

Joint Standards Assessments Sub-Committee

30th 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 21st 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 21st 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 7th 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

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Chief Officer Responsible for the report:

**Bryn Roberts
Monitoring Officer**

Report **Date** 20th 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