

Joint Standards Committee

- To:** Councillor Carol Runciman (Chair), Cannon, Hayes,
Kramm and Richardson (CYC Members)
Cllr Wiseman (Parish Council Member)
Mr Laverick and Ms Davies (Independent Persons)
- Date:** Wednesday, 13 June 2018
- Time:** 4.00 pm
- Venue:** The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

1. Declarations of Interest

Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Minutes (Pages 1 - 6)

To approve and sign the minutes of the meeting of the Joint Standards Committee held on 18 April 2018.

3. Minutes of Sub-Committees (Pages 7 - 8)

To approve and sign the minutes of the meeting of the Assessments Sub-Committee held on 22 September 2017.

4. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Joint Standards Committee, may do so. The deadline for registering is **5:00 pm on Tuesday, 12 June 2018**. To register to speak please contact the Democracy Officer for the meeting on the details at the foot of the agenda.

Filming or Recording Meetings

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

5. Review of Complaints for the last Municipal Year (Pages 9 - 14)

This report provides an overview of the standards complaints received during the 2017-18 municipal year.

6. Monitoring Report on Complaints Received (Pages 15 - 16)

To receive a routine update report on recent standards complaints.

7. Standards Committee's Terms of Reference and Procedures (Pages 17 - 50)

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

8. Review of Work Plan (Pages 51 - 52)

To review the committee's work plan for 2018-19 and consider whether any changes or additions are required.

9. Update on Parish Membership

The Monitoring Officer will report that four nominations have been received to fill the Parish Councillor vacancies on the committee. Yorkshire Local Councils Association (YLCA) are conducting a ballot and aim to report the outcome by 2 July.

10. Urgent Business

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

Democracy Officer

Name: Fiona Young

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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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City of York Council

Committee Minutes

Meeting	Joint Standards Committee
Date	18 April 2018
Present	Councillors Runciman, Cannon, Hayes, Kramm, Richardson (for agenda items 1-6) (CYC Members) Councillor Wiseman (Parish Council Member) Mr Laverick (Independent Person)
Apologies	Ms Davies (Independent Person)

30. Minutes of Sub-Committees

Resolved: That the minutes of the Assessments Sub-Committee meetings held on 23 February 2018 and 8 March 2018 be approved and signed by the Chair as a correct record.

31. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda.

No interests were declared, but Cllr Richardson indicated that he had been involved in one of the complaints referred to in the minutes of the Assessment Sub-Committees at Agenda Item 3.

32. Minutes

Resolved: That the minutes of the meeting of the Joint Standards Committee held on 21 January 2018 be approved and signed by the Chair as a correct record.

33. Public Participation

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Gwen Swinburn spoke on Agenda Item 6 (Review of Local Government Ethical Standards), expressing her views on a number of issues in the draft response. She also queried the legal basis for calling the Assessments Sub-Committee meeting on 8 March 2018 at short notice (item 3). The

Monitoring Officer responded, confirming that the Local Government Act 1972 included provisions for dealing with urgent business.

In respect of the matters raised on the whistleblowing policy, the Chair indicated that she would like the policy to be reviewed initially by the Audit & Governance Committee, as it fell within the remit of that committee as well as relating to standards issues.

34. Monitoring Report on Complaints Received

Members received a routine update report on recent standards complaints.

Since 31 January, six new complaints had been received about city councillors and two about parish councillors. Three cases had been referred to assessments sub-committees and three concluded by the Monitoring Officer in consultation with the Independent Persons. Of the two cases reported as still going through the assessments process, one was now complete.

Members discussed how they would like to receive this update information in future. The general view was that more case detail was needed. Exempt reports or annexes should be avoided unless essential, but a short, anonymised summary of each case should be provided. It might also be appropriate to draw attention to instances of multiple complaints about, or by, the same person.

Resolved: (i) That the report be noted.

Reason: To ensure that the committee is aware of current levels of activity.

(ii) That additional details of standards cases be provided with this report in future, taking into account the views expressed by Members at the meeting.

Reason: So that Members are better informed, and the public can be assured that cases are being properly considered.

35. Review of Local Government Ethical Standards

Members considered a report which informed them of a review of ethical standards being conducted by the Committee on Standards in Public Life and presented a draft response to consultation on the review.

The review would consider all levels of local government in England. Stakeholders were invited to respond to a series of questions, draft responses to which were set out in the annex to the report. During an extensive discussion, Members agreed on the following amendments /additions to these responses (*numbers refer to paragraphs in the annex*):

- 3.1 – recommend a single code of conduct for all councillors, with a simplified version for parish councillors (subject to the views of the Yorkshire Local Councils Association (YLCA)).
- 5.1 – insert ‘generally’ after ‘experience’ (subject to the views of political groups).
- 7.2 – expand on the response, recommending removal of this provision.
- 8.6 – seek the views of political groups and the YLCA on a response to this question.
- 9.1 – add ‘across all local authorities’ to the end.
- 10.2 – remove or re-word the second sentence.
- 11.1 – add ‘after a standards process has been completed’ after ‘period of time’.
- 15.2 – remove the second sentence.
- 16.1 – seek the views of political groups; possibly consider whether national political parties should provide support.
- 16.2 – seek the views of YLCA.
- 18.1 – remove / re-word the second sentence.
- 18.2 – include a recommendation for training / support for members.

The Chair circulated a set of suggested amendments to the draft that she had already received from the city council’s Liberal Democrat group.

Resolved: (i) That the comments of the Liberal Democrat group be noted.

(ii) That the draft response be circulated to the remaining political groups, independent members of the city council, and the YLCA for their comments, with all comments to be submitted to the Monitoring Officer by 4 May at the latest.

(iii) That the Monitoring Officer, in consultation with the Chair, prepare an amended response, taking into account all comments and suggested amendments received, including those made by Members at the meeting.

(iv) That the amended response be circulated to all members of the Joint Standards Committee, and the Independent

Persons, before it is submitted to the Committee on Standards in Public Life.

Reason: To ensure that the views of all affected members are reflected in the response to the consultation and that a final response can be submitted to meet the consultation deadline.

36. Updating the Code of Conduct

Members considered a report which advised them of the work of the task group set up by the committee to review the Member code of conduct.

On 31 January, the committee had asked the task group to convene again to reconsider the revised code (Minute 27 of that meeting refers). The task group had met on 13 March and, in the light of recent experience from complaints, now proposed a further addition to the code, relating to voluntary registration of interests. This amendment was highlighted in the revised version of the draft code annexed to the report.

Resolved: (i) That the revised version of the draft code be circulated to the city council's political groups for their comments.

(ii) That the draft code be brought to a future meeting of the committee for consideration in the light of those comments.

Reason: To ensure that appropriate consultation is carried out before the revised code is recommended to Council for approval.

(iii) That approval of the revised code of conduct be secured before the annual meeting of Council in May 2019.

Reason: So that the revised code comes into force at the start of the 2019-20 municipal year, after the local authority elections.

37. Civic Guide and Gifts

Members considered a report which sought their views on the inclusion of further guidance in the Civic Guide for the Lord Mayor and Civic Party in relation to receiving gifts.

A copy of the current guidance, in Section 5 of the Civic Guide, was attached as Annex 1, with the model guidance on gifts provided by the National Association of Civic Officers (NACO) at Annex 2.

There was some discussion as to whether the Lord Mayor should be responsible for all decisions on gifts, as suggested in the model guidance, or whether members of the civic party, including those who were not councillors, should have individual responsibility.

Resolved: That the above comments be noted and that consultation on the inclusion of guidance on gifts in the Civic Guide be undertaken with political groups and former Lord Mayors.

Reason: So that an informed decision can be made.

38. Membership of the Committee

Members considered a report which provided an update on changes to the Committee's membership and progress towards securing additional parish representation.

It was reported that, since the last meeting, Cllr Mercer had been replaced on the committee by Cllr Richardson as the Conservative group's representative. One of the parish council representatives, Cllr Perrett, had resigned from the committee. With the existing vacancy, this had left two of the three parish councillor places vacant. The Yorkshire Local Council Association (YLCA) had been asked to begin the process of filling these vacancies. They had recently contacted the Monitoring Officer to confirm they would be running the ballot on the committee's behalf.

Members placed on record their thanks to Cllr Perrett for his work as Vice Chair of the committee. They also queried the position regarding independent city council members on the committee. The Monitoring Officer agreed to clarify this with Group Leaders.

Resolved: That the report be noted

Reason: To confirm that the committee is aware of efforts to fill the current parish councillor vacancies.

39. Review of Work Plan

Members considered the committee's work plan and potential items for inclusion on agendas for the 2018-19 municipal year.

Resolved: (i) That the following topics be added to the work plan:

- The city council's Whistleblowing policy and its link to ethical standards (following review of the policy by Audit & Governance Committee)

- Wider issues of intimidation
- Review of the Joint Standards Committee's terms of reference and procedures
- Guidance for elected Members on their behaviour during the election process (to the meeting on 13 February 2019)
- Updating the Member Code of Conduct (following consultation with groups)

(ii) That Officers assign these topics to appropriate meeting dates and circulate an updated version of the work plan to Members.

Reason: To ensure that the committee has a planned programme of work in place.

Cllr C Runciman, Chair

[The meeting started at 4.00 pm and finished at 6.25 pm].

City of York Council

Committee Minutes

Meeting	Joint Standards Committee - Assessments Sub-Committee
Date	22 September 2017
Present	Parish Councillor Perrett (Vice-Chair, in the Chair), Councillors Hayes and Cannon and Mr Laverick (Independent Person)
Apologies	Ms A Davies (Independent Person)

12. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in respect of business on the agenda. No additional interests were declared.

13. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during consideration of agenda item 3 on the grounds that it contains information relating to individuals and information which is likely to reveal the identity of individuals. This information is classed as exempt under 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.

14. Complaints against Members of a Council covered by the Joint Standards Committee

Members considered an allegation which had been made that two Members of the Council may have breached the Member Code of Conduct and were asked to decide whether, and how, the matter should be pursued.

They considered the report of the Monitoring Officer, information contained in the agenda papers, written submissions from the two

Members, the views of the Independent Persons and advice from a Monitoring Officer.

Having reviewed the information provided, Members considered the adopted assessment criteria to determine if the complaint was covered by the Member Code of Conduct, and the options available to them to decide which option they felt was most appropriate.

During their consideration of the matter, the Sub Committee identified a number of wider issues which they considered might merit consideration for inclusion on the Standards Committee's work plan.

Resolved: That the matter be referred to the nominated legal adviser and the two Members be advised of the decision taken by the sub-committee.

Reason: In compliance with the City of York Council Joint Standards Committee Assessment Criteria for Complaints.

Parish Councillor Perrett, Vice Chair, in the Chair
[The meeting started at 10.00 am and finished at 1.00 pm].



Joint Standards Committee

13 June 2018

Report of the Monitoring Officer

Review of Complaints for the last Municipal Year

Summary

1. This annual report provides an overview of the standards complaints received during the previous municipal year.

Complaints received

2. The table below describes the complaints handled during the last municipal year.

City or Parish	Complainant	Date accepted	Outcome	Date concluded	Category
Parish	Member of public	18/4/2017 (ongoing at year end 2016/17)	Referred for investigation but discontinued after Cllr resigned	26/6/2017	Disrespect Disrepute
City	Whistleblowing complaint led to standards issues begin referred	30/8/2017	Assessment sub referred for investigation		Disrepute Confidentiality
City	Councillor	21/10/2017	No action merited	2/11/2017	Disrespect
City	External report led to standards complaint being made		Assessment sub. NFA	23/02/2018	Disrepute Disrespect

City	External report led to standards complaint being made		Assessment sub NFA	23/02/2018	Disrepute Disrespect
City	Self	26/01/2018	Assessment sub. NFA	23/02/2018	Failure to declare
City	Member of public	26/01/2018	Assessment sub NFA	23/02/2018	Failure to register
City	Member of public	23/2/2018	Assessment sub -Informal steps required re minor breach	16/03/18	Failure to declare
Parish	Parish Councillor	16/02/2018	MO decision. No breach. Apology offered for any inadvertent offence	26/03/2018	Disrespect Disrepute
City	Member of public	5/03/2018	MO decision No breach	28/3/2018	Disrespect Disrepute
City	Member of public	15/03/2018	MO decision. Informal action	29/03/2018	Failure to register
Parish	Member of public	07/03/2018	MO decision. Informal action .	19/04/2018	Disrespect Failure to register
City	Councillor	31/3/2018	Referred for investigation		Confidentiality

3. The volume of complaints is slightly higher than in recent years as shown below:

Year	Number of Complaints Received
2017/18	12

2016/17	9
2015/16	9
2014/15	11
2013/14	5
2012/13	7

4. Two of the new complaints related to Parish Councillors and the rest concerned City Councillors. Although last year there were significantly more Parish complaints this number is in line with the general trend over a number of years. Given the large number of Parish Councillors they are significantly under represented in relation to volume of complaints received as compared with City Councillors. That is a picture which has been consistent for many years.
5. The table below provides historical information on the breakdown of complaints. In that table some complaints relate to more than one Councillor but are recorded only once. Similarly, multiple complaints relating to the same matter are recorded only once.

Year	City Councillor complaints	Parish Councillor complaints
2017/18	10	2
2016/17	3	6
2015/16	7	2
2014/15	9	2
2013/14	2	3
2012/13	7	0

6. The Parish complaints during 2017/18 both related to different Councillors. In contrast three City Councillors were each the subject of two complaints. One of those complaints is under investigation. No formal action resulted from the others although

informal advice was given. None of the councillors concerned had been the subject of a complaint in the previous year. One Parish and two City councillors were though the subject of complaints in both 2016/17 and 2017/18.

7. As in previous years the most common reason for a complaint was that a Member had allegedly failed to treat someone with respect or had brought the Council into disrepute. There were though a significantly higher number of complaints relating to the registration or declaration of interest than in previous years. A number of complaints were made regarding registration of political party membership. Two complaints (neither of which have concluded) also included allegations relating to the handling of confidential information.
8. Two of the complaints against City councillors were instigated by fellow Councillors. A further three (affecting four Members) were referred to standards from within the Council but after an external investigator had identified potential breaches of the code. One Parish complaints came from a Parish Councillor. One Member of the public submitted separate complaints against two Councillors.
9. Three investigations were initiated during 2017/18. There were none in the previous year but had been three in both 2014/15 and 2015/16. For the first time one investigation has been outsourced to an experienced firm of solicitors who specialise in standards matters. Other investigations have been handled in house.
10. No hearings took place during the year.
11. Three of the five cases dealt with under delegated powers by the Monitoring Officer were resolved within two weeks. The others took a little over three and five weeks respectively. This process involves clarifying the complaint if necessary, consultation with the independent persons and consideration and response by the Monitoring Officer. On average, cases referred to an Assessment sub committee took longer.
12. The case which is subject to external investigation has been ongoing for longer than any case handled by the Committee in recent years. While the timescale involved is not by any means out of line with timescales involved when investigations were carried out nationally, the Committee may wish to review this at some point in the future.

Recommendations

13. Members are recommended to:

- 1) Note the report
- 2) Consider whether there are any issues raised by this review which require farther consideration as part of the Committee's work plan.

Reason: To ensure that the Committee continues to make an effective contribution to ethical standards within the City Council.

Contact Details

Author:
Andrew Docherty
Monitoring Officer
Customer and Business
Support Services

Tel No. 01904 551004

Report
Approved

Date 31/05/18

Wards Affected

All

For further information please contact the author of the report

Annexes:

None

Background Papers:

None

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Joint Standards Committee
13 June 2018
Report of the Monitoring Officer
Monitoring Report on Complaints Received
Summary

1. This is a routine report to update the Committee on recent standard complaints.

Background

2. Since the Committee last met in April no new complaints have been received. The table below gives information about ongoing casework handled during the period:

Case reference.	City or Parish Councillor	Date complaint accepted	Nature of Complaint	Status
225	City (x2)	29/8/2018	Standards issues raised during investigation of whistleblowing complaint	Assessment sub committee 22/9/2017 referred for investigation. Investigation ongoing.
687	Parish	07/03/2018	Disrespect to member of public Failure to declare/register an interest	Advice and recommendations made by MO after initial enquiries. Case closed 19/4/2018

688	City	31/3/2018	Breach of confidentiality	MO referred for investigation. Investigation ongoing
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3. The complaint in each case is someone associated with the relevant Council.

Recommendations

4. Members are recommended to:
- 1) Note the report
 - 2) Consider whether the new style of reporting provides sufficient information for the Committee..

Reason: To ensure that the Committee is aware of current levels of activity and that the standards complaints system is used for its primary purpose.

Contact Details

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

**Report
Approved**



Date 30/05/18

Wards Affected

All

For further information please contact the author of the report

Annexes: None

Background Papers: None



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

Author:

Andrew Docherty
Monitoring Officer
Customer and Business
Support Services
Tel No. 01904 551004

**Report
Approved**



Date 04/06/18

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

Terms of Reference

(extract from City of York Council Constitution, Section 3C)

8 Joint Standards Committee

- 8.1 The Standards Committee shall be a joint committee established pursuant to section 102 of the Local Government Act 1972 consisting of the City of York Council, Heworth Without Parish Council and Earswick Parish Council (“the Councils”)
- 8.2 Functions
- 8.2.1 The Joint Standards Committee may exercise the following functions of the Councils:
- 8.2.2 The promotion and maintenance of high standards of conduct by members and co-opted members of the Councils and other Parish Councils for which the City Council is the principal authority.
- 8.2.3 Establishing arrangements for investigating and making decisions in respect of allegations that the code of conduct of either the City Council or a parish council for which the City Council is the principal authority has been breached.
- 8.2.4 Where the power to do has been delegated to it by a Council, granting dispensations relieving members from the duty to register or declare interests.
- 8.3 Membership of the Joint Standards Committee
- 8.3.1 The Joint Standards Committee shall consist of:
- a) Four voting members of the City Council;
 - b) One voting member of each of the three Parish Councils
 - c) Up to three non-voting community members co-opted by the Committee
- 8.3.2 A person who is disqualified from being a member of a relevant authority shall be disqualified from membership of the Joint Standards Committee.

8.4 Term of office and casual vacancies

8.4.1 A member of the Joint Standards Committee will hold office until one of the following occurs:

- a) He or she resigns by giving written notice to the proper officer of the Council that appointed him or her;
- b) He or she is removed or replaced by the Council that appointed him or her;
- c) He or she is disqualified for membership of the Joint Standards Committee;
- d) He or she ceases to be eligible for appointment to the Joint Standards Committee in the capacity in which he or she was appointed;
- e) The Constituent Authority which appointed him or her ceases to participate in the Joint Standards Committee.

8.4.2 A casual vacancy shall be filled as soon as practicable by the relevant Council. A casual vacancy in the case of a Parish Councillor shall be reported to the York Association of Local Councils for information.

8.5 Sub Committees

8.5.1 The Joint Standards Committee may appoint sub committees for purposes in the exercise of its functions.

8.5.2 Each person appointed as a member of a sub committee must be a voting member of the Joint Standards Committee.

8.5.3 The Joint Standards Committee will determine the membership and terms of reference of the sub committee and the quorum for its meetings.

8.5.4 If the Joint Standards Committee appoints more than one sub committee to exercise one or more of its functions then it shall ensure that the Proper Officer allocates particular matters to a sub committee first on the basis of the availability of members required to constitute the sub committee, and thereafter by rotation, and summonses meetings accordingly.

8.6 Meetings and Proceedings

8.6.1 The meetings and proceedings of the Joint Standards Committee shall be conducted in accordance with the standing orders or rules of procedure of the City of York Council.

8.6.2 The Joint Standards Committee may determine procedure rules for its sub committees.

8.7 Withdrawal from the Joint Standards Committee

8.7.1 A constituent authority may cease to participate in the Joint Standards Committee by resolution to that effect communicated in writing to the Monitoring Officer.

8.8 Expenses of the Joint Committee

8.8.1 The expenses of the Joint Committee shall be met by the City Council.

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City of York Council Joint Standards Committee Assessment Criteria for complaints

1. Background and Context

- 1.1 The Joint Standards Committee's arrangements for dealing with complaints are described in more detail in a separate document available from the Monitoring Officer and on the City Council's website.
- 1.2 The first decision to be made when a complaint is received is whether or not it should be referred for investigation. That decision is normally made by the Monitoring Officer but may be made by a Sub Committee of Members of the Standards Committee. In making the decision regard will be had to the following criteria.

2. Is the complaint covered by the Code?

- 2.1 Is the complaint about the conduct of a member?

The complaint must relate to one or more named elected or co-opted members of the district or parish councils covered by the Standard Committee i.e. within the City of York Council Area.

- 2.2 Was the named member in office at the time the alleged misconduct took place?

- 2.3 Does the allegation relate to the Member's conduct as a Councillor?

Complaints which relate to a Councillor's private life rather than their Council business are unlikely to be covered by the Code.

- 2.4 If the complaint is proven, would there be a breach of the Code under which the member was operating at the time of the alleged misconduct?

Codes of Conduct are concerned with Members' ethical behaviour. Sometimes complaints are received about decisions which

Councillors have made or about the quality of service provided by a Councillor. These are unlikely to be covered by the Code.

- 2.5 If the complaint is not covered by the Code then it cannot be investigated.

3. Sufficiency of Information

- 3.1 The complainant must provide sufficient information to show that there is a real possibility that there has been a breach of the Code of Conduct. If insufficient information is available the case will not normally be referred for investigation.

4. Seriousness of the Complaint

- 4.1 A complaint will not normally be referred for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.

5. Length of Time Which Has Elapsed

- 5.1 A complaint will not normally be investigated where the events took place more than 6 months prior to the complaint being submitted. An exception to this may arise where the conduct relates to a pattern of behaviour which has recently been repeated.

6. Public Interest

- 6.1 Consideration will be given as to whether the public interest would be served by referring a complaint for investigation or other action. They may consider that the public interest would not be served where, for instance, a member has died, resigned or is seriously ill.
- 6.2 The Standards Committee encourages informal resolution of complaints where it is in the public interest to do so. In some cases a speedy apology to the complainant may be the most effective outcome. In a case where the Code has been breached through ignorance an acceptance of fault from the Councillor together with an offer of training or a briefing from the Monitoring Officer, may be sufficient.

6.3 If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely that it will be referred for investigation or other action unless it is evident that the public interest will be served by further action being taken.

7. Anonymous Complaints

7.1 Anonymous complaints will not normally be entertained unless there is additional documentary evidence to support the complaint.

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Complaints about the ethical conduct of Councillors

1 The Code of Conduct

All City and Parish Councillors must follow a Code of Conduct which their Council has agreed. You can find a copy of the City Council's Code on the Council's website on this link:

<http://democracy.york.gov.uk/ecSDDisplay.aspx?NAME=SD569&ID=569&RPID=6449972&sch=doc&cat=12830&path=12830>

or inspect a paper copy by contacting the Democratic Services team who are based at West Offices telephone number (01904) 551550.

Parish Council's Codes of Conduct can be inspected by contacting the Clerk to the relevant Parish Council.

The City Council is responsible for putting in place arrangements for dealing with complaints that a Councillor from either the City Council or a Parish Council within York, may have breached the Code of Conduct. In dealing with complaints the Council consults with Independent Persons who are not connected with the Council or Councillors and is appointed to deal with these matters.

2 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer
West Offices
Station Rise
York
YO1 6GA

Or –

monitoringofficer@york.gov.uk

The Monitoring Officer is a senior officer of the City Council who is responsible for administering the system in respect of complaints of Councillor misconduct.

So that we have all the information which we need to be able to process your complaint, we ask that you complete our complaint form, which can be downloaded from the authority's website and is available on request from the Democratic Services team at West Offices.

We ask you to provide your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. This also guards against malicious complaints. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. The Monitoring Officer will normally tell the Councillor that a complaint has been received and who from. If you are concerned about your identity being revealed please advise the Monitoring Officer and he will discuss this with you before processing the complaint.

The Monitoring Officer will normally acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

3 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and discuss it with the Council's Independent Persons. Independent Persons are not Councillors and have no connection with the Council. Though by law the Independent Person must be consulted when a complaint has been investigated the Council has decided that the Independent Persons will also be consulted by the Monitoring Officer when the complaint is received to provide an external oversight.

He will then normally take a decision as to whether the complaint merits formal investigation. This decision will usually be taken within 14 days of receipt of your complaint.

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 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.

The Monitoring Officer will advise you whether he intends to investigate your complaint. If he decides not to he will explain why. There is no right of appeal against this decision but the Monitoring Officer reports his decisions to the Council's Joint Standards Committee so there is oversight of how he deals with these matters.

If there is evidence that a crime may have been committed the Monitoring Officer has the power to call in the Police and other regulatory agencies.

Occasionally the Monitoring Officer may decide that the decision as to whether a complaint should be investigated should be made by members of the Joint Standards Committee. In this case a small Sub Committee of Councillors and Parish Councillors will meet to consider your complaint.

4 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he will appoint an Investigating Officer. The Investigating Officer may be another officer of the authority, an officer of another authority or an external investigator.

The Investigating Officer will usually need to speak to you to discuss your complaint and may need to see relevant documents or interview other witnesses. You will be able to suggest what documents and which witnesses the Investigating Officer should consider seeing.

The Investigating Officer will also normally see the Councillor and provide him or her with the same opportunity to identify sources of evidence.

Unless the case is very straightforward, at the end of his/her investigation, the Investigating Officer will produce a draft report and share it with you and the Councillor concerned on a confidential basis. You will both then be able to identify any matter in that draft report which you disagree with or which you think needs more consideration.

The Investigating Officer will consider any comments you make before sending his/her final report to the Monitoring Officer.

5 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and may ask for further investigations to take place if he feels that is needed. He will consult the Independent Persons on the draft report and, if he is satisfied that the report is sufficient and accepts the finding, the Monitoring Officer will send a copy of the Investigating Officer's final report to you and the Councillor concerned. If the case concerns a Parish councillor he will also send a copy to the Parish Council concerned. That will be the end of the matter.

It is possible that the Monitoring Officer may accept that the report is complete but does not accept the Investigating Officer's judgment that there has been no breach of the Code. In that case the Monitoring Officer may refer the case for a hearing following the procedures set out below.

6 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer may either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Persons, seek local resolution.

6.1 Local Resolution

If the Monitoring Officer thinks that the complaint can reasonably be resolved without the need for a hearing he will consult with the Independent Persons and with you and seek to agree what you consider to be a fair resolution. It is important though that any resolution also helps to ensure higher standards of conduct for the future. Possible local resolutions might include the Councillor accepting that his/her conduct was unacceptable and offering an apology or a Councillor voluntarily giving up a position on a particular body. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Joint Standards Committee (and the Parish Council, where relevant) for information, but will take no further action.

In making a decision about whether a matter can be resolved locally the complainant's views will be given considerable weight but the decision rests with the Monitoring Officer.

6.2 Local Hearing

If the complaint is not resolved through the local resolution process, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel. Ordinarily a sub-committee will be chaired by the Chair or Vice-Chair of the Joint Standards Committee and comprise of other members selected to demonstrate their impartiality.

The Hearings Panel will take evidence from yourself, the Investigating Officer and the Councillor as well as any witnesses. This is not a Court process but, in order to be fair to everyone, formalities are followed so that a proper decision can be reached.

The Hearings Panel is not bound to accept the Investigating Officer's finding that the Code has been breached but if it does conclude that the Councillor failed to comply with the Code of Conduct, it will consider what action, if any, the Hearings Panel should take. In doing this, the Hearings Panel will consult the Independent Persons.

7 What action can the Hearings Panel take where a Councillor has failed to comply with the Code of Conduct?

The Hearings Panel may –

- 7.1 Censure the Councillor;
- 7.2 Formally report its findings to the City Council *or* Parish Council for information;
- 7.3 Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 7.4 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;

- 7.5 Recommend to Council that the Leader be removed from Office
- 7.6 Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;
- 7.7 Remove *[or recommend to the Parish Council that the Councillor be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- 7.8 Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access.

The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances. If the Panel decides to withdraw facilities from the Councillor it must ensure that the Councillor is not thereby prevented from undertaking his/her representative duties.

8 What happens after the hearing?

The Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the Councillor and to the Parish Council. The decision notice will be available for public inspection.

9 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Joint Standards Committee. It normally consists of three Members.

The Independent Persons are invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

10 Appeals

There is no right of appeal for you as complainant or for a Councillor against a decision of the Monitoring Officer.

If a Hearings Panel finds that a Councillor has breached the Code then he/she has a right of appeal to a differently constituted Panel made up of members of the Joint Standards Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

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Pre Hearing Procedure

1. Where a decision has been made that a complaint needs to be referred for a hearing then a Sub Committee meeting will be arranged for that purpose. The Sub Committee will sit as a Hearing Panel.
2. A copy of the final investigation report will be sent to the Subject Member, the complainant and to the Independent Persons. If the complaint relates to the Subject Member's conduct as a parish councillor then a copy will also be sent to the Clerk to the Parish Council.
3. The Subject Member and the complainant will be asked to confirm within fifteen working days whether he/she:
 - Disagrees with any of the findings of fact in the report and the reasons for any disagreement
 - Wishes to be represented by a solicitor or barrister, or by any other person (such representation should not normally be necessary)
 - Wishes to attend the hearing
 - Wishes relevant witnesses to be called to give evidence to the Panel
 - Wishes any part of the hearing to be held in privateⁱ
 - Wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the publicⁱⁱ
4. The Subject Member and the complainant will be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.

5. Upon receipt of the Member's and complainant's responses, the Investigating Officer shall be invited to comment on it within ten working days, and to say whether or not he/she:
 - Considers that the Committee should request other witnesses to give evidence or submit written or other evidence to the Committee
 - Believes any part of the hearing should be held in private
 - Believes any part of the report or other relevant documents should be withheld from the public
6. The Monitoring Officer will consider the responses and set a date for the hearing in consultation with the Chair of the Panel.
7. The Monitoring Officer together with the Chair of the Hearing Panel will consider which witnesses should be invited to attend. **They will carefully consider any wishes expressed by the parties and aim to ensure that the hearing will not only be fair but also be seen to be fair. However, the decision is theirs.** Witnesses may not be called if the number requested is unreasonable and it appears that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Panel to reach its decision.
8. The Chair of the Hearing Panel may request the attendance of any additional witnesses whose evidence he/she considers would assist the Panel to reach its decision. The Panel does not though have powers to compel any witness to attend.
9. The Monitoring Officer will:
 - Confirm a date, time and place for the hearing
 - Confirm the main facts of the case that are agreed
 - Confirm the main facts that are not agreed
 - Provide the Panel with a copy of the investigating officer's report

- Provide copies of any other written evidence to the relevant parties and the Panel
- Confirm which witnesses will be called by the parties
- Provide the parties with copies of the proposed procedure for the hearing.

ⁱ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. **If the Monitoring Officer believes this may be the case then relevant papers may not be published in advance. The decision as to whether any part of the hearing should take place in private will be for the Sub Committee hearing the case.**

ⁱⁱ See note i

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City of York Council Standards Committee	
Pre Hearing checklist	
Complainant	
Subject Member	Councillor
Investigating Officer	
Do you intend to attend the proposed hearing to give evidence or make representations	
Yes/No	
Do you wish to be represented at the hearing by a solicitor, barrister or another person.¹	
Yes/No	
If so by who?	
<i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i>	
Do you wish the whole or any part of the hearing to be in private?	
Yes/No	
If yes please explain why²	

¹ Although there has to be a degree of formality to the proceedings of the committee it will be unusual for subject members to be represented. The procedure is not adversarial. The Committee will act in an inquisitorial manner to ensure that the circumstances of the case are fully understood.

² The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private

Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public?

Yes/No

If yes please explain why³

Do you disagree with any of the facts found by the investigating officer as set out in his her report?

Yes/No

If yes please set out briefly the facts that you dispute and your view as to the true factual position

Do you believe that witnesses should be called to the Hearing

Yes/No

³ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private

If yes please identify the witnesses who you wish to be called and briefly identify the issues that they will be able to give evidence about⁴

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⁴ The Monitoring Officer and Chair will consider whether any witnesses you name are likely to be able to give evidence which will be of value to the Hearing Panel. If they are then those witnesses will be invited to attend. The Panel cannot compel the attendance of any witness.

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City of York Council Standards Committee

Hearing Procedure

General Matters

1. In this procedure the term “interested parties” is used to cover the complainant, the subject member and the investigating officer. The interested parties will all be invited to attend the hearing as potential witnesses.
2. The Independent Persons will also be invited to attend the hearing in an advisory, non-voting capacity. Their views will be sought as to whether the evidence establishes a breach of the code of conduct and, if so, as to what if any penalty should be imposed.
3. The Hearing Panel will be made up of members of the Standards Committee and there will normally be three members. The Panel will be supported by the Monitoring Officer or his representative and a democratic services officer.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed. The Standards Committee considers that in general the public interest in seeing that complaints relating to Councillors are handled properly will outweigh any considerations relating to the privacy of the Councillor concerned but each case will be considered on its own merits including consideration of the privacy of other parties.
5. The hearing will normally follow the procedure set out below but the Chair has the discretion to vary it at any time. Such a variation may be considered where, for example, the Chair believes that doing so will be in the interests of fairness or help in establishing the facts of the case.
6. It will not usually be necessary for the Subject Member to be represented at a hearing but he or she may choose to arrange such representation which may be by a solicitor or barrister or another person.
7. The Panel may take legal advice at any time during the hearing or during its deliberations. The substance of any advice given to the Panel will normally be shared with the parties.

Preliminary procedures

8. Prior to the hearing commencing the Panel may meet privately to review the material presented and to agree the main lines of enquiry.
9. At the start of the hearing, the Chair will arrange introductions of the Panel, its Officers, the Independent Persons and the interested parties. The Chair will briefly explain the procedure which the Panel will follow in the conduct of the hearing. The Chair will confirm that each interested party has seen the final report of the investigating officer and has had the opportunity to engage in the pre hearing procedures.
10. The Monitoring Officer will identify whether the pre hearing procedures have identified any significant disagreements about the facts contained in the Investigating Officer's report. The Panel will record the agreed facts and establish the facts in dispute which they will be required to rule upon.
11. If a party raises an issue which has not been raised previously then that party shall be required to give a full explanation to the Panel as to why it was not raised earlier. The Panel may then:
 - a. Consider whether or not to allow the issue that has been raised to be dealt with at the hearing
 - b. Consider whether the hearing should be adjourned for further investigations to take place.

Determining factual disputes

12. If there are disputed facts which the Panel consider relevant to establishing whether the Code has been breached or as to the seriousness of the breach then, the Panel will adopt an inquisitorial approach in establishing the facts. The Chair will invite members of the Panel to ask questions of the interested parties or any other potential witness present. The Monitoring Officer may also ask questions.

13. Once a witness has answered questions from the Panel then the Chair will ask the interested parties whether there are other issues which ought properly to be raised with the witness. The Chair (or another Member) may put any such issues to the witness him or herself or may allow the relevant party to ask questions directly.
14. The Panel must reach a decision as to the facts it finds to be proven. The Panel must also make a decision as to whether the proven facts (including those which are agreed) show a breach of the code of conduct. Depending on the complexity of the case the Panel may consider each of those issues separately or deal with them together. In either case the Chair will invite the parties to make representations on each matter before the Panel reaches its decision.

Panel deliberations

15. When the Panel is considering its finding of facts and whether those facts amount to a breach of the Code of conduct it will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
16. At the conclusion of the Panel's deliberations, the Chair will publicly announce the Panel's findings as to the facts and as to whether those facts show a breach of the code of conduct. The Panel will give reasons for their findings. It will be normal practice to share the substance of any advice given by the Monitoring Officer and Independent persons at this stage.

Determining Sanctions

17. If the Panel concludes that the Subject Member has failed to comply with the Code of Conduct, the Chair will invite representations from the interested parties as to what action, if any, it should take.
18. The Panel will then consider whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect. It will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.

19. The sanctions available to the Hearings Panel are to –
- Censure the Councillor;
 - Formally report its findings to the City Council or Parish Council for information;
 - Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Panels or Sub-Committees of the Council;
 - Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - Recommend to Council that the Leader be removed from Office (if it is the Leader' conduct that is being considered)
 - Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;
 - Remove *[or recommend to the Parish Council that the Councillor be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
 - Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access.
20. The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances. If the Panel decides to withdraw facilities from the Councillor it must ensure that the Councillor is not thereby prevented from undertaking his/her representative duties.
21. The Chair will publicly announce the decision of the Panel. The substance of any further advice given by the Independent Person and Monitoring Officer will also be shared. Written notice of the findings of the Panel will be given as soon as is reasonably

practicable to the Subject Member. They will also be placed on the council's website. If the complaint was against the Subject Member as a parish councillor, written notice of the findings of the Panel will be sent to the clerk to the parish council.

Other action

22. The Panel may also consider making any recommendations to the Council concerned with a view to promoting higher standards of conduct among its members.

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Work Plan for Joint Standards Committee 2018-2019

<u>Meeting Date</u> (4.00pm start time)	<u>Items</u>	<u>Notes</u>
Wednesday 5 September 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Review of Protocol on Officer / Member Relations • Wider issues of intimidation 	Standard item
Wednesday 21 November 2018	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Updating the Member Code of Conduct (following consultation with groups) 	Standard item
Wednesday 13 February 2019	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • Guidance for elected Members on their behaviour during the election process 	Standard item
TBC	<ul style="list-style-type: none"> • The city council's Whistleblowing policy and its link to ethical standards 	

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