

**Notice of meeting of  
Joint Standards Committee - Assessments Sub-Committee**

- To:** Councillors D'Agorne and Galvin (CYC Members)  
Councillor M Waudby (Parish Council Member)
- Mr Leigh (Independent Person)
- Date:** Thursday, 30 March 2023
- Time:** 2.00 pm
- Venue:** The Thornton Room - Ground Floor, West Offices (G039)

**AGENDA**

- 1. Appointment of Chair**  
To appoint a member to chair the meeting.
- 2. Declarations of Interest**  
At this point in the meeting, Members are asked to declare any disclosable pecuniary interest or other registerable interest they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests.
- 3. Exclusion of Press and Public**  
To consider excluding the public and press from the meeting during consideration of the private reports at Agenda Items 4, 5 and 6, on the grounds that they contain information relating to individuals. This information 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.

*Note: the private reports referred to above follow the public report on each item in the agenda papers.*

- 4. Code of Conduct Complaints received in respect of a City of York Councillor** (Pages 1 - 74)  
To consider the investigation report relating to two complaints of breach of the Code of Conduct received in respect of a City of York Councillor and determine next steps.
- 5. Review of Code of Conduct Complaint received in respect of a City of York Councillor** (Pages 75 - 106)  
To review a complaint of breach of the Code of Conduct received in respect of a City of York Councillor and determine next steps.
- 6. Code of Conduct Complaint received in respect of a Parish Councillor** (Pages 107 - 132)  
To consider a complaint of breach of the Code of Conduct received in respect of a Parish Councillor and determine next steps.
- 7. Urgent Business**  
Any other business which the Chair considers urgent under the Local Government Act 1972.

Democratic Services officer responsible for this meeting:

Name: Fiona Young

Contact details:

- Telephone – (01904) 551027
- E-mail – [fiona.young@york.gov.uk](mailto:fiona.young@york.gov.uk)



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**Joint Standards Assessments Sub-Committee****30<sup>th</sup> March 2023**

Report of the Deputy Monitoring Officer

**Code of Conduct Complaints received in respect of a City of York Councillor****Summary**

1. To consider the investigation report relating to two complaints of breach of the Code of Conduct received in respect of a City of York Councillor and determine next steps.

**Recommendations**

2. The options available to the Sub-Committee are as follows:
  - a. rule that there has been no breach of the Code;
  - b. to seek to resolve the matter informally; or
  - c. to refer the matter to the JSC for determination

Option A is recommended in respect of each complaint.

In either case there are no rights of appeal to this decision.

**Background**

3. On 23 May 2022, two complainants lodged Code of Conduct complaints with the Council's Monitoring Officer relating to comments made in public.
4. The. Complainants allege the following parts of the Councillor Code of Conduct have been breached:
  - a. Failure to treat others with respect.

- b. Bringing the council into disrepute.
- c. Using, or attempting to use, their position improperly to the advantage or disadvantage of their self or anyone else.

## **Procedure**

- 5. The former Monitoring Officer (“MO”) applied an initial filter and referred the matter for investigation. Cathryn Moore, Corporate Business Partner, Legal Services, was appointed by the Deputy Monitoring Officer to complete the investigation.
- 6. Under the Case Handling Procedure set out in Appendix 29 of the Constitution (the “Procedure”), cases of complaints by or against a member of the Executive or Shadow Executive or a committee chair or deputy, must be referred to a JSC Sub Committee. This provision applies.
- 7. Pursuant to paragraph 25 of the Procedure, where the investigation has not been personally conducted by the MO, the final decision as to the findings of the report will be made by the MO
- 8. The current Monitoring Officer has reviewed the investigation report and adopts the findings which are that there has been no breach of the Code of Conduct.
- 9. If the Committee disagrees with this finding then it may refer the matter to a hearing panel which must convene within 2 months, or seek to resolve the matter informally. Possible informal resolutions are outlined in paragraph 14 of the Procedure, namely, apology, mediation meeting, notification to Group leader, training or something else.
- 10. The Investigation Report appears at Annex 1.

## **Options**

- 11. The Sub-Committee must now consider the following options:
  - a. rule that there has been no breach of the Code;
  - b. to seek to resolve the matter informally; or
  - c. to refer the matter to the JSC for determination

## **Implications**

### **Financial**

12. There will be costs incurred in the event that the matter progresses to a hearing panel.

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

13. Not applicable to this report.

### **Equalities**

14. Councillors are offered the support of an Independent Person as part of the Complaints Handling Procedure.

### **Legal**

15. The Monitoring Officer is required to consider all formal complaints received in respect of the Code of Conduct in line with the published Procedure for managing Code of Conduct Complaints.

### **Crime and Disorder, Information Technology (IT) and Property**

16. Not applicable to this report.

### **Other**

17. Not applicable to this report.

## **Contact Details**

### **Author and Officer**

**Responsible for the report:**

**Frances Harrison**

**Deputy Monitoring Officer**

Tel No. 01904 551988

**Report  
Approved**



**Date** 20<sup>th</sup> March 2023

**Wards Affected: All**

**All**



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

**Background Papers:**

- City of York Council Member Code of Conduct
- City of York Council Code of Conduct and Procedure for Handling of Complaints
- City of York Council Constitution
- <https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respect>

**Annexes:**

- Annex 1 – Investigation Report

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of the Local Government Act 1972.

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**Joint Standards Assessments Sub-Committee****30<sup>th</sup> March 2023****Public Report**

Report of the Deputy Monitoring Officer

**Review of Code of Conduct Complaint received in respect of a City of York Councillor****Summary**

1. To review a complaint of breach of the Code of Conduct received in respect of a City of York Councillor and determine next steps.
2. This complaint was considered by a Joint Standards Committee Sub Committee on 21<sup>st</sup> February 2023 and is being returned for review following non compliance with a recommendation for informal resolution.

**Recommendations**

3. The options available to the Sub-Committee pursuant to paragraph 16 of the case handling procedure are as follows:
  - a) Close the case.
  - b) Initiate an investigation.
  - c) Take some other action.

Option A is recommended.

There are no rights of appeal to this decision.

## Background

4. The background to the complaint is set out in the report to JSC of 21<sup>st</sup> February 2023. The JSC sub committee considered 2 complaints against a City of York Councillor on that occasion. It decided:
  - a) complaint 1 was out of scope; and
  - b) complaint 2 was in scope and recommended informal resolution by way of private written apology. The committee further recommended that the Subject Member's Group Leader be asked to support this course of action.
5. The decision notices were sent to the parties in line with the procedure.
6. The subject member of complaint 2 emailed the Monitoring Officer on 7<sup>th</sup> March 2023 to confirm that they felt unable to comply with the recommended resolution as they did not feel they had breached the Code.

## Procedure

7. Paragraph 16 of the Case Handling Procedure set out in Appendix 29 of the Constitution provides:

*“If either the subject member or complainant refuses to engage with the informal resolution proposed by the MO, or the MO deems the action taken by the subject member insufficient or the informal resolution does not take place in a timely way the MO will decide, in consultation with an IP, whether the case should be closed, whether an investigation is necessary or whether some other action should be taken. If the MO and the IP are not in agreement about how to proceed the case will be referred to the chair or vice chair of the JSC for a decision.”*
8. Paragraph 5 of the Case handling Procedure reserves cases where the subject member or complainant is a member of the Executive or Shadow Executive or a committee chair or deputy. We therefore read “MO” in the above paragraph as “JSC Sub” and the matter is reviewed by that Committee. In accordance with the rules of natural justice that must be a freshly constituted committee to avoid the potential for bias, predetermination or the perception of either.



## **Options**

9. The Sub-Committee must now consider the following options:
  - a) Close the case.
  - b) Initiate an investigation.
  - c) Take some other action.

## **Implications**

### **Financial**

10. There will be costs incurred in the event that the matter progresses to investigation.

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

11. Not applicable to this report.

### **Equalities**

12. Councillors are offered the support of an Independent Person as part of the Complaints Handling Procedure.

### **Legal**

13. The Monitoring Officer is required to consider all formal complaints received in respect of the Code of Conduct in line with the published Procedure for managing Code of Conduct Complaints.

### **Crime and Disorder, Information Technology (IT) and Property**

14. Not applicable to this report.

### **Other**

15. Not applicable to this report.

**Contact Details**

**Author:**

**Frances Harrison  
Head of Legal Services &  
Deputy Monitoring Officer**

Tel No. 01904 551988

**Chief Officer Responsible for the report:**

**Bryn Roberts  
Monitoring Officer**

**Report**  **Date** 20<sup>th</sup> March 2023  
**Approved**

**Wards Affected: All**

**All**

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

**Background Papers:**

- City of York Council Code of Conduct and Procedure for Handling of Complaints
- City of York Council Constitution
- LGA Guidance on Complaints Handling

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**Joint Standards Assessments Sub  
Committee****30<sup>th</sup> March 2023**

Report of the Deputy Monitoring Officer

**Code of Conduct Complaint received in respect of a Parish Councillor****Summary**

1. To consider a complaint of breach of the Code of Conduct received in respect of a Parish Councillor and determine next steps.

**Recommendations**

2. The options available to the Sub-Committee are as follows:
  - a. Rule that the complaint is out of scope.
  - b. Rule that the complaint is in scope and choose to (i) take no further action, (ii) seek to resolve the matter informally; or (iii) refer the matter for investigation.

Option A is recommended in respect of each complaint.

In either case there are no rights of appeal to this decision.

**Background**

3. On 22<sup>nd</sup> February 2023 the Monitoring Officer received a complaint alleging that a Parish Councillor had breached the Parish Council's Code of Conduct by failing to treat the complainant with respect.

**Procedure**

4. Under the Case Handling Procedure set out in Appendix 29 of the Constitution, an initial filter is applied to all complaints, essentially "is there a case to answer?"

5. The Monitoring Officer is responsible for applying that filter except that under paragraph 5 of the Procedure, cases of complaints by or against a member of the Executive or Shadow Executive or a committee chair or deputy, must be referred to a JSC Sub Committee. This provision applies.
6. In all cases, the subject member is notified of the complaint and may provide comments.
7. If a complaint passes the initial filter, an Independent Person is invited to give a view on what should happen next. The assessment of the IP, as well as that of the Chair or Vice Chair of the JSC is considered in determining which of the following actions, under paragraph 9 should follow, namely
  - a. to take no further action;
  - b. to seek to resolve the matter informally; or
  - c. to refer the matter for investigation.
8. These will be the options available to the Sub Committee today if the complaint is determined to be in scope. Guidance on factors to be taken into account is offered in Paragraph 10 of the Procedure.
9. The Local Government Association publishes guidance on complaints handling which is referred to as a background document. Key aspects of that guidance regarding disrespect are:
  - a. Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.
  - b. Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as bullying and the demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or

members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

- c. Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault-finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

10. With regard to Disrepute the Guidance states:

“In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a councillor’s behaviour in office will bring their **role** into disrepute if the conduct could reasonably be regarded as either:

- a. reducing the public’s confidence in them being able to fulfil their role;  
or
- b. adversely affecting the reputation of your authority’s councillors, in being able to fulfil their role.

## Options

11. The Sub-Committee must now consider the following options:

- a. Rule that the complaint is out of scope.
- b. Rule that the complaint is in scope and choose to (i) take no further action, (ii) seek to resolve the matter informally; or (iii) refer the matter for investigation.

## Implications

### Financial

12. There will be costs incurred in the event that the matter progresses to investigation.

### Human Resources (HR)

13. Not applicable to this report.

**Equalities**

14. Councillors are offered the support of an Independent Person as part of the Complaints Handling Procedure.

**Legal**

15. The Monitoring Officer is required to consider all formal complaints received in respect of the Code of Conduct in line with the published Procedure for managing Code of Conduct Complaints.

**Crime and Disorder, Information Technology (IT) and Property**

16. Not applicable to this report.

**Other**

17. Not applicable to this report.

**Contact Details**

**Author and Officer  
Responsible for the report:  
Frances Harrison**

**Deputy Monitoring Officer**

Tel No. 01904 551988

**Report  
Approved**

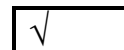


**Date**

20<sup>th</sup> March 2023

**Wards Affected: All**

**All**



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

**Background Papers:**



- City of York Council Code of Conduct and Procedure for Handling of Complaints
- City of York Council Constitution
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