

**Joint Standards Committee**

**13 June 2018**

## **Report of the Monitoring Officer**

### **Standards Committee Terms of Reference and Procedures**

#### **Summary**

1. This report seeks Members' views on the continued suitability of the arrangements adopted in York for handling matters relating to ethical governance.

#### **Background**

2. The Localism Act 2011 abolished the requirement for Councils to have a Standards Committee. Instead the City and Parish Councils were placed under a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the authority and to adopt a code of conduct . The City Council also was required to put in place arrangements for investigating and making decisions in relation to allegations that its own and local Parish Councillors may have breached their codes of conduct.
3. The City Council chose to retain a Standards Committee and established it as a Joint Committee with up to three Parish Councils being represented. This allowed the Parish Council representatives to be voting members of the Committee.

#### **Terms of Reference for the Standards Committee**

4. The terms of reference are attached at Annex one. These terms of reference are generally considered to be appropriate. However, Members may wish to consider the following issues:
  - a) The terms of reference make provision for up to three co-opted community members but none have been appointed. The Independent Persons are permitted to participate in meetings but they are not members of the Committee and do not have a vote. A co-opted community member would

likewise not be permitted to have a vote. The Monitoring Officer is aware of at least one Council in the region which has an Independent Chair for its Standards Committee. The Committee is asked to consider whether it would wish to retain provision for community representation.

- b) The terms of reference make provision for sub committees to be appointed. The effect of paragraph 8.5.4 of the procedure is that assessment and hearing sub committees dealing with case work are appointed by the Monitoring Officer based on member availability and then rotation. A long standing practice (predating the 2011 Act but not specified in the terms of reference) has been to avoid appointing Members from the same political group as the subject member. Members have asked for information about recently about the methodology used for appointing sub committees and this may be an opportune time to review the arrangements.
- c) The current terms of reference require updating whenever there is a change in parish membership as the Committee is formed between the City Council and the relevant Parish Councils for the nominated Members. It would be put in place an agreement so as to allow all the Councils to be parties but with provisions restricting the number of Members appointed to attend the Committee. The Parish Councils would then have full control of their nominations rather than having to wait for City Council approval.

### **Assessment Criteria**

- 5. The Committee has adopted criteria against which standards complaints are assessed either by the Monitoring Officer or a Standards Sub Committee. These appear at Annex two.
- 6. The criteria appear to have worked reasonably well and no significant changes are recommended. However, at paragraph 6.2 the criteria mention the Committee's encouragement of informal resolution of complaints. The paragraph goes on to describe some situations in which that might be appropriate. It is recommended that, after the words:

“In some cases a speedy apology to the complainant may be the most effective outcome”, the Committee add:

“Any apology that has already been offered will be considered in the assessment process. The Monitoring Officer may also seek to identify whether an apology may be forthcoming.”

7. It may also be helpful to clarify that this section does not contain an exhaustive list of cases where public interest considerations will apply.

### **Complaints procedure**

8. The procedure for handling complaints is attached at Annex three. These procedures have served the Council well but Members may wish to consider amendments in the following areas:
  - a) In paragraph 3 the procedure says: “Before reaching a decision the Monitoring Officer may request further information from you or obtain information which is readily available to him such as notes of Council meetings. If the complaint relates to a Parish Councillor he may consult the Parish Council.”

In recent cases it has been helpful to put the allegation to the subject Member and receive an immediate response. It would be helpful to include this option specifically within the procedure.

- b) The same paragraph says: “In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. If a Councillor makes a reasonable offer to settle a complaint informally, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.”

This assumes that an apology is offered after the complaint. There have been cases where a complaint has been made even after an apology has been offered. A minor revision to the wording is therefore recommended.

- c) The current procedure only makes limited references to the confidentiality of parts of the process. Members may wish to consider the extent to which they would wish to encourage the complaints processes to be conducted in confidence. In that regard, it should be noted, that the hearings procedure is clear that hearing should normally be conducted in public.

- d) In paragraph 9 it could be helpful to cross reference to the separate hearings procure.

### **Hearing procedure**

9. The hearing procedure is attached at annex four. This procedure was prepared following a review after the last hearing conducted by the Committee. It has not yet been used in practice so it is difficult to comment on whether it could be improved.

### **Recommendations**

10. Members are recommended to consider the procedures, indicate whether they agree with the recommendations in this reports for changes and to identify any other potential improvements which should be made.

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

### **Contact Details**

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**Report**  **Date** 04/06/18  
**Approved**

**Wards Affected:**

**All**

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

#### **Annexes:**

Annex 1 – Terms of Reference  
Annex 2 – Assessment Criteria  
Annex 3 – Complaints Procedure  
Annex 4 – Hearing Procedure

**Background Papers: None**