

Joint Standards Committee

- To:** Councillor Carol Runciman (Chair), Brooks, Kramm, Warters and Williams (CYC Members)
- Councillors Chambers, Thornton and Wiseman)Vice Chair) (Parish Council Members)
- Mr Laverick and Ms Davies (Independent Persons)
- Date:** Wednesday, 13 February 2019
- Time:** 4.00 pm
- Venue:** The King Richard III Room - Ground Floor, West Offices (G049)

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 interestswhich they might have in respect of business on this agenda.

- 2. Minutes** (Pages 1 - 4)
To approve and sign the minutes of the meeting of the Joint Standards Committee held on 21 November 2018.

- 3. Minutes of Sub-Committees** (Pages 5 - 24)
To approve and sign the minutes of the following meetings of the Joint Standards Committee Sub-Committees:
 - Assessments Sub-Committee – meeting held on 1 August 2018, adjourned to 8 August 2018.
 - Hearings Sub-Committee – meetings held on 28 November 2018, 3 January 2019 and 16 January 2019.

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 February 2019**. To register to speak please contact the Democracy Officer for the meeting on the details at the foot of the agenda.

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http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

- 5. Monitoring Report on Complaints Received** (Pages 25 - 26)
To receive a routine update report on recent standards complaints.
- 6. Update on Guidance on Civic Gifts and Hospitality** (Pages 27 - 30)
This report provides an update on the provision of guidance to the civic party on gifts and hospitality and seeks Members' views on the proposed guidance.
- 7. Guidance for Elected Members during the Election Process** (Pages 31 - 36)
This report seeks Members' views on the provision of guidance for Elected Members during the election process.

8. Review of Work Plan (Pages 37 - 38)
To consider the Committee's work plan for the 2019-20 Municipal Year and decide whether any amendments or additions are required.

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

Democracy Officer:

Name: Fiona Young

Contact Details:

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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

Minutes

Meeting	Joint Standards Committee
Date	21 November 2018
Present	Councillors Runciman (Chair), Cannon (for Agenda Item 4 only), Hayes, Kramm and Richardson (CYC Members) Councillors Thornton and Wiseman (Vice-Chair) (Parish Council Members)
In Attendance	Mr Laverick, Independent Person
Apologies	Councillor Chambers (Parish Council Member) Ms Davies (Independent Person)

22. **Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, or any prejudicial interests or disclosable pecuniary interests which they might have in respect of business on the agenda. None were declared.

23. **Minutes**

Resolved: That the minutes of the Joint Standards Committee meeting held on 5 September 2018 be approved and signed as a correct record.

24. **Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

25. **Monitoring Report on Complaints Received**

Members received a routine update report on recent standards complaints. Since the committee's last meeting in September, one ongoing case had been concluded and six new cases had come forward. Details were set out in the table at paragraph 2 of the report.

An issue was raised with regard to the convening of a Hearings Sub-Committee to hear one of the cases on the list. Following a discussion, Cllr Cannon announced her intention to resign from

the Joint Standards Committee. She left the meeting at this point.

Members expressed concerns about the time taken to finalise investigations in some cases and the costs resulting from this. The Monitoring Officer confirmed that these issues would be examined once the ongoing cases had been concluded.

The Chair and Members wished to place on record their thanks to Cllr Cannon for her work on the Joint Standards Committee.

Resolved: That the report be noted.

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.

26. Procedures for dealing with Councillor Code of Conduct Complaints

Members considered a report which provided an update on the progress of the Task Group in reviewing the procedures for dealing with complaints about Councillors' conduct.

The Task Group had suggested amendments to the Complaints Procedure, as set out in Annex 1 to the report, and created a flow chart and an Independent Persons' Protocol, attached as Annexes 2 and 3 respectively.

The Task Group had also considered consultation comments on the proposed revised Code of Conduct and was not minded to make any changes. However, the committee had already said they wanted to ensure issues arising from ongoing cases were addressed before recommending the revised code to Council.

After a full discussion, it was

Resolved: (i) That the amended Complaints Procedure at Annex 1 be approved and adopted, subject to the following additional amendments to the text on page 5 (p.17 of the agenda papers):

- Remove the reference to '*his* powers' in the last sentence under the heading 'Will your complaint be investigated'.

- Re-word the first part of the last paragraph under the heading 'How is the investigation conducted' to read as follows:
'Investigations will be completed within three months of the investigator being instructed. If there are good reasons why this is not possible...'

(ii) That the complaints flow chart at Annex 2 be approved and adopted, subject to the council's Communications team being asked to improve the design of the chart and make it clearer.

(iii) That the Independent Persons' Protocol at Annex 3 be approved and adopted.

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

(iv) That the Code of Conduct be brought back to the committee for approval and recommendation to Council at a later meeting, once the current ongoing complaints hearings have been concluded.

Reason: To ensure that any issues arising from the ongoing cases are addressed.

27. Case Law Update - Harvey v Ledbury Town Council Summary

Members considered a report which advised them of a recent High Court decision that had implications for the Committee and the Councils for which it was responsible.

Details of the case and decision were set out in paragraphs 2 to 9 of the report. Essentially, the High Court had ruled in favour of a councillor who challenged the Town Council's decision to impose sanctions against her under its grievance procedures. This had shed doubt on the extent to which grievance procedures could be used to deal with complaints by employees against councillors.

The National Association of Local Councils (NALC) had written to government and the Committee on Standards in Public Life (CSPL) to express concern that confining all complaints about

councillors to the code of conduct process would over-burden monitoring officers and lead to delays. As the CSPL was currently reviewing local government arrangements, the matter might well be picked up by them.

Following a discussion of the issues raised by the case, it was

Resolved: That the report be noted.

Reason: To confirm that the committee is aware of this important case.

28. Review of Work Plan

Members considered the committee's work plan for the current municipal year.

Resolved: That the work plan be approved, subject to the allocation of the following item to the meeting on 13 February 2019:

- the City Council's Whistleblowing Policy and its link to ethical standards (provided this has been considered by the Audit & Governance Committee in December 2018).

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

Cllr C Runciman, Chair

The meeting started at 4.05 pm and finished at 5.00 pm.

City of York Council

Committee Minutes

Meeting	Joint Standards Committee - Assessments Sub-Committee
Date	1 August 2018, adjourned to 8 August 2018
Present	Councillors Cannon and Kramm (CYC Members) Councillor Wiseman (Parish Council Member)
In Attendance	Mr Laverick (Independent Person)

1. Appointment of Chair

Resolved: That Cllr Kramm be appointed to act as Chair of the meeting.

2. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in the business on the agenda. No interests were declared.

3. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during consideration of Agenda Item 4 (Complaint about a Member of a Council covered by the Joint Standards Committee), on the grounds that it includes information relating to an individual, which 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.

4. Complaint about a Member of a Council covered by the Joint Standards Committee

Members considered a report on a complaint made against a Member of a Council covered by the Joint Standards Committee.

The complaint related to a potential breach of the Councillor Code of Conduct by the subject Member in relation to the disclosure of confidential information.

Members were informed that the complainant was currently seeking legal advice with regard to the draft report of the Investigating Officer attached at Annex 2. After debating the matter, they

Resolved: That the meeting be adjourned to Wednesday, 8 August 2018 at 5:00pm.

Reason: To allow time for the legal advice sought by the complainant to be received, and to receive further information on the advice offered to the subject Member at the time of the alleged breach.

The meeting was re-convened on the 8 August as agreed and the additional information was circulated to Members, who then considered the following options:

- To decide that no further action be taken
- To ask for further investigation
- To refer the matter for a hearing.

Having considered the evidence before them, and taking into account the comments of the Independent Person, Members

Resolved: That the matter be referred for a hearing, the remit of which will be limited to the specific point of whether or not the disclosure of the confidential information was reasonable, in the public interest and made in good faith, and therefore falls within the exemption in paragraph 3(5) (d) of the Code of Conduct.

Reason: The Sub-Committee is of the view that this is the only issue in dispute in this case and that a hearing is required to ensure that all relevant evidence can be properly considered before a decision is made.

Cllr L Kramm, Chair

[The meeting started at 4:30 pm and was adjourned at 5.10 pm on 1 August, then resumed at 5:00pm on 8 August and finished at 5:53pm].

Meeting	Joint Standards Committee Hearings Sub-Committee: Pre-Hearing Meeting
Date	28 November 2018
Present	Councillors Hayes, Kramm and Wiseman (Parish Council Member)
Apologies	Ms Davies and Mr Laverick (Independent Persons)

1. Election of Chair

Resolved: That Cllr Kramm be elected to act as Chair of the Sub-Committee.

2. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests, that they might have in the business on the agenda.

Cllr Wiseman declared a personal interest, as she knew the Subject Member's legal adviser from the time when they had both been members of City of York Council.

Ms Davies also declared a personal interest, as she had met the legal adviser at a training course.

The Monitoring Officer of North Yorkshire County Council, who was acting as Monitoring Officer in this case, indicated that he also knew the legal adviser, who was employed by NYCC as a coroner.

3. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during consideration of Agenda Item 4 (Complaint about a Member of a Council covered by the Joint Standards Committee), on the grounds that it includes information relating to an individual, which 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.

**4. Complaint against a Member of a Council covered by the
Joint Standards Committee - Discussion of Procedural
Issues**

Members discussed procedural issues in relation to the proposed hearing of a complaint against a member of a council covered by the Joint Standards Committee.

The Subject Member and his legal adviser were present at the meeting and took part in the discussions.

Having discussed the relevant issues and taken into account the views of the Independent Persons, Members

Resolved: (i) That the hearing be held in public.

(ii) That only the alleged breaches of paragraphs 3(5), 3(7) and 3(8) of the Code of Conduct be considered at the hearing.

(iii) That the three witnesses requested by the Subject Member be asked to attend and be questioned at the hearing, but that their names and any other confidential, non-pertinent information be redacted.

(iii) That the names and job titles of all officers mentioned in the investigators' report at Appendix 1 and the additional papers at Appendix A to that report be redacted unless their disclosure is pertinent to the case.

(iv) That a reduced bundle of case papers be prepared for the hearing, to exclude the documents agreed at this meeting as no longer being relevant to the case.

(vi) That availability be sought in order for a date to be set for the hearing.

Reason: In order to achieve a balance between individuals' rights to privacy and the Subject Member's right to a

fair hearing, and to comply with the council's procedures for Joint Standards hearings.

Cllr L Kramm, Chair

[The meeting started at 3.25 pm and finished at 5.10 pm].

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Meeting	Joint Standards Committee Hearings Sub-Committee
Date	3 January 2019
Present	Councillors Kramm (Chair), Hayes and Wiseman (Parish Council Member)
In Attendance	Mr Laverick - Independent Person Mr Goulden - Investigating Officer Mr Hayward - Investigating Officer Mr Khan - Monitoring Officer Cllr Aspden - Subject Member Ms Addy - Subject Member's barrister Mr Watson - Subject Member's solicitor

1. **Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests, that they might have in the business on the agenda.

Cllr Wiseman declared a personal interest, as she knew the Subject Member's solicitor from the time when they had both been members of City of York Council.

2. **Exclusion of Press and Public**

Resolved: That the press and public not be excluded from the meeting during consideration of Agenda Item 4 (Complaint about a Member of City of York Council).

Reason: In view of the decision taken in private session before the start of the hearing not to allow a request that Person A's evidence be heard in private.

3. **Public Participation**

It was reported that there had been six registrations to speak at the meeting under the Council's Public Participation Scheme, all in relation to Agenda Item 4 (Complaint Against a Member of City of York Council).

Gwen Swinburn commented on the state of the Standards process in York, voicing her opinion that this and other cases had been mishandled.

Fiona Evans spoke in support of the Subject Member, Cllr Aspden, praising his character and conduct in the context of her work as leader of the Yearsley Pool Action Group.

Cllr Reid also expressed support for Cllr Aspden, both in a personal capacity and on behalf of the Liberal Democrat group, and her opinion that he had been badly treated in this case.

Amanda Scrimgeour spoke in support of Cllr Aspden as a former colleague and expressed disbelief at the alleged breaches in the light of his workload at the time.

Verna Campbell spoke in support of Cllr Aspden, whom she had worked with for many years on Fulford Parish Council, praising his work as a local representative.

Dominic Hallas, who had worked with Cllr Aspden in local politics, also spoke in his support, describing him as a great employer and friend.

4. Complaint against a Member of City of York Council

The Panel considered a complaint made against Cllr Keith Aspden, a City of York Councillor. The complaint related to the actions of Cllr Aspden in relation to the recruitment of a council officer.

The matter had been referred to the Hearings Sub-Committee for determination following an investigation.

Introductions were carried out and the procedure for the hearing was explained.

Determining factual disputes

Copies of the investigator's report and the written submissions received had been circulated to the Panel and to the parties prior to the meeting. During the meeting the Panel took advice from the Independent Person.

The investigating officers presented their report and responded to questions.

The following witnesses responded to questions from the Panel, the Monitoring Officer, the Independent Person, Cllr Aspden's barrister and the investigating officers:

- Person A
- Person C (Martin Crosby)
- Person D

Cllr Aspden's barrister presented the Subject Member's case and responded to questions.

The investigating officers summarised their case.

Cllr Aspden's barrister summarised the Subject Member's case.

[The parties, press and public then left the meeting whilst the Panel deliberated in private, returning to hear the Panel's findings]

The Panel gave consideration to the following allegations of breaches of the Code of Conduct:

- a) That Cllr Aspden used his position as a councillor improperly to obtain an advantage for an administrative role, contrary to paragraph 3(8) of the Code of Conduct, by reason of his involvement in the recruitment process whilst having a personal interest.
- b) That Cllr Aspden disclosed confidential information (the paper applications for the administrative role), contrary to paragraph 3(5) of the Code.
- c) That Cllr Aspden, by failing to follow paragraphs 3(5) and 3(8) of the Code in relation to the appointment of the administrative role, acted in a manner which could reasonably be regarded as bringing the Council or his position as a councillor into disrepute, contrary to paragraph 3(7) of the Code.

Panel's Findings

Having considered the written documentation and the verbal representations made at the meeting, the Panel

Resolved: (i) That, in respect of allegation a), Cllr Aspden did not use his position as a councillor improperly to obtain an advantage for an administrative role, contrary to paragraph 3(8) of the Code of Conduct, by reason of his involvement in the process whilst having a personal interest.

Reason: While the Panel are concerned about how Cllr Aspden came to be involved in the appointment process, they are not satisfied that he had at that time a close association with the successful candidate.

(ii) That, in respect of allegation b), Cllr Aspden did disclose confidential information (about the applications for the administrative role), contrary to paragraph 3(5) of the Code.

Reason: On the balance of probabilities the Panel, faced with two conflicting views, are not sufficiently satisfied that that application forms of candidates for the Executive Support Assistant post were physically taken to the Duke of York pub on the evening of 26 June 2015. But all of those present at that meeting gave evidence that there was discussion about the qualities needed in the successful appointee. On the balance of probabilities, taking account of the evidence of all those who have indicated their presence at the meeting, the Panel are satisfied that information about candidates, at least about Persons B and H, was improperly shared at that meeting.

(iii) That, in respect of allegation c), Cllr Aspden did not act in a manner which could reasonably be regarded as bringing the council, or his position as a councillor, into disrepute, contrary to paragraph 3(7) of the Code.

Reason: The Panel do not consider that the breach of paragraph 3(5) of the Code in this case was such as

could reasonably be regarded as bringing the council or Cllr Aspden's position as councillor into disrepute.

Determining Sanctions

The Chair indicated that, in the circumstances, the Panel were not minded to impose any sanction for the breach.

Cllr Aspden's barrister was then invited to make representations as to the sanction she believed to be appropriate.

Having heard those submissions, the Panel

Resolved: That no further action be taken in respect of the breach of the Code of Conduct beyond publicising the Panel's decision.

[The Decision Notice issued following this meeting is attached as an annex to the minutes]

Cllr K Kramm, Chair

[The meeting started at 11.17 am and finished at 10.15 pm].

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City of York Council**Joint Standards Committee Hearings Sub-Committee****3rd January 2019****DECISION NOTICE**

In attendance:

Members of the Sub-Committee

Cllr. L. Kramm (Chair)

Cllr. J. Hayes

Cllr. S. Wiseman (Parish Councillor and Vice Chair of the Joint Standards Committee)

Advisors to the Sub-Committee

Mr D. Laverick – Independent Person

Mr. B. Khan - Monitoring Officer, NYCC

Mrs. R. Antonelli – Deputy Monitoring Officer (Standards)

Apologies were given by Ms. A. Davies, Independent Person

Investigating Officers

Mr. J. Goolden – Wilkin Chapman LLP

Mr. D. Hayward – Wilkin Chapman LLP

Subject Member

Cllr K. Aspden – City of York Council

Subject Member's Advisors

Richard Watson – Solicitor, Crombie Wilkinson Solicitors

Caroline Addy – Barrister, One Brick Court Chambers

1. Background

- 1.1. The Sub-Committee was constituted in accordance with procedures approved by the City of York Council's Joint Standards Committee to consider a complaint in relation to the conduct of Councillor Aspden.
- 1.2. The Sub-Committee had the benefit of a report from Wilkin Chapman LLP who had independently investigated the complaint and also written representations from Councillor Aspden, who also attended the Sub-Committee, along with his legal advisors.
- 1.3. In addition three witnesses (Persons A, C and D) who provided written statements for the purposes of the investigation attended the Sub-Committee and gave evidence, as did Councillor Aspden.
- 1.4. The Sub-Committee considered the allegations in the light of the Standards Committee's published criteria for the assessment of complaints.

2. Evidence and Findings of Fact

- 2.1. Following the Council election in 2015 it was agreed that there would be additional administrative support for the Leader, Deputy Leader and the Leader of the Opposition.
- 2.2. The Acting Monitoring Officer advised that the law provides that appointments to such roles were the responsibility of Officers and not of Councillors (i.e. these roles are not political appointments). Councillor Aspden wanted to be involved in the recruitment process and at the request of the former Chief Executive, the officers agreed a way for him to take part in the process of shortlisting and interviewing candidates.
- 2.3. At 9.57am on Friday 26th June 2015, an Officer e-mailed Councillor Aspden and the other members of the interviewing Panel, with copies of the applications forms for all 27 applicants,

which were marked “confidential” and “high importance”. Short-listing for the role was to take place on Monday 29th June 2015.

- 2.4. Some time on the 26th June 2015, Councillor Aspden met at the Duke of York public house with three other individuals, two of whom were Council Officers. The other person was not a Council employee but a member of the public and a Liberal Democrat activist.
- 2.5. The Sub-Committee heard two conflicting views about what occurred in the pub. Two witnesses stated that printed job applications were circulated, but the other two witnesses stated that they were not. The sub-committee, faced with these two conflicting views, were not sufficiently satisfied that the application forms of candidates for the Executive Support Assistant post were physically taken to the Duke of York pub on the evening of 26th June 2015.
- 2.6. All of those present at that meeting gave evidence that there was a discussion about the qualities needed in the successful appointee of a Council position.
- 2.7. Two witnesses (namely Person A and Person C) stated that there were detailed conversations about the applicants and in particular about two favoured applicants. In addition, Person D, whilst categorically denying that printed application forms were distributed, stated that applicants were discussed including whether a particular applicant (Person B and Person H) should be considered for the role.

3. Conclusions The Sub-Committee was concerned that a discussion about applicants for the appointment took place in a public house and involved someone who was not a Member or Officer of the Council. Those applying for the post could expect their applications and the fact that they applied, to remain confidential to those involved in the appointment process.

- 3.2. Whilst it is recognised that the Independent Investigators invited the Sub-Committee to make a finding that just the oral

disclosure constituted improper conduct short of a breach of the Code of Conduct and only, if printed copies of the applications had been taken to the pub, there would have been a breach of the Code of Conduct, that was not a view shared by the Sub-Committee. In the view of the Sub-Committee, the oral disclosure of confidential information as confirmed by all three witnesses constituted a breach of the Code of Conduct by Councillor Aspden.

- 3.3. On the balance of probabilities and taking account of the evidence of all those who have indicated their presence at the meeting, the Sub-Committee are satisfied that information about applicants concerning at least two individuals (Persons B and H) was improperly shared at the public house, including the fact that they had applied for a Council post.
- 3.4. The Sub-Committee therefore concludes that there was a breach of the Code of Conduct paragraph 3(5) in that there was disclosure by Councillor Aspden of confidential information.
- 3.5. The Sub-Committee is concerned about how Councillor Aspden came to be so involved in the appointment process, in particular, chairing the Interviewing Panel but do not see that of itself as constituting any breach of the Code of Conduct. It was understandably in Councillor Aspden's interests to be consulted or involved in the appointment of his support, but the problematic situation was created by the former Chief Executive overriding the correct assessment of officers involved in the appointment process that Members should not be involved in the appointment process of an officer at this level. Through this intervention, Councillor Aspden was encouraged in his view, that a more active involvement was acceptable.
- 3.6. The Sub-Committee are satisfied that Councillor Aspden did not, at the time of the appointment process have a close association with the successful candidate. The Sub-Committee heard evidence that at the time of the interview, the successful candidate had previously been interviewed as an intern for the Liberal Democrat Party and that Councillor Aspden had been

identified by the candidate as the contact/employer on his application form, but noted that there had only been a short amount of contact between the two prior to the application being made. The Sub-Committee heard evidence that it was only after the successful appointment did Person B lodge for a short period of time with Councillor Aspden for which he voluntarily paid him rent.

- 3.7. It was also noted that all three of those on the Interviewing Panel (Councillor Aspden and two Officers) individually gave the successful candidate the highest marks on the various criteria that had been identified. The Sub-Committee concludes that there has not been a breach of paragraph 3(8) of the Code of Conduct which relates to a Councillor using or attempting to use his position improperly to obtain any advantage or disadvantage to the Councillor or any other person. On the basis of the length of time since the incident at the public house occurred and the facts found above, the Sub-Committee do not consider that Councillor Aspden brought his office or the Council into disrepute under paragraph 3(7) of the Code of Conduct. The negative impact on the reputation of the Council is rather created through the management of the allegations and the investigation then by Councillor Aspden's actions in the first place.

Sanctions:

The Sub-Committee have noted the peremptory decision of the then Leader of the Council to remove Councillor Aspden from the Executive. That is a far more severe sanction than the Sub-Committee panel would have considered for this breach. Taking that into account, and the length of time which has already elapsed, and the fact that Councillor Aspden was under increased public scrutiny as the investigation and proceedings did not reach the desired level of confidentiality, the Sub-Committee considers that no further action should be taken beyond publicising this decision.

Other Comments

- (1) The Sub-Committee will ask for a review to seek to establish improvements to the Council's appointment processes with regard to officer and member involvement and to provide appropriate training.
- (2) Bearing in mind that the matter under consideration occurred in 2015, the Standards Committee should seek to speed the process of investigating alleged breaches of the Code of Conduct.
- (3) The Sub-Committee will ask the Joint Standards Committee to consider the inclusion of guidance and a definition of "close associations" in the Councillor Code of Conduct.
- (4) The Sub-Committee also wishes to record their thanks to all the witnesses who appeared before them.

Cllr. L. Kramm

Cllr. J. Hayes

Cllr. S. Wiseman

Meeting	Joint Standards Committee Hearings Sub-Committee
Date	16 January 2019
Present	Councillor Kramm (Chair) (CYC Member) Councillors Thornton (Substitute) and Wiseman (Parish Council Members)
In Attendance	Mr Laverick (Independent Person)
Apologies	Councillor Hayes

5. **Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests, that they might have in the business on the agenda. No interests were declared.

6. **Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of Agenda Item 3 (Complaint about a Member of a Council covered by the Joint Standards Committee), on the grounds that it includes information relating to an individual, which 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.

7. **Urgent Business - Public Participation**

The Chair reported that there had been two requests to speak at the meeting, in the light of which he had agreed to exercise his discretion and include Public Participation on the agenda under urgent business. The agenda had been re-published online to include this item.

Gwen Swinburn expressed the view that the Standards process was 'unfit for purpose' and that custom and practice needed to be regularised.

Cllr Carr made comments on problems with the process generally and the handling of this case in particular.

Both speakers then left the meeting prior to consideration of the next item.

8. Complaint against a Member of a Council covered by the Joint Standards Committee - Discussion of Procedural Issues

Members considered a report on issues relating to the proposed hearing of a complaint against a member of a council covered by the Joint Standards Committee.

Members had initially considered this complaint while sitting as an Assessments Sub-Committee on 1 and 8 August. As they were taking decisions in lieu of the Monitoring Officer in this case, the current meeting gave them an opportunity to review the pre-hearing responses received at the previous meeting and determine:

- Whether there was now sufficient information to decide, without the need for a full hearing, if there had been a breach of the code or not;
- Whether the investigation should be re-opened; or
- Whether the matter should still proceed to a hearing.

Having taken into account the views of the Independent Person, it was

Resolved: (i) That the matter not proceed to a hearing and that no further action be taken.

Reason: The Sub-Committee accepts the conclusion of the Investigating Officer that there has been no breach of the Code of Conduct in this case, and this view has not been altered by the content of the additional information received.

Cllr L Kramm, Chair

[The meeting started at 4.30 pm and finished at 6.35 pm].



Joint Standards Committee

13 February 2019

Report of the Legal Services Manager (Corporate Governance)

Monitoring Report on Complaints Received

Summary

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

Background

- 2) The table below gives information about new and ongoing casework handled during the period since the Committee last met in November 2018:

Case ref.	City or Parish	Date complaint accepted	Nature of complaint	Status
225	City (x2)	29/8/2017	Standards issues raised during investigation of whistleblowing complaint	First case now closed after hearing on 3/1/2019. One breach found, no sanction imposed. Second case final report expected shortly.
688	City	31/3/2018	Alleged Breach of confidentiality	Investigation identified no breach Hearings sub committee accepted Investigators report, that the matter should not proceed to a hearing and that there

				be no further action
719	Parish	18/9/2018	Alleged breach of confidentiality and attempt to secure advantage for an individual in relation to a recruitment process	Referred for investigation 8/10/2018 Investigation ongoing

- 3) Members will see that two of the longer running cases have now reached a conclusion and that the final investigation report in relation to the 2017 complaint should soon be complete for consideration. It is anticipated that the Parish complaint which is ongoing be concluded in February.

Recommendations

- 4) Members are recommended to:

Note the report.

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

Contact Details

Author:

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Report Approved

Alison Hartley
Legal Services Manager (Corporate Governance)

Date 5.2.19

Wards Affected:

All

For further information please contact the author of the report

Background Papers: None



Joint Standards Committee

13 February 2019

Report of the Legal Services Manager (Corporate Governance)

Update on Guidance on Civic Gifts and Hospitality

Summary

- 1) This report provides an update on the Guidance on Civic Gifts and Hospitality and seeks Members' views on proposed guidance.

Background

- 2) At the meeting of the Committee held on 18 April 2018 Members considered current guidance contained within the Civic Guide in respect of code of conduct issues together with guidance issued by the National Association of Civic Officers in respect of the acceptance of gifts and hospitality. A draft guidance document was produced and former Lord Mayors were consulted for comments on the draft document.

- 3) The draft guidance was considered further at the meeting of the Committee which was held on 5 September 2018. A discussion took place concerning one of the paragraphs in the draft which read:

“The acceptance of more substantial hospitality when not linked to one of the traditional functions is more likely to be acceptable where it is clearly linked to the promotion of the City and where the attendance of a member of the Civic party has been requested by the Leader, Council Officers or a key partner of the Council.”

- 4) Members agreed that the wording underlined in the paragraph above be replaced by wording which would enable the Lord Mayor to take a decision based on impartial advice from an appropriate officer of the Council.

- 5) The paragraph was amended and the Lord Mayor and former Lord Mayor's have been consulted on the following:

“The acceptance of more substantial hospitality when not linked to one of the traditional functions is more likely to be acceptable where

it is clearly linked to the promotion of the City. Where the attendance of a member of the Civic party has been requested in such circumstances, then the decision as to whether to accept such hospitality should be made based on impartial guidance from an appropriate officer of the Council.”

- 6) Any feedback from the Lord Mayors will be available at the Joint Standards Committee meeting on 13 February 2019.

Recommendations

- 7) Members are recommended to consider the draft guidance and the comments from the Lord Mayors and approve guidance for inclusion within the Civic guide.

Reason: To ensure that members of the Civic party are supported to make proper decisions about accepting gifts and hospitality.

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Report Approved

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Date 5.2.19

Wards Affected:

All

For further information please contact the author of the report

Annexes:

Annex 1- draft guidance on civic gifts and hospitality

Background Papers: None

Hospitality

There are no hard and fast rules about accepting hospitality. Members of the Civic party must judge whether doing so can be justified without causing damage to the reputation of the Office which they hold. The following guidelines will though help with that judgement:

- There are a number of functions each year which Lord Mayor and/or members of the Civic party will traditionally attend and at which hospitality, including formal dinners, will be offered. This includes functions such as Guild dinners. The Civic Office will be able to advise on which events fall into this category. Accepting such hospitality is acceptable.
- At other civic engagements the acceptance of reasonable refreshment, such as a lunch, is likely to be acceptable.
- The acceptance of more substantial hospitality when not linked to one of the traditional functions is more likely to be acceptable where it is clearly linked to the promotion of the City. Where the attendance of a member of the Civic party has been requested in such circumstances, then the decision as to whether to accept such hospitality should be made based on impartial guidance from an appropriate officer of the Council.
- Offers of foreign travel should only be accepted where the Chief Executive has confirmed that it is appropriate to do so in the interests of promoting the City.
- Great caution should be exercised in accepting hospitality from any organisation which is known to be engaged in a current procurement exercise or has a current planning, licensing or similar application before the Council.

Where the Lord Mayor (or any member of the Civic party who is a councillor) accepts hospitality in line with these guidelines the receipt of that hospitality does not have to be declared in the register of Members' interests.

Accepting Gifts

Gifts of more than a nominal value (exceeding £50) should be accepted on behalf of the Council and not retained personally. Such gifts should be passed to the Civic Office who shall manage such gifts on behalf of the Council.

More minor tokens of goodwill, such as flowers, can be accepted as personal gifts.

In either of these cases it is not necessary to register the receipt of the gift in the register of Members' interests.

Occasionally gifts may be offered which are clearly intended to be personal gifts but are more than a minor token of goodwill. Where the value of the gift appears to exceed £50 the advice of the Monitoring Officer should be sought before the gift is retained by the recipient.



Joint Standards Committee

13 February 2019

Report of the Legal Services Manager (Corporate Governance)

Guidance for Elected Members during the Election Process

Summary

- 1) This report seeks Members' views on the inclusion of guidance for elected Members during the election process.

Background

- 2) City of York Council and Parish Councils Local Elections will be held on Thursday 2 May 2019. At the last Joint Standards Committee meeting it was agreed that Elected Members may benefit from guidance ahead of the elections period.
- 3) The draft guidance document can be found at Annex One and covers publicity and key considerations during the elections period (Purdah).
- 4) The Council's Communications Department have been consulted on the draft guidance and they have no proposed amendments to make to the guidance document.

Recommendations

- 5) Members are recommended to consider whether to implement the draft guidance ahead of the Local Elections in May 2019.

Reason: To ensure that elected Members receive guidance to assist them in the run up to the election.

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Report Approved

Alison Hartley
Legal Services Manager (Corporate
Governance)

Date 5.2.19

Wards Affected:

All

For further information please contact the author of the report

Annexes:

Annex 1- draft guidance on elected Member behaviour during the election process

Background Papers: None

Guidance for Elected Members during the Election Period

1. Publicity Rules

The City of York Council Local Elections and Parish Council Elections will be held on Thursday 2 May 2019. In the normal course of events, the Council is under a duty to have regard to the Code of recommended practice on Local Authority publicity (the Code), issued under Sections 2 and 4 of the Local Government Act 1986.

The general legal principal set out in the Code is that a Local Authority, including Parish Councils must not at any time publish any material that in whole or in part appears to be designed to affect support for a political party or a candidate. The run up to an election is a particularly sensitive time and it is wise to be more cautious than ever. This is reflected in the Code which contains additional rules which apply during the pre-election period, frequently known as “purdah”.

The purpose of the additional rules which apply during purdah is to ensure that the public resources of the council are not used to promote or give any political party, political campaign or candidate an advantage during an election period. The rules apply to both officers and Members.

2. General Rules

By way of summary the general rules about publicity are as follows:

- The Council cannot at any time publish material which is designed to influence support for a political party;
- Councillors cannot at any time use Council resources for party political purposes;
- The Council must at all times consider carefully any publicity that it sends out and what the impact of that publicity might be in accordance with the national code on publicity;
- Whilst in the normal course of events it is acceptable for the Council to publicise the work done by individual Members and to present the views of those Members on local issues, for example when a Councillor has been the “face” of a campaign, this is not acceptable during the election period;
- Councillors should not use Council leaflets and publications to promote themselves/political parties.

3. The Election Period “Purdah” – Tuesday 26 March 2019 to Thursday 2 May 2019

The notice of election for the Local Elections will be published on Tuesday 26 March 2019. Purdah will therefore start on Tuesday 26 March 2019.

During the period between the publication of the notice, 26 March 2019, and 2 May 2019, the Council is subject to further restrictions in relation to publicity. This period is commonly referred to as the election or “purdah” period.

(a) Publishing Documents

During this time the Council must not pro-actively publish any material which could be viewed as promoting a political party or which seeks to influence voters.

The Local Government Act 1986 defines publicity as “**any communication, in whatever form, addressed to the public at large or to a section of the public**”. This includes all forms of publicity including websites, public leaflets, notices, etc. Leaflets, web photographs or other advertising designed to raise awareness of Council policies and services already in existence are acceptable as normal forms of communication about the Council and its services. However, if they refer to individual Councillors standing for election, that part of the information should be withdrawn during the election period.

In the normal course of business it is acceptable for authorities to host publicity, such as a blog, which contains links to sites over which the authority has not control, and which contains material which does not comply with the Code. During the election period however, care must be taken to ensure that the rules on publicity are not breached, and it may be necessary to suspend the hosting of third party material, public forums or links during this time.

During the election period, the Council should not publish anything relating to controversial issues or report views on proposals in such a way as to identify with any Member of political group.

The rules do not prevent responses to enquiries from the media or the issuing of press releases which do not promote candidates, etc. If unforeseen events occur which require a member level public response, the response should be factual and objective. Councillors who hold positions of special responsibility within the Council, such as executive members, and who would be expected to make some public comment on important issues that arise will be able to do so, but this should be kept to an absolute minimum during the election period and should only occur if absolutely necessary. Responses should be factual and non-party-political.

Sensitive or controversial matters will need very careful handling during an election period as they may impact on public opinion. The Chief Executive or Monitoring Officer should be consulted before any publicity in relation to such issues is issued.

Publicity relating to individual Councillors involved in the election, whether as a candidate or indirectly as an agent or party supporter, should not be published during this time. However, an election website could provide the names of candidates and their parties, details of polling stations, and voting rules provided the information is factual and does not promote individual candidates or parties.

(b) Events

Proactive events due to take place during the election period, such as the launch of a new policy or the opening of a new establishment, should not involve candidates standing for election nor any Councillor who is involved directly in the election whether as a candidate or in some other capacity.

(c) Council Resources, Headed Paper, Email Addresses

Members should not use Council resources for private or party political purposes.

During the election period Councillors should be particularly careful about the use of any Council resources. Members should avoid corresponding about their candidacy or that of another Councillor standing for election using the Council's email address. The use of headed paper, council facilities, including accommodation is made available to Councillors for council business only. These resources should never be used to raise the profile of a candidate or a political party.

(d) The Use of Photographs

The Council's photographs of Councillors with Council staff, on Council premises should not be used during this period. This includes using the logo of the Council on any photograph of a Councillor. Photographs and logos are the resources of the Council.

(e) Business as usual – Council Decision Making

The Council does have to continue its business during elections period and decisions have to be made. The important thing is to make sure that the Council's "machinery" is not used for party political purposes.

The Council is required to publish minutes and records of its decisions. These must continue to be published and may need to refer to Councillors. Particular care should be taken in recording any decisions made by individual Councillors, e.g. portfolio holders. Decision records and minutes should be confined to a statement of the decision made and the name of the relevant decision maker.

(f) Bodies with Local Authority Funding

The restrictions imposed on publicity produced by Local Authorities will also apply to publicity issued by other organisations who receive Local Authority funding. If a Local Authority directly funds the publicity, these rules will apply, though not if there is specific funding for the publicity from another source. Where, however, there is a mixture of funding including that from a Local Authority, it is safest to assume the publicity is subject to the rules.

(g) Consultations

As stated above, normal business must go on, unless there is a very good reason why this should not be the case. The Council is periodically

involved in undertaking consultation on matters affecting the public. In general it is better to avoid this sort of exercise during the election period if at all possible. This is particularly so if a consultation exercise could be interpreted as rallying support for a particular group, or campaign, or if its timing could result in a political advantage for one party or individual.

This guidance is important for election purposes, and also for the reputation of the Council. Elected Members should strive to maintain the Council's good reputation in election matters.

Members who are unsure with any part of this guidance, or require further assistance should check with the Monitoring Officer, or the Deputy Monitoring Officer.

Work Plan for Joint Standards Committee 2019-2020 *(meeting dates provisional at this stage)*

<u>Meeting Date</u> (4.00pm start time)	<u>Items</u>	<u>Notes</u>
Thursday 20 June 2019	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received • The City Council's Whistleblowing Policy and its link to ethical standards. 	<p>Standard item</p> <p>Subject to this having been considered by Audit & Governance Committee</p>
Thursday 5 September 2019	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
Thursday, 21 November 2019	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
Thursday, 23 January 2020	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item
Thursday, 16 April 2020	<ul style="list-style-type: none"> • Monitoring report in respect of complaints received 	Standard item

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