

NEW STANDARDS FRAMEWORK: A CONSULTATION BY THE CITY OF YORK COUNCIL

Codes of Conduct

As you know the current codes of conduct will be abolished and each Council will have to adopt their own. It seems to me that it would be sensible to achieve some consistency across Parish Councils in terms of their Codes. I understand that NALC might be doing some work to assist Parish Councils with this. I know that the Local Government Association is for upper tier Councils.

It would be helpful for me to know whether Parish Councils are likely to be supportive of achieving consistency.

Handling Complaints

The City Council will be obliged to put in place arrangements for dealing with complaints that City and Parish Councillors have breached their code of conduct. At present complaints are submitted via the Monitoring Officer. He has very little discretion as to what he does with a complaint. Once properly made, a complaint has to be referred to a Standards Assessment Sub Committee. If the Sub Committee decides not to refer a case for investigation, the complainant has a right to require a review by a different Sub Committee. If an allegation is investigated a report must be considered by a Sub Committee and, if the investigator determines that there has been a breach of the Code, the case must be referred for a hearing – usually locally but, in serious cases, the referral could be to the national Tribunal.

The Standards Committee has been debating what replacement arrangements they should recommend to the City Council. There is a strong view that it is wrong that the current arrangements force all complaints whether trivial, manifestly ill founded, or capable of speedy resolution into a bureaucratic and potentially stressful process. They have therefore asked me to develop draft procedures which give the Monitoring Officer the power to determine whether or not a complaint should be investigated and to broker informal resolutions where appropriate. Under the new legal requirements there will be statutory duties to consult an “independent person” appointed by the City Council, at certain stages of the process. It is likely that the draft procedures will require the Monitoring Officer to consult the independent person before deciding whether or not to investigate and before agreeing any informal resolution of a complaint which has been investigated.

It is not proposed that there should be a formal right to request a review of a decision by the Monitoring Officer.

Do Parish Councillors agree that these proposals strike the right balance?

Hearings

In the event that a complaint is investigated and the Monitoring Officer does not feel that it can be resolved there will be a need for a hearing. In the past this would normally have been a hearing before a Sub Committee of the Standards Committee. Inevitably the Committee would have consisted of one independent person, one Parish Councillor and one City Councillor. These arrangements have worked well in York on the very few occasions that a hearing has been required. However, these arrangements have been possible because there has been a statutory Standards Committee with a membership and voting rights set out in the Local Government Act 2000. Statutory Standards Committees are to be abolished and any new arrangements will have to comply with the general law for local authority committees.

The consensus on the Standards Committee is that the new Committee should not have independent members. There are a number of reasons for this but it is worth noting that the new independent person will have to be consulted by law on cases which reach a hearing, so the element of independence is there.

More difficult is the issue of Parish representation on any Committee. There is very strong support for this to continue. If the law allowed the Standards Committee would be recommending no change to the current arrangements. However, it doesn't. The options are that the City Council sets up an ordinary Committee of the Council or a Joint Committee with one or more Parishes. An ordinary Committee would be the most straightforward option. However, although it could have co-opted Parish Councillors (and I am sure that would be the recommendation) they would be non voting. A joint Committee would be less straightforward to establish and maintain but could have voting Parish Councillors. A joint Committee with all the Parishes would be too large to be effective but the City Council could establish a joint Committee with a smaller number of Parish Councils who could each nominate a Committee member. Hearing panels would be drawn from the membership of this Committee.

Before expressing a view on the options it may be worth reading the following sections on sanctions. However the key questions are:

Do Parish Councils have a preference as to how the City Council should establish a hearings committee?

If Parish Councils suggest that there should be a joint Committee, how would they suggest that a decision is made as to which Parish Councils are represented on that Committee and therefore have the power to appoint to it?

Sanctions

Currently, there are a range of sanctions which can be imposed on a Member who has breached the code of conduct up to and including disqualification from Office. All these sanctions are abolished and no specific provisions have replaced them. Advice to date is that the sanctions which will be available will be for the Authority to:

- Write a formal letter to the Member
- Publicise the breach
- Censure the Member
- Remove a member from a committee of the Council (subject to certain procedural steps)

Of these sanctions a Standards Committee would only have the power to do the first two. The other sanctions could only be imposed by the Council itself unless a Council delegated the power to censure to the Standards Committee. Without such a delegation the most the Standards Committee could do would be to recommend that the Council censure the member, ie express official disapproval of the member's actions.

Do Parish Councillors have a view as to whether the Standards Committee should be given delegated powers to censure?

Standards Committee

Besides dealing with hearings the Standards Committee currently has a more general role in promoting high standards and compliance with the Code. It is envisaged that a Committee would continue and would have a particular role in receiving monitoring reports about allegations which had been made but not resulted in hearings.

The Committee operates by consensus and formal votes have never been required. The Standards Committee currently has ten members –

four City Councillors, three Parish Councillors and three independent members.

Do Parish Councillors have a view on the appropriate composition for the new Committee?

Register of Interests

Members will be required to register “disclosable personal interests” which are to be defined in Regulations and local codes may contain other requirements. The City Council will be obliged to place Parish Councillors’ registers on its website. The City Council currently has an electronic system for allowing Members to securely update their own registers online and we are working with our software supplier to see whether this can be extended to Parish Councillors.

Would an electronic system for updating registers be welcomed? To what extent would it be likely to be taken up?

Thank you.

Andrew Docherty, Assistant Director, Legal Services