

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

**To:** Councillors Pavlovic and Rowley (CYC Members)  
Councillor Chambers (Parish Council Member)  
Mr Leigh (Independent Person)

**Date:** Thursday, 30 November 2023

**Time:** 1.00 pm

**Venue:** The George Leeman Room - 1st Floor West Offices  
(F043)

**AGENDA**

- 1. Appointment of Chair**  
To appoint a member to chair the meeting.
- 2. Declarations of Interest** (Pages 1 - 2)  
At this point in the meeting, Members and co-opted 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. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

*[Please see attached sheet for further guidance for Members].*

**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 and 5, on the grounds that they contain information relating to individuals and information likely to reveal the identity of individuals. This information is classed as exempt under Private Document Pack 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.

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

**4. Code of Conduct Complaint received in respect of Parish Councillors** (Pages 3 - 22)

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

**5. Code of Conduct Complaint received in respect of Parish Councillors** (Pages 23 - 58)

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

**6. Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democratic Services Officer responsible for this meeting:

Name: Jane Meller

Contact details:

- Telephone – (01904) 555209
- E-mail – jane.meller@york.gov.uk

For more information about any of the following please contact the Democratic Services officer responsible for servicing this meeting:

- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

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 własnym języku. (Polish)**

**Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)**

**یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جا سکتی ہیں۔ (Urdu)**

** (01904) 551550**

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### Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) <b>OR</b> Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) <b>OR</b> Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.



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## Public Report

### Joint Standards Assessments Sub-Committee

30 November 2023

Report of the Deputy Monitoring Officer

### Complaints received in respect of Parish Councillors

#### Summary

1. To consider two complaints of breach of the Code of Conduct received in respect of two Parish Councillors and to determine next steps.

#### Recommendations

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

#### Background

The Monitoring Officer received a complaint on 30 October 2023 against two members of a parish council alleging breaches of the code of conduct. The JSC Assessment Sub Committee is asked to assess the two complaints in accordance with paragraph 5 of the Case Handling Procedure as contained within Appendix 29 of the Constitution.

The subject members have been notified of the complaints and were offered an opportunity to submit comments. The Independent Person was consulted on both complaints and their views will be reported to the Sub Committee.

## **Options**

The Sub-Committee must now consider the following options:

- a. Rule that one or both of the complaints are out of scope.
- b. Rule that one or both of the complaints are 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**

- (b) There will be costs incurred in the event that the matter progresses to investigation.

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

- (c) Not applicable to this report.

### **Equalities**

- (d) Councillors are offered the support of an Independent Person as part of the Complaints Handling Procedure.

### **Legal**

- (e) 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**

- (f) Not applicable to this report.

### **Other**

- (g) Not applicable to this report.



**Contact Details**

**Author and Officer**

**Responsible for the report:**

**Lindsay Tomlinson**

**Deputy Monitoring Officer**

Tel No. 07591 337143

**Report**  **Date** 21 November 2023  
**Approved**

**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
- <https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respect>

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**Joint Standards Assessments Sub-Committee****30 November 2023**

Report of the Deputy Monitoring Officer

**Code of Conduct Complaints received in respect of Parish Councillors****Summary**

1. To consider complaints of breach of the Code of Conduct received in respect of Parish Councillors

**Recommendations**

2. The options available to the Sub-Committee are as follows:
  - a. Rule that the complaints are out of scope.
  - b. Rule that the complaints are 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 b(ii) is recommended in respect of complaint 1 and part of the complaint 2.

Option (a) is recommended in respect of the remainder of Complaint 2.

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

**Background**

3. On 3 November 2023 the Monitoring Officer received a complaint from a resident alleging that 9 parish councillors had breached the Code of Conduct by treating them disrespectfully.
4. On 9 November 2023, the complainant submitted supplementary material.

5. On 13 November 2023 a further complaint was received from another resident which expressed concern about the same Council as a whole and enquired about disbanding it.

## **Procedure**

6. Under the Case Handling Procedure an initial filter is applied to all complaints, essentially “is there a case to answer?”
7. The Monitoring Officer is responsible for applying that filter except that under paragraph 5 of the Procedure, cases of complaints made 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 case falls under that paragraph.
8. In all cases, the subject member is notified of the complaint and may provide comments.
9. An Independent Person is also invited to give a view on what should happen next. The assessment of the IP should be 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.
10. 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.

## **Advice of Deputy Monitoring Officer Complaint 1**

11. The matters to consider in applying the initial filter are set out in Paragraph 4 of the Procedure:
  - i. check that the complaint is against a councillor;
  - ii. that they were in office at the time of the alleged incident; and
  - iii. that the matter would be capable of being a breach of the Code.  
The Council has no authority to deal with complaints which relate solely to a councillor’s private life or things they do which are not

related to their role as a councillor or as a representative of the council.

12. The Local Government Association publishes guidance on complaints handling which is referred to as a background document. Key aspects of that guidance relevant to this complaint are:
  - a. Examples of ways in which you can show respect are by being polite and courteous, listening and paying attention to others, having consideration for other people's feelings, following protocols and rules
  - b. Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another;
  - c. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful and 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.
  - d. 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.
  - e. It is subjective and difficult to define.
13. The IP recommends informal resolution.

## **Complaint 2**

14. The second complaint strays into the territory of governance of the Parish Council as a corporate entity rather than the conduct of its members. City of York Council has no role in the former, only the latter. Complaints about the running of Parish Councils should be dealt with in accordance with its own published procedures.
15. The complaint suggests that the Parish Council is no longer fit for purpose and may need to be disbanded.
16. Parish/town councils can only be abolished via the Community Governance Review (CGR) process which is a duty only CYC could undertake as principal authority. In order to commence a CGR, CYC would either need a formal request from the parish/town council (CYC would not be obliged to act on this request, but it is considered good practice to do so) or CYC could be petitioned to undertake the CGR. Where a valid petition is received (i.e. signed/supported by the requisite

number of local government electors in the relevant area) then CYC is obliged to undertake the CGR.

17. The CGR process is statutory and must include consultation on the proposals with certain statutory consultees and with all affected parties which would include local residents. The consultation process is not prescribed. The draft abolition Order, if the CGR finds that abolition is the recommended outcome, should be consulted on before being submitted to Full Council for approval.
18. However, government guidance states: abolition of councils is “undesirable” – unless very low populations or it is being replaced. In theory, CYC could resolve to abolish a parish council but would need solid evidence through the consultation process that local residents supported this move. If residents supported abolition but were keen to retain that level of representation, then one option could be to group with a neighbouring parish council and form a new parish council covering the wider area. Elections would be held for members of this new parish council. For this reason, any new councils are often set up to take effect on 1 April during the year of the next ordinary elections (i.e. 2027) to avoid the additional cost of running interim elections, because the new council must get back into sync with the ordinary election cycle as soon as possible.
19. Abolishing a parish council and then establishing a new parish council for exactly the same area is technically possible but would be likely to give the impression of being a politically motivated process designed to remove certain elected members and would be a decision vulnerable to challenge through judicial review.
20. There is no lawful means of removing current parish councillors from office and electing new councillors. As with CYC councillors, all parish councillors are elected (regardless of whether this was via an election or they stood unopposed or were co-opted) for a term of office that ends at the date of the next ordinary elections and the term of office can only be terminated before that date where:
  - a. The councillor dies in office
  - b. The councillor resigns their seat
  - c. The councillor is disqualified through non-attendance at meetings for a period of 6 months

- d. The councillor fails to remain qualified through not remaining a registered elector in the area (but only if this was the sole qualification in place at the time of nomination/election)
- e. The councillor is disqualified through receiving a prison sentence of three months or more (custodial or suspended) or is declared bankrupt.

## **Implications**

### **Financial**

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

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

- 22. Not applicable to this report.

### **Equalities**

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

### **Legal**

- 24. 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**

- 25. Not applicable to this report.

### **Other**

- 26. 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** 21 November 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
- <https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respect>



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