.

6. Review of Local Government Ethical Standards (Pages 13 - 28)

This report advises Members of a review into ethical standards in local government being conducted by the Committee on Standards in Public Life and seeks their views on a proposed response to consultation.

7. Updating the Code of Conduct (Pages 29 - 74)

This report advises Members of the work of the task group established to consider the Member code of conduct and seeks approval for a revised code and associated guidance.

- 8. Civic Guide and Gifts** (Pages 75 - 82)
This report seeks Members' views on the inclusion of further guidance within the Civic Guide for the Lord Mayor and Civic Party in relation to receiving gifts.
- 9. Membership of the Committee** (Pages 83 - 84)
This report advises Members of changes to the committee membership and provides an update on progress to secure additional parish council representation.
- 10. Review of Work Plan** (Pages 85 - 86)
Members are asked to give consideration to the committee's work plan for 2018-19.
- 11. Urgent Business**
Any other business which the Chair decides is urgent under the Local Government Act 1972.

Democracy Officer:

Name: Fiona Young

Contact Details:

Telephone – (01904) 552030

Email – fiona.young@york.gov.uk

For more information about any of the following please contact the Democracy 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 (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

Committee Minutes

Meeting	Joint Standards Committee
Date	31 January 2018
Present	Councillors Runciman, Cannon and Kramm (CYC Members) Councillors Perrett and Wiseman (Parish Council Members) Mr Laverick (Independent Person)
Apologies	Councillors Hayes and Mercer (CYC Members) Ms Davies (Independent Person)

23. 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 might have in respect of business on the agenda. None were declared.

24. Minutes

Resolved: That the minutes of the meeting of the Joint Standards Committee held on 29 November 2017 be confirmed, and signed by the Chair as a correct record.

25. Public Participation

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

Gwen Swinburn spoke on Agenda Item 5 (Review of the Code of Conduct), describing the review report as confusing and in need of further work and consultation. She went on to make a series of points about the standards process in general, which she considered 'chaotic'.

26. Monitoring Report on Complaints Received

Members received a routine update report on recent standards complaints.

Since the last meeting, one new matter had been opened and would be referred to an assessments sub-committee. Two older matters were still

ongoing. A number of further complaints had been received in the past week; these were being progressed.

Following discussion, and in response to questions from Members, the Monitoring Officer confirmed that:

- There was no legal requirement to exclude members of the same political group as the subject of the complaint from the sub-committee dealing with that complaint, though this tended to be the practice;
- Information on timescales for dealing with complaints was brought to the committee as part of the annual review.

Resolved: That the report and additional information be noted.

Reason: To confirm that the committee is aware of current levels of activity.

27. Review of the Code of Conduct

Members considered a report which outlined the work of the group established by the committee in August 2017 to review the City Council's Code of Conduct for councillors (the Code).

The changes recommended by the working group were summarised in paragraph 4 of the report and detailed in the revised version of the Code attached as Annex 1. The group had also recommended that the Code be accompanied by guidance, the proposed wording of which was set out in Annex 2.

Following a discussion on the content of the revised Code and taking into consideration matters raised under public participation, it was

Resolved: That a further meeting of the working group be convened to consider the draft revised Code of Conduct and guidance again before bringing it back to the committee.

Reason: To ensure that all matters have been properly considered before the committee recommends the revised Code to Council for adoption and endorses the accompanying guidance.

28. A Code of Conduct for Planning Panels

Members considered a report which sought approval for the final version of a code of conduct for members of Ward Planning Panels, following consultation on the draft amended version considered at the meeting on 5 July 2017.

The final version, incorporating changes suggested by the Planning Panels and fed back by the Communities & Equalities (C&E) team, was attached as Annex 1 to the report. If approved, it would be sent to the C&E team for distribution to Panel members.

Resolved: That, subject to the correction of some typographical errors in sections 1.2 and 3.1, the final draft code of conduct attached at Annex 1 be approved.

Reason: To ensure that the Planning Panels can command public confidence.

29. Review of Work Plan

Members considered the committee's work plan and whether any further items should be included on the agendas for the final meeting of the 2017/18 municipal year.

Resolved: That the following items be added to the work plan for consideration at the meeting on 18 April 2018:

- Ethical Standards Review
- Review of CYC Code of Conduct (following further consideration by the working group)
- Review of CYC Protocol on Officer / Member relations (following initial consideration by the working group)

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

Cllr C Runciman, Chair

[The meeting started at 4.00 pm and finished at 4.45 pm].

This page is intentionally left blank

City of York Council

Committee Minutes

Meeting	Joint Standards Committee - Assessments Sub-Committee
Date	23 February 2018
Present	Councillors Hayes and Runciman (CYC Members) Councillor Perrett (Parish Council Member)
In Attendance	Ms Davies and Mr Laverick (Independent Persons)

15. Appointment of Chair

Resolved: That Cllr Runciman be appointed as Chair of the meeting.

16. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests, which they might have in the business on the agenda. No additional interests were declared.

17. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during consideration of agenda items 4, 5, 6 and 7 (Complaints against Members of a Council covered by the Joint Standards Committee), on the grounds that these items contain information relating to individuals and information likely to reveal the identify of individuals. This information is classed as exempt under paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

18. Complaint against a Member of a Council covered by the Joint Standards Committee

Members considered a complaint made in September 2017 against a Member of a Council covered by the Joint Standards Committee.

The complaint related to a potential breach of the Councillor Code of Conduct and the Protocol on Officer/Member relations by the said Member at a meeting at which they were in attendance.

Members considered the following options:

- To decide that no further action be taken
- To refer the matter to the Monitoring Officer for investigation,
- To consider whether some other action may be appropriate.

Having reviewed the evidence provided in relation to the complaint, including a report prepared by the Local Government Authority (LGA), and taking into account the comments of the Independent Persons, it was

Resolved: (i) That no further action be taken.

Reason: The Assessments Sub-Committee does not consider that the Code of Conduct has been breached in this case.

(ii) That the recommendations made by the Audit & Governance Committee in respect of the LGA report, at their meeting on 11 December 2017, be endorsed.

Reason: As a sensible step forward in improving the council's organisational culture

19. Complaint against a Member of a Council covered by the Joint Standards Committee

Members considered a complaint made in September 2017 against a Member of a Council covered by the Joint Standards Committee.

The complaint related to a potential breach of the Councillor Code of Conduct and the Protocol on Officer/Member relations by the said Member at a meeting at which they were in attendance.

Members considered the following options:

- To decide that no further action be taken
- To refer the matter to the Monitoring Officer for investigation,
- To consider whether some other action may be appropriate.

Having reviewed the evidence provided in relation to the complaint, including a report prepared by the Local Government Authority (LGA), and taking into account the comments of the Independent Persons, it was

Resolved: That no further action be taken.

Reason: The Assessments Sub-Committee does not consider that the Code of Conduct has been breached in this case.

20. Complaint against a Member of a Council covered by the Joint Standards Committee

Members considered a complaint made on 22 January 2018 against a Member of a Council covered by the Joint Standards Committee.

The complaint related to a potential breach of the Code of Conduct by the Member in respect of a declaration of interest.

Members considered the following options:

- To decide that no further action be taken
- To refer the matter to the Monitoring Officer for investigation,
- To consider whether some other action may be appropriate.

Having reviewed the evidence provided, and taking into consideration the views of the Independent Persons, it was

Resolved: (i) That no further action be taken.

Reason: The Assessments Sub-Committee does not consider that there has been a breach of the Code of Conduct in this case.

, (ii) That the member in question be advised to declare an interest and withdraw from the meeting should a similar situation arise in future.

Reason: To be clear that procedures have been properly complied with.

21. Complaint against a Member of a Council covered by the Joint Standards Committee

Members considered a complaint made on 25 January 2018 against a Member of a Council covered by the Joint Standards Committee.

The complaint related to a potential breach of the Code of Conduct by the Member in question at a meeting they had attended.

Members considered the following options:

- To decide that no further action be taken
- To refer the matter to the Monitoring Officer for investigation,
- To consider whether some other action may be appropriate.

Having reviewed the evidence provided, and taking into consideration the views of the Independent Persons, it was

Resolved: (i) That no further action be taken.

Reason: The Assessments Sub-Committee does not consider that there has been a breach of the Code of Conduct in this case.

(ii) That the member in question be advised to consider whether they may have received any gifts or hospitality that should be disclosed.

Reason: To ensure that the disclosure requirements have been properly complied with.

Cllr C Runciman, Chair

[The meeting started at 2.30 pm and finished at 3.45 pm].

Meeting	Joint Standards Committee - Assessments Sub-Committee
Date	8 March 2018
Present	Councillors Runciman (Chair), Cannon and Mercer (CYC Members)

22. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests, that they might have in the business on the agenda. No interests were declared.

23. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during consideration of Agenda Item 3 (Complaint against a Member of a Council covered by the Joint Standards Committee), on the grounds that it contains information relating to an individual, which is classed as exempt under paragraph 1 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

24. Chair's Question - meeting called at short notice

In view of the short notice provided, the Chair queried whether the meeting had been properly convened. The Monitoring Officer confirmed that it had, adding that the reason for the urgency was that the outcome of the complaint may have an impact on the decision to be taken at the Extraordinary Council meeting the same evening.

25. Complaint against a Member of a Council covered by the Joint Standards Committee

Members considered a report on complaint made against a Member of a Council covered by the Joint Standards Committee.

The complaint related to a potential breach of the Councillor Code of Conduct by the said Member in respect of declarations of interests.

Members considered the following options:

- To decide that no further action be taken
- To refer the matter to the Monitoring Officer for investigation,
- To consider whether some other action may be appropriate.

Having considered the evidence before them, and taking into consideration the comments of the Independent Persons, Members

Resolved: (i) That no further action be taken.

Reason: The Assessments Sub-Committee do not consider that the Code of Conduct has been breached in this case.

(ii) That the member in question be provided with advice in respect of declaring interests, and be advised to consider their position regarding membership of the Gambling & Licensing Committee.

Reason: To ensure that a similar situation does not arise in future.

Cllr C Runcman, Chair

[The meeting started at 5.00 pm and finished at 5.40 pm].



Joint Standards Committee**18 April 2018****Report of the Monitoring Officer****Monitoring Report on Complaints Received****Summary**

1. This is a routine report to update the Committee on recent standard complaints.

Background

2. Since the Committee last met in January six new complaints have been received about City Councillors and two about Parish Councillors. Of these complaints three have been referred to assessment sub committees and three have been concluded by the Monitoring Officer acting in consultation with the Independent persons. None have resulted in formal action but advice has been given to Members in some cases and one also resulted in an apology being offered for any inadvertent caused.
3. Two cases are still going through the assessment process.
4. Two further cases which have not been previously reported were considered by an Assessment Sub Committee and resulted in no action being taken.
5. At the last meeting the Monitoring Officer reported that he was in discussion with one complainant whose complaint required additional information. That information has not arrived but further discussions have led to the Parish Council involved inviting YLCA to offer some support which may help with any underlying issues.
6. One case is the subject of an ongoing investigation with reports expected shortly.

Recommendations

7. Members are recommended to:

- 1) Note the report
- 2) Consider reviewing how this information is presented to the Committee in future.

Reason: To ensure that the Committee is aware of current levels of activity and that the standards complaints system is used for its primary purpose.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

Report **Date** 09/04/18
Approved

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

For further information please contact the author of the report

Background Papers:

None



Joint Standards Committee

18 April 2018

Report of the Monitoring Officer

Review of Local Government Ethical Standards

Summary

1. This report advises the Committee of a review into ethical standards in Local Government being conducted by the Committee on Standards in Public Life and seeks this Committee's views on a proposed response to a stakeholder consultation.

Background

2. The Committee on Standards in Public Life is undertaking a review of local government ethical standards. The terms of reference for the review are to:
 - examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
 - assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
 - make any recommendations for how they can be improved

- note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation
3. The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).
 4. The Committee on Standards in Public Life is currently inviting responses from stakeholders to a number of questions. These questions and a possible response are set out in the annex to this report.

Recommendations

5. Members are recommended to:
 - 1) Approve the annexed documents as the Joint Standards Committee's response to the current consultation.

Reason: To allow the Committee to contribute to a national debate on local government standards.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

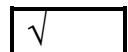
**Report
Approved**



Date 09/04/18

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

Consultation response

This page is intentionally left blank

1. *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.*

1.1 According to the Local Government Association there are over 18,000 Councillors in the local authorities they represent. In addition the National Association of Local Councils estimates there are some 80,000 Parish and Town Councillors. Set against those numbers the examples of significantly poor behaviour from Councillors are low in number. To that extent therefore the arrangements appear to work most of the time.

However, the current regime suffers from:

- An inadequate national regime – the legislation is poorly drafted, it is difficult to apply and has obvious gaps.
- Inconsistency – with different Councils applying different codes Different codes may apply even within one area with dual hated Members having to apply different standards depending on whether they are acting on Parish or City business.
- An absence of appropriate sanctions for the most serious misconduct.
- Not being up to the challenge of tackling poor behaviour from Members towards Officers. Standards complaints processes are better suited to dealing with external complaints. That though does leave a gap where Member/Officer relations require improvement. This is particularly the case where Group discipline is not being applied effectively or, as with many Parish and Town Councils, where there are no political groups.
- Not being established to deal with governance failings in Parish and Town Councils which, along with issues

relating to individual relationships, constitute the bulk of Parish complaints.

2. *What, if any, are the most significant gaps in the current ethical standards regime for local government?*

2.1 See answer to (a)

3. *Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?*

3.1 Local authorities are free to adopt their own codes of conduct and so there is variation even within local areas. It is difficult to understand why behaviour which may be considered inappropriate within one Council should be permissible in another area, or worse still, in another Council operating in the same area. As the number of cross border bodies increases with, for example, new Combined Authorities and Sub National Transport Bodies the significance of this issue can only grow.

3.2 The previous Standards Board issued regular bulletins and annual case reviews which gave an opportunity to see how the Code of Conduct might be applied in practice. Some of the devolved regimes have adopted guidance to run alongside their codes giving similar practical examples. The City of York Council is in the process of reviewing its code and developing guidance along these lines.

4. *A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these*

requirements appropriate as they stand? If not, please say why.

4.1 No, there is no obvious reason why different arrangements should apply in different Councils - at least at the same tier.

5. Are allegations of councillor misconduct investigated and decided fairly and with due process?

5.1 In our experience, yes.

6. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

6.1 In York the Monitoring Officer has delegated powers to assess whether a complaint requires investigation and to instigate such an investigation. These decisions are made in consultation with the Independent Persons. That consultation exceeds statutory requirements but is considered to be appropriate. These powers were granted as a result of the Standards Committee's experience of the previous national regime where a reasonably high proportion of cases requiring a Sub Committee to be convened, were either hopeless from the outset or obviously required investigation.

6.2 York has appointed two Independent Persons and both are consulted on all cases. The Standards Committee considers this to be a particular strength of the York processes.

6.3 The Monitoring Officer also has power to secure local resolutions of complaints in consultation with the Independent Persons. Again this power came about as a result of the Standards Committee's experience of cases under the previous national arrangements ,

- 6.4 The Monitoring Officer can choose not to exercise delegated powers and refer cases to a Sub Committee. When these Sub Committees meet they are also advised by the Independent Persons. In addition the Monitoring Officer reports at meetings of the Standards Committee on all complaints.
- 6.5 Investigations are normally carried out either by a member of the Monitoring Officer's staff, a colleague from another Council or a volunteer who was formerly an independent Chair of a Standards Committee. These arrangements work well but the Committee recognises that some cases require external investigation. The cost of securing external investigators is a concern to the Committee.
- 6.6 Where a breach of the code has been identified and local resolution has not been deemed appropriate hearings are arranged before a Sub Committee of Members advised by the Independent Persons. The Committee has chosen to adopt an investigatory rather than an adversarial approach to hearings - more akin to a Coroner's inquest than a tribunal. The Committee considers that this is likely to be a better approach for local hearings but has had only limited of applying the approach in practice.
- 7. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?**
- 7.1 As previously stated in York two Independent Persons have been appointed and both are consulted on both the decision as to whether a case should be investigated and on cases which have been subject to investigation. The Standards Committee considers that there is a strong case for suggesting that

Independent Persons should be involved in the decision as to whether or not a case is investigated. The Standards Committee also believes that having the opportunity to take the views of more than one Independent Person is advantageous.

7.2 The current statutory provision that the Independent Person may be consulted by a Member who is the subject of an allegation is rarely used in practice and not entirely satisfactory.

8. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

8.1 Monitoring Officers have always had numerous roles in the Standards process. This does create potential conflicts of interest.

8.2 Monitoring Officers may have advised on whether a particular interest has to be declared. Depending on local procedures they may then be responsible for receiving complaints, deciding on whether they should be investigated, investigating themselves or appointing an investigator and advising the decision makers. On some occasions they may also be asked by a potential complainant as to whether they have grounds for complaint.

8.3 Most Monitoring Officers have a legal background and are used to managing potential conflicts of interest. Some of them can be mitigated by the published arrangements an authority adopts. For example the answer to the question as to whether someone has grounds for a complaint may well be as simple as pointing the person to the Code of conduct and criteria that will be used in assessing that complaint.

8.4 Many Councils operate informal mutual aid schemes so a Monitoring Officer for one Council will support another. These

arrangements can work well and should be encouraged. Some Monitoring Officers use volunteers to support parts of the process – tapping in on the skills of former independent Members lost when the Localism Act 2011 was enacted.

- 8.5 However, Monitoring Officers should be entitled to expect that adequate budgetary provision will be available where they determine that external support is required. If supporting the standards regime were added as a duty of Monitoring Officers under section 5 of the Local Government and Housing Act 1989, then the employing authority would have a statutory obligation to provide the required resources.
- 8.6 Monitoring Officers may be subject to pressure when performing these duties. This is likely to a greater issue where political groups do not take a proactive approach to enforcing party discipline and the issue cannot easily be addressed through a conversation with the relevant Whip and Group Leader.. There are many ways this could be addressed including:
- A role for the Independent Persons in providing support to the Monitoring Officer
 - The reintroduction of statutory employment protection for Monitoring Officers
 - The creation of a national whistle blowing hotline for Monitoring Officers given that the use of local arrangements. is likely to be difficult.

9. Are existing sanctions for councillor misconduct sufficient?

- 9.1 For most cases yes. However, the sanctions available are not sufficient to deal with a relatively small number of serious cases of misconduct.

10. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

10.1 The City Council has identified the following possible sanctions:

- 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 Committees 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
- Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;
- Remove *[or recommend to the Parish Council via the Clerk/Chair 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 via the Clerk/Chair that it withdraws]* facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access.

10.2 Most Councillors want to behave properly and the sanction of public censure would impact on them significantly. There is

though a smaller group who may regard being sanctioned as something of a badge of honour.

11. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

11.1 Yes, removal of special responsibility allowances for a defined period of time would have a deterrent value. Suspension or disqualification from office are sanctions which should be available but such draconian sanctions would need to be imposed by an external agency.

12. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

12.1 The arrangements to register disclosable pecuniary interests are open to some improvement. Given that they are defined in a statutory instrument it has hardly surprising that the wording is legalistic. It is though perhaps asking a lot to expect all Councillors to realise what a "beneficial interest" in land constitutes or to know when a contract has been "fully discharged".

12.2 Whether other interests should be registered may be a matter for debate. The view in York is that the previous national code had it about right in requiring certain outside body appointments to be included on the register.

12.3 The arrangements for declaring disclosable pecuniary interests are seriously flawed. It is generally recognised that this was a poorly drafted piece of legislation. The concept of "having" a disclosable pecuniary interest stretched the English language to such an extent that the Government guidance abandoned it in favour of the more satisfactory question as to whether business relates to a registerable interest. Unfortunately that causes its

own problems as the question arises then as to how close that interest has to be. The Courts in recent cases seem to be giving us an answer of “quite close” so in *The Queen on the Application of Freud v Oxford City Council*, the employment of Chair of the Planning Committee by University would not apparently have given him a DPI because he wasn’t employed in that part of the University. Similarly in *Kelton v Wiltshire Council v HPH LTD* the Councillor was a director of a Housing Association which was being lined up to deliver affordable housing on a development. He avoided having a DPI because the Association was not contractually committed to the project.

- 12.4 Councillor Flower from Dorset may therefore count himself more than a little unlucky to have gained a criminal record for his indiscretion but it seems questionable whether any of the three Councillors acted wholly in accordance with the highest standards of conduct.
- 12.5 The answer to this is to abolish the criminal offence and have a more comprehensive code. Other legislation can properly deal with corrupt behaviour. Most cases should be dealt with through the standards system.
- 13. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?**
- 13.1 No, for the reasons set out above.

14. What arrangements do local authorities have in place to declare councillors’ interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

14.1 The City of York Council has retained a slightly modified version of the previous national code’s requirement to declare personal interest and withdraw from meetings where that decision is “prejudicial”.

15. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

15.1 The Council has published arrangements for receiving complaints from the public –either about standards matters or more generally.

15.2 The Council has an internal whistle blowing policy which follows best practice guidelines. However, it is not obvious that this provides a clear route for a Monitoring Officer to raise concerns. In Councils where the Monitoring Officer feels unable to raise his or her concerns it may well that other senior Officers feel similarly.

16. What steps could *local authorities* take to improve local government ethical standards?

16.1 Political groups could be supported to exert stronger internal discipline. However, this may be difficult in areas where the political balance is close.

16.2 Parish Councils could ensure that their Clerks have the skills necessary to undertake this sometimes complex role whether by having undertaken sufficient appropriate training or having obtained a relevant qualification.

17. What steps could *central government* take to improve local government ethical standards?

17.1 The Localism Act provisions should be abolished. A comprehensive national code should be put in place with national arrangements for dealing with the most complex or serious cases.

18. What is the nature, scale, and extent of intimidation towards local councillors?

i.

What measures could be put in place to prevent and address this intimidation?

18.1 This is a significant issue. Intimidation is not though restricted to local councillors. Council officers are also, regularly subject to intimidation in some areas and, unlike councillors, lack the freedom to respond.

18.2 Intimidation is largely through social medial, comments on local press websites and misuse of public participation seasons at Council meetings. This is happening on a daily basis and sometimes more often.

This page is intentionally left blank



Joint Standards Committee**18 April 2018****Report of the Monitoring Officer****Updating the code of conduct****Summary**

1. This report advises Members on the work of the task group of the Committee considering a revised Member code of conduct.

Background

2. The Committee established a task group to develop a revised code of conduct. At the last meeting the Committee asked the task group to take a further look at the draft code.
3. The task group has now met and, in the light of recent experience from complaints, is proposing an addition to the code. The task group has noted that there have been recent cases where it would have been advantageous for Members to have had the opportunity to voluntarily register an interest which he or she is not required to register under the current code. A revised version of the draft code and guidance incorporating this change is annexed to this report. The changes are identified in bold in sections 7 and 8.

Recommendations

6. Members are recommended to:
 - 1) Recommend to Council that it adopts the revised code of conduct now presented
 - 2) Approve the associated guidance to Members

Reason: To ensure that the City Council has a robust and easily understood code of conduct.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

**Report
Approved**

Date 09/04/18

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

Revised code of conduct and guidance

Part 1: Principles

The wording of the code	Guidance for Members
<p>1. This code of conduct has been adopted by the City Council and is based on the following principles:</p> <ul style="list-style-type: none">• <u>Selflessness</u> – Holders of public office should act solely in terms of the public interest. They should not do so to gain financial or other benefits for themselves, their family or their friends.• <u>Integrity</u> – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.• <u>Objectivity</u> – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit and facts not on personal judgements• <u>Accountability</u> – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.• <u>Openness</u> – Holders of public office should be as open as possible about all the decisions and actions they take. They should be prepared to give reasons	<p><i>These are the Nolan principles adopted by the Committee on Standards in Public life. They underpin the code of conduct. Whenever you are considering whether a particular action is appropriate it may be helpful to reflect on these principles and determine which course of action is most consistent with them.</i></p>

<p>for their decisions and restrict information only when the wider public interest clearly demands.</p> <ul style="list-style-type: none"> • <u>Honesty</u> – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. • <u>Leadership</u> – Holders of public office should promote and support these principles by leadership and example. 	
<p>2. While this Code only applies to Councillors when acting as such the Council hopes and expects that these principles will be followed by Members both in their public and in their private lives</p>	<p><i>The Localism Act 2011 requires Councils to have codes of conduct dealing with the behaviour of Councillors and co-opted Members when they are acting as such. The Council cannot seek to enforce high standards of conduct in a Member's private life. However, the Standards Committee urges you to remember that, so far as the majority of the public is concerned, you are never off duty. Maintaining high standards of conduct in private as well as in public is essential for the reputation of the individual, the Council and local democracy as a whole.</i></p>

Part 2: General Provisions

2. (1) This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of the City of York Council.
- (2) This Code also applies to any person appointed as a co-opted member of the City Council or any of its Committees when acting as such.

The Code applies to councillors and co-opted members when they are acting as such. The Localism Act 2011 defines co-opted members so as to include only voting members of committees and sub committees or any on joint committees. Not every member of a committee or sub committee is entitled to vote. The general principle established by section 13 of the Local Government and Housing Act 1989 is that only elected Members are entitled to vote.

There are though exceptions to this rule. The Health and Well Being Board is formally a Committee of the Council but contains voting members who are Council officers or who represent partner organisations. The code of conduct applies to these individuals.

In addition any church and parent governor representatives on the scrutiny committee which reviews education matters have voting rights. In York that Committee is the Children, Education and Communities Policy and Scrutiny Committee.

The Council's Audit and Governance Committee has co-opted members but they do not have a vote and are not formally covered by the Code.

The Independent Remuneration Panel which advises on

	<p><i>members allowances is not a Committee of the Council. The Independent persons who advise the Standards Committee are prohibited by law from being members of the Council. Accordingly, they fall outside the definition of a co-opted member.</i></p> <p><i>The Standards Committee advises that, as part of the appointment process, candidates for these independent and co-opted roles should be asked to undertake to abide by the Nolan principles and that failure to do should result in their removal from office.</i></p>
<p>(3) A person will be acting as a Councillor or as a co-opted member when:</p> <ul style="list-style-type: none"> • Present at formal meetings of the Council. • Attending informal meetings such as briefings from Officers, Member training events etc. • Performing duties entrusted to them by the Council • Performing functions associated with the ordinary role of Councillor – such as undertaking casework for residents • Otherwise acting, claiming to act or giving 	<p><i>When does the code apply?</i></p> <p><i>The code applies when you are acting as such. The code sets out circumstances when the code will apply. The most difficult of these is where a Member is acting or giving the impression that they are acting as a Member.</i></p> <p><i>If you are using the title of “Councillor” in any dealings you should expect that the Standards Committee will consider you to be acting as such. This includes circumstances where you are using your Council e-mail address. However, Councillors cannot assume that by using personal e-mail, texts or other communications that they have brought themselves outside the remit of the code.</i></p> <p><i>Invitations to events, meetings and functions can be</i></p>

the impression that they are acting as a Councillor or co-opted member– including, for example, when using the title of Councillor in written communications

But a person will not be acting as a Councillor or as a co-opted member when acting as a trustee or director of another organisation even where the appointment to that role was made by the Council.

problematic. The question will be whether you have been invited because you are a Member of the Council or in some other capacity. An issue which has arisen is where the Member is asked to represent his or her political party on national local government bodies. The Standards Committee takes the view that in those circumstances you would not be not acting as a member of the Council.

Social media is another difficult area. As previously stated a Councillor who is using their official title is likely to be considered to be acting as such. Similarly when discussing Council business a Councillor is likely to be regarded as acting in their official capacity. You should though be aware that if you regularly use social media for Council business it may be difficult for members of the public to recognise that a particular post or tweet is not being sent in your official capacity. You could consider having more than one social media account if you feel that this could present problems for you. That will not automatically safeguard you but will be a factor in determining whether you were acting in a prorate or political capacity as opposed to as a member of the Council.

When they are seeking to secure their election (or that of anyone else) Councillors will be acting in a personal or a political capacity and not in their role as a Councillor. Accordingly election activities are not covered by the code of conduct.

<p>Definitions</p> <p>3.</p> <p>(1) A “co-opted member”, is a person who is not an elected member of the authority but who –</p> <p>(a) is a member of any committee or sub-committee of the authority, or</p> <p>(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and in either case is entitled to vote at any meeting of that committee or sub-committee</p>	<p><i>This defines the term co-opted member. As already mentioned only voting members are covered by the code.</i></p>
<p>(2) “meeting” means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Executive or any committee of the Executive.</p>	<p><i>Later in the code there are requirements to declare interests at meetings. This definition makes it clear that it is only formal meetings of the Council which are included in that requirement.</i></p> <p><i>However, in the interests of openness you should think about making your interests known in other situations particularly where failing to do so could give rise to an accusation that you have attempted to exercise influence inappropriately.</i></p>

<p>3) A “sensitive interest” is one where you consider that disclosure of the details an interest could lead to you, or (a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. Section 8 of this Code contains rules for dealing with such interests.</p>	<p><i>Registers of interests are publicly accessible and published on the Council’s website. The Monitoring Officer may agree that for “sensitive interests” that publication is not required. This section of the Code includes the definition of a “sensitive interest”</i></p>
--	---

General Duties as to Conduct

<p>4. (1) You must treat others with respect.</p>	<p><i>Behaviour which may breach this paragraph could include the use of abusive or demeaning language towards an individual, bullying or seeking to intimidate someone or making unjustified complaints or comments in relation to a person’s integrity.</i></p> <p><i>Within limits it is not intended to cover criticism of the performance of a political opponent or to stifle political debate. A Member who, during a political debate says: “You’re talking drivell” should expect to be called to account by the Chair but will not have breached the Code.</i></p>
---	--

<p>(2) You must comply with the Council’s protocol on Member/Officer relations</p>	<p><i>The Standards Committee takes a very dim view of bad behaviour from Members aimed at Officers. The Committee</i></p>
--	--

	<p><i>encourages senior officers to make concerns known on behalf of their staff. Where this then results in a matter being referred to a Group Leader or Whip to resolve the Committee expects a proactive response to resolve the matter.</i></p> <p><i>This does not mean that Councillors are prevented from raising concerns about the conduct or performance of Officers. However, concerns relating to individuals should be raised through the process set out in the protocol and not in public. Unlike Councillors, Officers are not free to defend themselves publicly and so higher standards are expected of Members in these circumstances.</i></p>
<p>(3) You must not do anything which may cause the Council to breach any equality enactment.</p>	<p><i>Under the Equality Act people are not allowed to discriminate, harass or victimise another person because they have any of the protected characteristics.</i></p> <p><i>Protected characteristics are:</i></p> <ul style="list-style-type: none"> <i>Age</i> <i>Disability</i> <i>Gender reassignment</i> <i>Marriage and civil partnership</i> <i>Pregnancy and maternity</i> <i>Race</i> <i>Religion and belief</i> <i>Sex</i>

	<p style="text-align: center;"><i>Sexual orientation</i></p> <p><i>Direct discrimination means treating one person worse than another because of a protected characteristic</i></p> <p><i>Indirect discrimination mean putting in place a rule or policy or way of doing things that has a worse impact on someone with a protected characteristic than someone without one, when this cannot be objectively justified</i></p> <p><i>Harassment includes unwanted conduct related to a protected characteristic which has the purpose or effect or violating someone’s dignity or which creates a hostile, degrading, humiliating or offensive environment for someone with a protected characteristic.</i></p> <p><i>Victimisation is treating someone unfavourably because they have taken (or might be taking) action under the Equality Act or supporting somebody who is doing so.</i></p> <p><i>The Council is liable for any discriminatory acts committed by a Councillor</i></p>
<p>(4) You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Council, or do anything that is likely to compromise their impartiality.</p>	<p><i>Councillors must not engage in any activity which encourages Officers to behave in a partisan way. That could include a range of behaviours including applying pressure to write reports in a way which is supportive to a particular cause rather than in accordance with the Officer’s professional opinion or use of status to secure some</i></p>

	<p><i>personal advantage such as the withdrawal of a penalty charge.</i></p> <p><i>Officers have an obligation to act in a non partisan way. While they will support the delivery of the administration's priorities their advice needs to be based on their independent professional judgement. You are free to challenge professional judgements and to disagree but must do so in an appropriate manner.</i></p> <p><i>Any behaviour which seeks to undermine the principle that Officers are politically neutral will be treated seriously by the Committee.</i></p> <p><i>The one exception to this is political assistants who are appointed to support a political group. The holders of these posts are not subject to the duty to act impartially. They are, however, still Officers of the Council and the posts they hold are politically restricted.</i></p>
--	--

<p>(5) You must not disclose information which is confidential, unless:</p> <p>(a) You have the permission of a person authorised to give it; or</p> <p>(b) You are required by law to disclose the information; or</p>	<p><i>Information in this context has a wide meaning. It can cover information that is written and in hard copy or in electronic format. It can include information which has only been shared verbally. It can include images and films or even methods of working.</i></p> <p><i>For information to be treated as confidential it must be:</i></p>
---	--

- (c) You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
- (d) The disclosure is reasonable; and is in the public interest; and is made in good faith.

- *Confidential in nature meaning that it must have the 'necessary quality of confidence'; and*
- *Disclosed in circumstances importing an obligation of confidence.*

In order for the information to have the 'necessary quality of confidence' it must be something which is not trivial and not public property or public knowledge.

Labelling something as confidential will not make it confidential if the information lacks the quality of confidence. Conversely, if a confidential document is not labelled as such, that does not protect the person who discloses it inappropriately.

An obligation to keep information confidential may either be:

- *Imposed by contract.*
- *Implied because of the circumstances of disclosure. this is determined on the basis of whether a reasonable man standing in the shoes of the recipient of the information would have realised that the information was being given to him in confidence*
- *Implied because of the special relationship between the parties concerned (for example, that of Councillor and Officer).*

For Members the kinds of confidential information that may

commonly come into their possession depending on their roles includes:

- Personal information about an individual's employment or financial situation or about particular services they are receiving.*
- Commercially sensitive information about contracts the Council is considering entering*
- Information covered by contractual confidentiality clauses*
- Information about proposed enforcement activity*
- Advice to the Council about its legal position covered by legal professional privilege*

Often Councillors will receive this information in reports covered by an exemption under the Local Government Act 1972 and it will be printed on coloured paper. However, that need not be the case – an obvious example is draft reports or reports which are not headed for a decision making body. These are less likely to have such information clearly separated out.

There are though situations in which confidential information can be disclosed by Members and these are identified in the Code.

It may not always be clear who the right person is to authorise disclosure. If you find yourself in this situation you are advised to seek permission from the relevant Chief

Officer.

It will be unusual for you to be required by law to disclose information. The obvious example of where this could arise is where a Court has required the information to be produced. Occasionally Members, especially Executive Members, may be asked to provide information to respond to an FOI request but disclosure in this case will be by the Council and an exemption may well be claimed in any case if information is truly confidential.

The exemption allowing for disclosures which are is reasonable, in the public interest and made in good faith is not intended to create a “get out of jail” card for any Member who wants to disclose information provided to them in confidence.

The disclosure must be reasonable. In this regard the identity of the person to whom information is disclosed may be important. A disclosure to the police of alleged wrong doing is more likely to be reasonable than a disclosure to the local media.

Disclosures relating to serious matters are more likely to be reasonable than those which are less serious particularly if the disclosure may be interpreted as an attempt to secure a political advantage.

The disclosure must be in the public interest. The public

	<p><i>interest and the public being interested are not the same thing. There is a very strong public interest in confidential information being protected. It requires an equally strong public interest to justify disclosure without consent. This may be the case where the information shows that: a crime has been committed, a legal obligation is not being met, there has been a miscarriage of justice, a person is in danger or health and safety obligations are not being met, the environment is being damaged or some other circumstance is occurring of equivalent seriousness.</i></p> <p><i>Disclosures must be made in good faith. A disclosure made to secure a political advantage is unlikely to be seen as having been made in good faith. A Member may be expected to explain why they have not made a request for the information to be released by the Council – either through making an FOI request or simply asking the Council to publicise the matter.</i></p>
<p>(6) You must not prevent another person gaining access to information which that person is entitled by law.</p>	<p><i>This is most likely to arise in the context of subject access requests made under data protection legislation or following freedom of information requests.</i></p> <p><i>The Information Commissioner takes the view that Councillors are data controllers for the purposes of the Data Protection Act. She considers that some personal information which a Councillor holds for the purposes of their role will not be held on behalf of the Council. This</i></p>

	<p><i>includes, for example, personal information resulting from case work enquiries which you have received direct form a resident. If the subject of that information requests a copy you must comply unless there is a lawful reason not to. Failure to do so may lead to action under the data protection legislation but will also be a breach of this code.</i></p> <p><i>Similarly, a Councillor may hold information on behalf of the Council which become the subject of a request under the freedom of information legislation. Deliberate failures to disclose that information or attempts to destroy it after the request has been received may be both a criminal offence and a breach of the code.</i></p>
<p>(7) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.</p>	<p><i>A member’s behaviour may bring the Council or the Councillor’s role into disrepute if, viewed objectively, it could reasonably be regarded as:</i></p> <ul style="list-style-type: none"> <i>• Reducing the public’s confidence in the member being able to fulfil their role</i> <i>• Damaging the reputation of members generally</i> <i>• Significantly reducing confidence in the Council as a whole</i>
<p>(8) You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for</p>	<p><i>The key word here is “improperly”. You are entitled (and indeed expected) to advocate on behalf of your</i></p>

<p>yourself or any other person, or attempt to do so.</p>	<p><i>constituents, voice objection or support on their behalf to proposals being considered by the Council and you may choose to support pressure groups. What you cannot do is use your position to further your private interests or those of your associates over the public interest.</i></p>
<p>(9) When you use or authorise the use by others of the resources of the Council you must:</p> <ul style="list-style-type: none"> (a) abide by the Council's reasonable requirements; and (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986. 	<p><i>The Council provides Councillors with a number of resources. These include staff, access to meeting rooms, access to IT systems, an official e-mail address, use of notice boards etc.</i></p> <p><i>These resources are all provided for Council purposes. Using them for case work purposes, arranging councillor surgeries and for political group purposes is all legitimate. Using them for wider political party activities or for electoral purposes is not.</i></p> <p><i>Care must be taken when using any facilities the Council provides for publicity such as the printing of posters or the use of notice boards. The Council is legally prohibited from producing material which appears to be designed to affect support for a political party. In addition there is a statutory code of practice which the Council must follow and which it must ensure Councillors follow when using resources provided by the Council. That code of practice is accessible here:</i></p> <p>https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity</p>

	<p><i>In particular you need to note the requirements in that code that publicity is even handed and that particular care needs to be taken during election periods.</i></p>
<p>(10) You must have regard to relevant advice given by the Council's Chief Financial Officer and/or Monitoring Officer when making decisions</p>	<p><i>The two officers named have particular statutory duties to ensure the proper governance of the authority. You must take account of any advice they give in their statutory roles. Members may though depart from that advice if they feel they have good reason to do so. There may be circumstances in which it is legitimate to question the advice that is being given. This could occur, for example, where the state of the law is unclear. Members who choose not to take account of advice from the statutory officers need to be in a position to justify their actions. They need to be able give reasons for their decision and the grounds on which they chose not to follow officer's advice.</i></p>
<p>(11) You must give reasons for those decisions, in accordance with any requirements imposed by law.</p>	<p><i>Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Executive Members must give reasons for their decisions.</i></p> <p><i>The common law position is more complex but Courts are increasingly likely to criticise Councils for failing to give reasons for decisions affecting the rights of individuals, where the Council is departing from policy or where Officer advice is not being followed. In planning cases Members</i></p>

	<i>will be expected to give reasons if they are not following an Officer recommendation.</i>
--	--

Part 3: Interests

Registration of interests

5. (1) Within 28 days of becoming a member or co-opted member, you are legally obliged to notify the Monitoring Officer of any 'disclosable pecuniary interests'. These will be included in the register of interests which is published on the Council's website

Disclosable pecuniary interests are defined by law and the definitions appear in schedule one to the code. You should look at the schedule for the full descriptions but in summary they include:

- Your job or other paid offices you hold. This will include outside bodies to which you have been appointed by the Council where payment is made, other than proper expenses.*
- Payments made towards your electoral expenses or your expenses as a Member*
- Contracts between you and the Council*
- Interests affecting land*
- Significant shareholdings you have in companies which have a place of business or own land in York*

When you first become a Member you have 28 days to complete your register of interests. Failing to do so is a criminal offence. An allegation that this provision has been breached would be referred to the police. If the police choose to take not action the breach may still be considered for action under standards procedures.

<p>(2) Under this code you must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.</p>	<p><i>The law only requires disclosable pecuniary interests to be registered when you first become subject to the code and for the register to be updated if the Councillor is present at a meeting where relevant business is being discussed. However, the Council has chosen to enhance this requirement by requiring any new or changed interests to be registered within 28 days. A failure to meet this requirement will not be an offence under the Localism Act but will be a breach of the code.</i></p>
<p>Disclosable Pecuniary Interests</p> <p><i>Definition of disclosable pecuniary interests</i></p> <p>(3) A ‘disclosable pecuniary interest’ is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interest is of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.</p>	<p><i>It is not only your disclosable pecuniary interest which should be registered but also those of your husband and wife, civil partner or a person with whom you are living as if in one of those relationships.</i></p>
<p><i>Non participation in items of business in the case of disclosable pecuniary interests</i></p>	<p><i>Consequence of having a DPI</i></p> <p><i>If you have a DPI in a matter being dealt with at a formal</i></p>

(4) Where a matter arises at a meeting which relates to one of your disclosable pecuniary interests,

- (a) You may not participate in any discussion of the matter at the meeting.
- (b) You may not participate in any vote taken on the matter at the meeting.
- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject of a pending notification, you are legally obliged to notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

meeting of the Council you must not participate in the debate or vote. The law also requires you to declare the interest if it is not already registered and ensure that it is registered within the next 28 days. It is a criminal offence to breach these requirements.

In the City Council our standing orders require a member to withdraw from the room if they have such an interest.

What to say when you have a DPI

The law does not require you to make a declaration that you have a DPI if it is registered. However, as you will need to leave the room the Standards Committee suggest that you should make a declaration in sufficient detail to allow a member of the public to understand why you are making the declaration e.g. “this application relates to land owned by a company to which the Council has appointed me as a director”.

Public Participation rights and DPI’s

Government guidance says that this requirement would extend to participating as a member of the public. Many lawyers doubt that making representations as a member of the public amounts to participating in a discussion – where the Councillor is only permitted to speak to the extent that an ordinary member of the public could.. Nevertheless the Government guidance means that you may be at risk if you choose to use public participation rights where you have a

DPI. The Standards Committee would encourage you to seek a dispensation

When do you have a DPI at a meeting?

*Unfortunately the wording of the legislation upon which this part of the Code is based, is poor. It says that if a Member is present at a meeting and has a DPI in the business then they should not participate in the discussion or vote. The Council's code adopts the wording suggested in Government guidance and refers to business which **relates** to a DPI.*

Unlike the previous statutory code or the Council's requirements in respect of other interests, there is no specific reference to the significance of the interest. However, some of the Government guidance suggests that, on occasions, the significance of the interest may be relevant.

Accordingly, although council tax is a tax based on the occupation of property, the Government guidance says that Members do not have a DPI in setting the Council tax. They say that:

"Decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land."

Some commentators have gone further and suggested that

*you will only have a DPI in the business if the discussion is **about** the matter which concerns your DPI. There is a small amount of case law which goes some way towards supporting this interpretation.*

*In the case of *The Queen on the Application of Freud v Oxford City Council*, Oxford University made a planning application. The Chair of the Planning Committee had registered a DPI as an employee of the University but participated in determining the application. The Court said that he did not have a DPI in the matter under discussion. He had no pecuniary interest in this subject matter. He was not in any part of the university which was promoting it. He had no contract to deal with it. He had nothing in that respect which could amount to a DPI in that matter. The Court rejected the argument that everyone who is employed by an employer has some pecuniary interest, however indirect in what that employer does.*

*This case was referred to in another case: *Kelton v Wiltshire Council v HPH LTD, HAB Housing*. In that case a developer had identified a housing association as its proposed partner for delivering affordable housing. A Councillor was a paid director of the housing association. He participated in determining the application which was passed by one vote. The Court decided that the councillor did not have a DPI. The Housing association was not the applicant and did not have a contract with the developer. In this case though the planning permission was overturned*

because it was found that there was apparent bias.

In contrast though it is worth noting that Councillor Flower of East Dorset was convicted of an offence of failing to disclose a DPI. He was appointed by the Council to a paid, directorship of a housing company which owned land that was being considered for allocation under the core strategy. He participated in the discussion and vote on the strategy. The fact that there was no direct benefit to him did not protect him from acquiring a criminal record.

In view of the difficulties in interpreting this part of the law the Standards Committee would urge Members who think that they may have a DPI to:

- *Err on the side of openness*
- *Seek advice from the Monitoring Officer*
- *Consider applying for a dispensation*
- *Remember that the Council's own requirements to declare personal interests may apply even if there is no DPI*

Health and Well Being Board Members

The Standards Committee considers that a member of the Health and Well Being Board who has that appointment by virtue of their role in the organisation they represent will not

	<p><i>normally have a DPI in business affecting that organisation. In the Committee's view such an interest would only arise if the decision will have a specific and direct impact on that individual personally.</i></p>
--	--

<p><i>Non participation in individual executive decision making in case of disclosable pecuniary interests</i></p> <p>(5) Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.</p>	<p><i>An Executive Member who would otherwise be making an individual executive member decision on a matter but has a DPI must notify the Monitoring Officer and not deal with the matter further. The Leader would then be able to deal with the matter or allocate it to another Member.</i></p> <p><i>The Standards Committee would also encourage any Executive Member in this position to be careful about any informal discussions they have on matters in which they have a DPI bearing in mind the potential for it to appear that they may have exerted an undue influence.</i></p>
<p>Notification of Interests</p> <p>6. (1) In addition to the disclosable pecuniary interests under this code you must, notify the Monitoring Officer of any interests you have of a kind described in the second schedule. You must make that notification within 28 days of this Code coming into effect or of you becoming a Member or co-opted Member if that is later.</p> <p>(2) You must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.</p>	<p><i>The Council has agreed additional interests which it requires to be registered. These are detailed in schedule 2.</i></p> <p><i>They include:</i></p> <ul style="list-style-type: none"> • <i>Outside body appointments made by the Council where you have a managerial or controlling role (the Standards Committee supports the disclosure within your register of interests of any remuneration associated these appointments);</i> • <i>Membership of charitable and similar bodies</i> • <i>Membership of political parties and other organisations who aim to influence public opinion</i> • <i>The identity of anyone who has, because of your</i>

	<i>official role, given you a gift or hospitality valued at £50 or more</i>
--	---

<p>Voluntary Register of Interest</p> <p>7. (1) In addition to the interests which you must register you may register additional interests which you consider may have a bearing on your conduct as a Councillor.</p>	<p><i>The Council makes available a facility for you to register other interests which may have a bearing on your conduct as a Councillor. There is no requirement that you make such a declaration. It may be worth considering such a declaration where, for example, you have an interest in a matter of local controversy but the interest is not required to be registered.</i></p> <p><i>In considering voluntarily registering an interest you will need to keep in mind any data protection implications in disclosing information about a third party. It may be that these can be overcome simply by using language such as: “a close associate owns land adjoining.....” or “ a family member works for....”. Alternatively you might want to see consent before registering an interest relating to a third party.</i></p> <p><i>Any interest you voluntarily register will be treated as a personal interest if business relating to it is transacted at a meeting. In that case you would still need to consider whether it also amounts to a personal interest</i></p>
<p>Disclosure of Interests</p> <p>8. (1) You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule, any interest which you have</p>	<p><i>What interests does this cover?</i></p> <p><i>This provision is one which the Council has agreed. It covers a much wider range of interests than those which constitute DPI's.</i></p> <p><i>It is not only matters which affect you which can be a</i></p>

registered voluntarily or any person with whom you have a close association.

- (2) You also have a personal interest in any business of your authority which relates to or is likely to affect one of your disclosable pecuniary interests in circumstances where you would not be treated as having a disclosable pecuniary interest in that business.
- (3) If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting and the interest is not registered, you must disclose the interest to the meeting.

personal interest. Matters which affect or relate to those bodies listed in the second schedule are also included. In addition you will have a personal interest in matters which affect people with whom you have a close association.

As previously mentioned the Courts have accepted that some business relating to a Councillor's registered disclosable pecuniary interest may not amount to a DPI which the Councillor is obliged to declare by law. In the interests of openness this Code treats such an interest as a personal interest. So, even though no criminal offence may be committed by participating in a decision relating to that interest, you still need to consider whether the interest should be regarded as prejudicial under this code.

The Standards Committee encourages openness and for that reason it would urge you to declare personal interests (if not already registered) even where the effect of a decision on you or one of those through whom you have an interest is quite minor. That said the Committee does not expect you to declare an interest in every piece of business on which your political party or an outside body may have adopted a policy view.

Who are my close associates?

Your close associates will include members of your family, friends and business associates or someone with whom you come into regular social contact. Casual acquaintances will not be included. In determining whether someone is a

	<p><i>close associate it will be relevant to think about:</i></p> <ul style="list-style-type: none"> • <i>How often you meet?</i> • <i>Do you regularly attend the same social events?</i> • <i>Do you work together or have regular business dealings?</i> • <i>Do you know each other's families?</i> • <i>Do you visit each other's homes?</i> <p><i>You could though be a close associate of someone you do not get on with.</i></p> <p><i>Do I need to check what interests my friends and family have?</i></p> <p><i>You do not need to make enquiries of your close associates to ascertain what interests they may have but, if it is an interest which ought reasonably to have been known to you then the Standards Committee will expect it to have been declared unless they are persuaded there is some good explanation as to why it was not known to you.</i></p>
<p>(4) If you have a personal interest and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of</p>	<p><i>What is the effect of an interest being prejudicial?</i></p> <p><i>Having declared a personal interest (or having a registered interests in business) you may still participate in the discussion or vote unless the interest is seen to be</i></p>

the public interest then you have a prejudicial interest. This is subject to the exceptions set out in paragraph 7(5).

“prejudicial”.

When is an interest prejudicial?

This part of the code defines prejudicial interests as those where a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of the public interest. This is then subject to exceptions set out in the next section.

In judging whether an interest is prejudicial it will be relevant to consider how many people it is shared with. An interest which is shared with many people in the area is much less likely to be significant than one which affects only a few people.

The closer the relationship the member has with the person who the business acts the more likely it is to be prejudicial.

Business which affects a fellow Councillor, even one of the same political party, will not automatically be prejudicial It will be relevant to consider how often you meet away from Council business. When viewed objectively would others regard you as being friends?

What do I say when declaring a prejudicial interest?

If you have to declare a prejudicial interest the Standards Committee does not require you to necessarily provide full

	<p><i>details. For example a declaration such as: “a friend owns land which adjoins this property” would be sufficient without identifying the friend or the specific land.</i></p>
<p>(5) You do not have a prejudicial interest in any business of the authority where that business:</p> <p>(a) does not affect your financial position, that of a person with whom you have a close association or the financial position of a person or body named in the second schedule;</p> <p>(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you, a person with whom you have a close association or any person or body described in the second schedule; or</p> <p>(c) relates to the functions of your authority in respect of;</p> <p>(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;</p> <p>(ii) school meals or school transport and travelling expenses, where you</p>	<p><i>What interests are excluded from the definition of “prejudicial”?</i></p> <p><i>This section restricts the range of interests which may be considered to be prejudicial.</i></p> <p><i>To be prejudicial an interest must be financial or relate to the determination of an approval, consent, licence, permission or registration affecting you or the person or body through which your personal interest arises.</i></p> <p><i>Certain interests are further excluded even where they come within these categories. These are interests in respect of general housing matters if you are a council tenant, interests relating to school meals or travel arising where you are a parent of a school pupil (but if the issue relates solely to the school your child attends then you may still have a prejudicial interest). Interests relating to statutory sick pay, members’ allowances and ceremonial honours (including being appointed the Lord Mayor) are excluded. No prejudicial interest arises at Budget Council because you are a council tax payer.</i></p>

<p>are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;</p> <p>(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;</p> <p>(iv) an allowance, payment or indemnity given to members;</p> <p>(v) any ceremonial honour given to members; and</p> <p>(vi) setting council tax or a precept under the Local Government Finance Act 1992.</p>	
<p>(6) A member with a prejudicial interest must leave the room during the debate and voting on the matter in question but may remain in the room for the purpose of making representations, answering questions or giving evidence relating to the business, provided that</p>	<p><i>The Council requires you to leave the room if you have a prejudicial interest. You may though exercise public participation rights and, unlike the position with a DPI, you will not need to consider seeking a dispensation.</i></p>

<p>the public are also allowed to attend the meeting for the same purpose.</p>	
<p>Sensitive Interests</p> <p>9. (1) If you have a sensitive interest which is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.</p> <p>(2) If you are required to declare a sensitive interest at a meeting you need only declare the fact of the interest and not the details of the interest itself.</p>	<p><i>The register of interests is publicly accessible and available on the internet.</i></p> <p><i>If you believe that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation you may seek the approval of the Monitoring Officer to it being treated as sensitive. If he or she agrees you will still have to notify the Monitoring Officer of the details but the interest will not appear on the public register.</i></p> <p><i>If the MO disagrees your interest must be declared as normal.</i></p> <p><i>If you need to declare such an interest at a meeting you will simply need to say that you have a personal, prejudicial or disclosable pecuniary interest in the item.</i></p>
<p>Dispensations</p> <p>10. (1) The Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he or she has an disclosable pecuniary interest or a prejudicial interest. The Council may grant such a dispensation if:</p>	<p><i>The Council may grant dispensations allowing you to participate in business even where you have a disclosable pecuniary or prejudicial interest.</i></p>

<ul style="list-style-type: none"> • it believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or • considers that without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote relating to the business • it is in the interests of the inhabitants in the Council's area to allow the member to take part; or • it is otherwise appropriate to grant a dispensation. 	
<p>2) The Council has granted the Monitoring Officer in consultation with the Chair of the Joint Standards Committee the power to grant dispensations. These can only be granted following a written request from the Member and the existence of and reason for the dispensation should be recorded in the minutes of the meeting.</p>	<p><i>The power to grant dispensations lies with the Standards Committee but it has been delegated to the Monitoring Officer acting in consultation with the Chair of the Standards Committee.</i></p> <p><i>The application must be made in writing and in sufficient time to allow the necessary consultation to take place.</i></p> <p><i>If you are granted a dispensation you should declare the fact at the meeting and it should be recorded in the minutes.</i></p>

First Schedule – Interests which are Disclosable Pecuniary Interests in accordance with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

<i>Interest</i>	<i>Description</i>	<i>Commentary</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.	<i>This covers a range of activities from which you make an income. Importantly it includes any office to which you are appointed by the Council if you make a financial gain. The recovery of expenses which include no element of remuneration will not bring a post within this provision.</i>
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.	<i>The details to be declared are those of anyone who has contributed to your expenses in the 12 months preceding you completing or updating the register. This includes payments made by a political party.</i>
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial	<i>This covers contracts between the Council and you or between the Council and your spouse, civil partner</i>

	<p>interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>	<p><i>or equivalent. It covers only contracts for the supply of goods or services. The contract need only be registered for so long as it is force. Once the contract has been fully completed it no longer needs to be registered.</i></p>
Land	<p>Any beneficial interest in land which is within the area of the relevant authority.</p>	<p><i>“Land” has a wide definition. It will include buildings on the land such as your house.</i></p> <p><i>It can include other interests in land but only where they give a right to occupy or receive income from it. You would not, for example, therefore have to register a right of way you have over a neighbour’s land. That would not be a DPI but it could create a personal interest under the Code.</i></p> <p><i>There is more than one way in which you can have a beneficial interest in land.</i></p> <ul style="list-style-type: none"> • <i>You may own the freehold</i> • <i>You may have a long lease</i> • <i>You may have a tenancy</i>

		<p><i>In each case you would normally register that interest here.</i></p> <p><i>However, sometimes the legal owners hold it on trust for a third party. In that case the person on whose behalf it is held will have the beneficial interest. As a trustee you would not have a disclosable pecuniary interest but you would still have a personal (and possibly prejudicial) interest under the Council's code in any business at a meeting affecting the land.</i></p> <p><i>If you have an interest in land other than your home it may also need to be registered here. Think about any business premises you occupy, any allotment you occupy or garage that you let separately.</i></p>
--	--	--

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer	<p><i>Licenses are another way of occupying land. They may include quite informal arrangements, for example, being a lodger in a friend's home.</i></p> <p><i>Unless you are living outside York it will be surprising for you to have neither registered a beneficial interest inland or a license.</i></p> <p><i>You also need to think about any non residential property that you have the right to occupy and which you hold on license.</i></p>
Corporate tenancies	<p>Any tenancy where (to your knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest</p>	<p><i>You will need to register here any tenancy where the Council is the landlord and the tenant is a firm in which your or your spouse etc. is a partner. This would include a company to which you have been appointed by the Council.</i></p> <p><i>The same would apply if the tenant is "body corporate" and you or your spouse etc. are a director of the body or have shares or other securities (as described below) in it.</i></p>
Securities	Any beneficial interest in securities of a	<i>If you hold shares (or other securities</i>

	<p>body where—</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>i. the total nominal value of the securities exceeds £25,000 or</p> <p>ii. one hundredth of the total issued share capital of that body; or</p> <p>if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>	<p><i>as defined below) in a company you need to consider whether you have to register an interest here.</i></p> <p><i>The requirement only arises where the company has a place of business or own land in York.</i></p> <p><i>It is not designed to cover small shareholdings in larger companies with large numbers of shareholders. So either the nominal (not the market) value of the shares must exceed £25K or you must own more than 1% of either the total shares or those of a particular class.</i></p>
<p>These descriptions on interests are subject to the following definitions;</p> <p>“the Act” means the Localism Act 2011;</p> <p>“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;</p> <p>“director” includes a member of the committee of management of a registered society within the meaning given by section 1(1) of the Co-</p>		

operative and Community Benefit Societies Act 2014, other than a society registered as a credit union;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“relevant period” means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or 31(7) of the Act;

“relevant person” means you or your partner as defined in paragraph 5.3

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Second Schedule – Other Interests required to be registered in accordance with this Code

<p>Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;</p>	<p><i>Where the Council appoints you to a management position on an outside body that appointment should be included here.</i></p>
<p>Any body —</p> <ul style="list-style-type: none"> (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), <p>of which you are a member or in a position of general control or management;</p>	<p><i>This section covers a wider range of bodies of which you are a member or in a position of management or control.</i></p> <p><i>Bodies exercising functions of a public nature will include public bodies but also other bodies which carry out a public service. It may include being on a school governing body, sitting on an NHS body or being a member of a body which performs functions which have been outsourced from the public sector.</i></p> <p><i>Bodies directed to charitable purposes will include those which are formally established as charities but will also include other non profit making bodies whose aims are broadly charitable as that is generally understood.</i></p> <p><i>The Standards Committee would consider that membership</i></p>

	<p><i>of the Freemasons and similar societies with philanthropic objectives should be registered under paragraph (b).</i></p> <p><i>If you are a member of a political party or trades union you should declare that as a body whose principal purposes include influencing public opinion. Membership of other campaigning organisations such as Greenpeace, Amnesty International etc should also be registered</i></p>
<p>Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £50 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.</p> <p>The Council does not require the Lord Mayor or other members of the civic party who are councillors to register gifts or hospitality received in their civic capacity</p>	<p><i>You should register gifts or hospitality you are offered as a Councillor even if you do not accept it. Sometimes it may not be clear on what basis the gift or hospitality is being offered. In the interests of openness you should register any gift or hospitality which might reasonably be viewed as relating to your role as a councillor.</i></p> <p><i>If you receive a series of gifts or hospitality over a short period of time which are each below the £50 threshold but collectively would exceed it then these should be declared.</i></p> <p><i>It may not always be clear what the value is and you are not expected to ask. Bearing in mind the principles of the code you should use your best judgement. However, if the cost is readily available e.g. for a theatre ticket or sporting event, the Standards Committee is unlikely to accept lack of knowledge to be an adequate explanation.</i></p>

This page is intentionally left blank



Joint Standards Committee**18 April 2018****Civic Guide and Gifts****Summary**

1. This report seeks Members' views on the inclusion of further guidance within the Civic Guide for the Lord Mayor and Civic Party in relation to receiving gifts.

Background

2. The Civic Guide provides a useful guide to the civic year for the Lord Mayor and the Civic Party. Section 5 of the Guide contains the Civic Code of Conduct and the Civic Party Code of Conduct. A copy of Section 5 can be found at Annex One.
3. Section 5 refers the Lord Mayor to the City Council's Code of Conduct, which all Members must comply with. During the civic year the Lord Mayor may deal with the receipt of gifts on a more regular basis than in their capacity as Councillor, therefore, Members may wish to consider the inclusion of additional and more specific guidance within the Guide.
4. The National Association of Civic Officers has published a best practice guide for Civic Handbooks which recommends that Handbooks should contain clear guidance on gifts. NACO have provided model wording for such guidance, a copy of which can be found at Annex Two.

Recommendations

5. Members are asked to consider the contents of the report, in particular whether additional provisions regarding receiving gifts should be included in the Civic Guide and consider whether any further guidance may be required.

Reason: To ensure that the Committee continues to make an effective contribution to ethical standards within the City Council.

Contact Details

Author:

Rachel Antonelli, Senior Solicitor
Legal Services
Tel No. 01904 551043

Report Approved

Date 10/4/2018

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

For further information please contact the author of the report

Annexes

Annex One – Section 5 Civic Guide

Annex Two – NACO model guidance on gifts

Background Papers:

None

5 Civic Code of Conduct

Code of Conduct for Elected Members

All elected Councillors, including the Lord Mayor and Deputy Lord Mayor, are bound by the general provisions and obligations set down in the City of York Council Members' Code of Conduct.

Upon election and acceptance of office, every newly elected Member:

- receives a copy of the Code of Conduct;
- agrees and formally signs up to abide by those provisions and obligations, when they accept their office upon election.

What does this mean?

The Members' Code of Conduct applies to the Lord Mayor and Deputy Lord Mayor and any elected Member appointed as Sheriff, because of their position as elected Members on the Council.

The Code can be found on the website for other interested members of the Civic Party.

In summary, it means that those elected Members serving their year of office as a member of the Civic Party are still bound by the Code.

The Code is primarily concerned with expected standards of behaviour commensurate with a publicly elected office, stating that:

- You must treat others with respect.
- You must not do anything which may cause the Council to breach any equality enactment.
- You must not bully or intimidate any person, or attempt to bully or intimidate them.
- You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality.

- You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.
- You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.
- When you use or authorise the use by others of the resources of the Council you must:
 - abide by the Council's reasonable requirements; and
 - ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Civic Party Code of Conduct

Building upon the above standards, under this protocol all the civic party are asked to act according to the following code, as befits being part of the second oldest Lord Mayoralty in the country. Unlike the formal Members' Code of Conduct, there are no sanctions for breaching this Civic Code but clearly, if the Civic Party behaves or acts inappropriately it can have reputational consequences and lower the dignity of the Civic Office.

In carrying out the role officially, therefore, and representing the ancient City of York with dignity, the civic party are asked to:

- Show respect, courtesy and consideration equally towards all guests, hosts, dignitaries, caterers, visitors and officers, at all times;
- Be punctual and arrive in good time for Civic and Mansion House events/occasions;
- Leave Civic and Mansion House events/functions punctually, adhering to the estimated departure times wherever possible

- Ensure that the position is not used in any way for personal gain or to the specific advantage or disadvantage of any other person
- Abide by agreed protocols contained within this Guide for:
 - royal visits;
 - greeting guests and meeting hosts;
 - use of the civic car;
 - use of civic regalia/items from the collection;
 - use of the Mansion House;
 - use of resources (inc. allocated events budget and staffing).
- Be of smart appearance at all times when on official business and in accordance with the dress protocol (*see section on protocols*)
- Honour all agreed official events and diary commitments as a general rule, excepting unforeseen circumstances.
- Undertake to maintain the day to day cleanliness and condition of the Lord Mayor's Apartment in the Mansion House and to alarm the building at night, in accordance with requirements of the Mansion House Compendium.
- Pay due regard at all times to health & safety, fire regulations, licensing requirements, room capacities etc, when attending or hosting events in Mansion House as set out in the Mansion House Compendium.
- Behave in an appropriate manner at all times when on official civic business.

This page is intentionally left blank

Annex Two - NACO model guidance on gifts

Gifts

The Lord Mayor should treat with extreme caution any offer of gift, favour or hospitality that is made to them. The person or organisation making the offer may be doing, or seeking to do, business with the Council or may be applying to the Council for planning permission or some other kind of decision.

There are no hard or fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be a proper way of doing business, provided that it is approved by the Local Authority and that no extravagance is involved. Likewise, it may be reasonable for a Member to represent the Council at a social function or event organised by outside persons and bodies.

The Lord Mayor is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government. A good guide is that gifts of more than a nominal value should be accepted on behalf of the Council and not retained personally. The Council has adopted a Code of Conduct which all Councillors must follow which states that any person from whom a Councillor has received the offer of a gift or hospitality with an estimated value of more than £50 (whether or not the offer is accepted) which is attributable to the position of elected or co-opted member of the Council must be declared.

Gifts given to the Lord Mayor or the Civic Party may not be retained by the Mayor either during their Mayoral year or after and shall be passed to the Mayor's Office who shall manage such gifts on behalf of the Council. There may be instances where minor tokens of goodwill or flowers can be accepted as personal gifts. Advice on gifts and hospitality can be obtained from the Monitoring Officer.

This page is intentionally left blank



Joint Standards Committee**18 April 2018****Report of the Monitoring Officer****Membership of the Committee****Summary**

1. This report advises Members on changes to the Committee membership and updates on progress to secure additional Parish representation.

Background

2. The Committee is formally established as a Joint Committee of the City Council and a number of Parish Councils in the area. There are three places available for Parish Members. There has been a Parish vacancy for some time and, since the last meeting, the Vice Chair, Cllr. Chris Perrett has resigned.
3. In the past nominations have been sought through the Yorkshire Local Council's Association for Parish Members to join the Committee. Once a nomination has been secured the nominee's Parish Council must resolve to become a member of the Joint Committee. YLCA have been asked to commence the process of filling the current vacancies.
4. In order to secure more interest in the role the Chair and Vice Chair organised a drop in event for Parish Councils in the Autumn and a similar event took place in March.
5. Members will also be aware that the City Council membership of the Committee has changed since the last meeting with Councillor Mercer being replaced by Councillor Richardson as the nominee of the Conservative Group.

Recommendations

6. Members are recommended to:

- 1) Note the report

Reason: To ensure that the Committee is aware of efforts to fill the current Parish vacancies.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

**Report
Approved**

Date 09/04/18

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

All

For further information please contact the author of the report

Background Papers:

None

Work Plan for Joint Standards Committee 2018-2019

<u>Meeting Date</u> (4.00pm start time)	<u>Items</u>	<u>Notes</u>
Wednesday 13 June 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Protocol on Officer / Member Relations 	Standard item
Wednesday 5 September 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
Wednesday 21 November 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
Wednesday 13 February 2019	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item

This page is intentionally left blank