

Notice of a public meeting of

Joint Standards Committee Hearings Sub-Committee

- To:** Councillors Douglas and Fisher
Councillor Chambers (Parish Council Member)
- Ms Davies (Independent Person)
- Date:** Tuesday, 3 August 2021
- Time:** 10.00 am
- Venue:** The George Hudson Board Room - 1st Floor West
Offices (F045)

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. **Appointment of Chair**

To appoint a member to chair the meeting.

3. **Exclusion of Press and Public**

To consider whether to exclude the Press and Public at any point in the hearing when there is a possibility that exempt information under Paragraph 1 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006) may be disclosed.

4. Complaint against a Member of a Council (Pages 1 - 32)
covered by the Joint Standards Committee

To consider a complaint made against Cllr Hardcastle, a Member of Deighton Parish Council, which has been referred to the Hearings Sub-Committee for determination following an investigation.

Details of the procedure to be followed at the hearing can be found at pages 19-23 of the agenda papers.

5. Urgent Business

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

Democratic Services Officer responsible for this meeting:

Name: Fiona Young

Contact details:

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

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**



Joint Standards Committee Hearing Sub Committee**3 August 2021**

Complaint against Councillor Hardcastle (Deighton Parish Council)

Complainant: Mrs Eve Hale**Subject Councillor:** Councillor Hardcastle (Deighton Parish Council)**Investigator:** Walter Burns**Background**

1. This complaint is brought by Mrs Eve Hale against Councillor Hardcastle of Deighton Parish Council. The complaint relates to an allegation that Councillor Hardcastle has a personal animosity against Mrs Hale and that he has delayed her application to be co-opted back onto the Council because of this. Mrs Hale has referred to the Chair's statement of 2020 as evidence of this.
2. The Investigating Officer, Walter Burns, was asked to investigate this complaint and another complaint that had been made, which has not progressed to Hearing, due to a breach of the Code not having been found, in January 2021. The complaint and also Mr Burns' report can be found at Annex A and B. Deighton Parish Council's Code of Conduct can be found at Annex C. It will be noted from the report that Mr Burns is of the opinion that Councillor Hardcastle did breach the Code of Conduct by being disrespectful and seeking to make an advantage from his position or conferring a disadvantage on another.
3. The Investigation Report has been shared with the parties. One of the Independent Persons, Mr Laverick has also been consulted. Having taken their views into account, the Monitoring Officer took the view that this matter was capable of a local resolution and referred the matter for a Hearing.

The Complaint

4. The complaint appears in full at Annex A, but can be summarised as follows:

Councillor Hardcastle has a personal animosity against the complainant and that he has delayed her application to be co-opted back onto the Council because of this. Mrs Hale refers to the Chair's Statement of 2020 as evidence of this.

The Code of Conduct for Deighton Parish Council

5. As required by the Localism Act 2011, Deighton Parish Council has adopted a Code of conduct which sets out the conduct expected of Councillors when acting as such. The Code of Conduct appears at Annex C. Particularly relevant to this complaint are the following sections:

“1. He/she shall behave in such a way that a reasonable person would regard as respectful.

3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.”

The Hearing Process

6. The Standards Committee has approved a procedure for hearings which can be found at Annex D. In line with that procedure the complainant and subject member have been asked to complete a pre hearing check list indicating whether they intend to attend the hearing, to identify facts which they say are in dispute, and state whether any part of the hearing should be in public.
7. Completed pre hearing check list forms have been returned by Mrs Hale and Councillor Hardcastle.
8. Mrs Hale's form can be found at Annex E. It will be noted that Mrs Hale agrees with the facts found by the Investigating Officer.
9. Councillor Hardcastle's form can be found at Annex F. Councillor Hardcastle feels that the process is flawed and biased and that he believes that there are numerous facts that are incorrect, including that he asked for 7 witnesses to be interviewed and that this request was refused, leading to a belief that Councillor Hardcastle has been treated unfairly. In addition, Councillor Hardcastle believes that the complaint contains allegations which have not been proven and that there is no evidence to support the allegations. In addition, Councillor Hardcastle states that he does not believe that there is evidence that he has blocked Mrs Hale's application.

Issues to be determined

10. Has Councillor Hardcastle breached Deighton Parish Council's Code of Conduct?

In the event that the Sub committee finds that the Code has been breached, it will need to determine whether a sanction should be imposed and if so, what sanction.

Implications

Financial

Not applicable to this report.

Human Resources (HR)

Not applicable to this report.

Equalities

11. The Equality Act 2010 places specific duties on Local Authorities, including the presence of a clear and concise Code of Conduct which prohibits unlawful discrimination and gives the public confidence in Councillors. Ensuring that the Code of Conduct is maintained meets the Nolan principles and also supports the prohibition.

Legal

12. As detailed within the report.

Crime and Disorder, Information Technology and Property

Not applicable to this report.

Recommendations

13. The Sub-Committee is asked to determine the matters set out in paragraph 10 of this report.

Author:

Rachel Antonelli

Senior Solicitor & Interim
Deputy Monitoring Officer

Tel: 01904551043

Chief Officer Responsible for the report:

Janie Berry

Director of Governance & Monitoring
Officer

Tel: 01904 555385

**Report
Approved**

Date 26 July 2021

Specialist Implications Officer(s): n/a

Wards Affected: Wheldrake Ward

All

For further information please contact the author of the report

Annexes:

- **Annex A –Complaint**
- **Annex B – Investigating Officer’s report**
- **Annex C – Deighton Parish Council’s Code of Conduct**
- **Annex D – Hearing procedure**
- **Annex E - Pre hearing check list completed by complainant**
- **Annex F – Pre hearing check list completed by subject Councillor**

Complaint Form

1. Your details

Title	Mrs
First Name	Eve
Last name	Hale
Address	[REDACTED]
Daytime telephone number	[REDACTED]
Evening telephone number	[REDACTED]
Mobile telephone	[REDACTED]
E-mail address	[REDACTED]

Your address and contact details will not usually be released unless necessary to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- The Member you are complaining about
- The parish or town clerk (if applicable)
- The Independent Persons who advise the City Council on handling standards complaints

We will tell them your name and details of your complaint. If you have serious concerns about your name or details of your complaint being released please discuss those concerns with the Council's Monitoring Officer before submitting your complaint.

2. Making your complaint

You should submit your complaint to the Council's Monitoring Officer by e-mail to monitoringofficer@york.gov.uk or by post to:

Janie Berry
 The Monitoring Officer
 City of York Council
 West Offices
 Station Rise
 York
 YO1 6GA

3. Councillor details

Please provide the name and address of the Councillors who you believe have breached the code of conduct and the name of their Council:

Title	First name	Last name	Name of Council
Mr	Steven	Hardcastle	Deighton Parish Council

4. Nature of complaint

Please explain in this section (or on separate sheets) what the Councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one Councillor you should clearly explain what each individual has done that you believe breaches the code of conduct.

I am writing to place a formal complaint against Deighton and Crockey Hill Parish Council, in particular, the Chairman Mr S Hardcastle.

As a previous councillor with over 20 years experience , 10 years as vice chair, I resigned June 2019, due to the continual harassment to the council from members of the public including Mr Hardcastle.

Mr Hardcastle was elected onto the council in the May 2019 elections and, due to his previous attitude towards the council and his opening words at his first meeting (is this meeting legal, this was a continuation of his belligerence towards the council) I resigned.

After a period where there remained a vacancy on the council, I decided to re-apply in March 2020, in order to have a councillor representing Crockey Hill. Due to the Covid lockdown a meeting was called in July but my application was not going to be discussed, there was another meeting in September 2020, but the guillotine came down before my co-option could be discussed.

As the only applicant, I expected to be co-opted, unfortunately this application was blocked by Mr Hardcastle and he continued to refuse my application due to his personal animosity towards me (see attached Chairman's report posted on the website after the AGM).

The clerk continued to advise that he did not have the power to make this decision.

After several subsequent meeting the council have failed to co-op me.

On 16 November 2020 a zoom meeting was called and details posted on the website, included on the agenda was my co-option.

This meeting failed to take part when the Chairman opened the meeting and cancelled it immediately, due to the ongoing disciplinary against the Clerk. Why was this meeting not cancelled previously? or other agenda issues discussed by the council?

I feel that any personal animosity between councillors should not affect the running of a Public Body, who are there to serve the Parishioners.

I request that on behalf of myself and the Parish that this issue be investigated.

● Deighton Parish Council Chairman's Statement 2020

Once again, it has been a busy and eventful year for the Parish Council:-

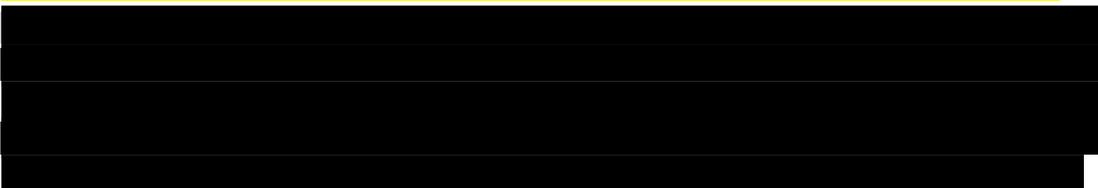
- We started the year with an almost completely new Council and Chairman, with only two of the previous Councillors still sitting. For the majority of the year we didn't have a salaried Clerk leaving myself and Councillor Jeanne Fletcher to cover the duties on an interim basis, although Jeanne had the far greater workload and I would like to record thanks her for her efforts.

This has been my first year as a Councillor and indeed as a Chairman and although I was reluctant to take office, due to the extreme circumstances at the time, I have, however, found the whole experience to be a pleasant and rewarding one. I believe the Council is now in a far better position, both financially and in its standing with the parishioners, than it has been for some time. The good work we have done collectively as a Council is there for all to see and I will come on to highlight some of our achievements later.

Unfortunately, before that, I feel I must make reference to [REDACTED] and certain previous individual Councillors that I will not identify in this Statement. After taking office, myself and another Councillor had an official complaint made against us to City of York by [REDACTED]. Ten months later, at what I can only guess was a considerable cost to the public purse, and, in addition an extremely stressful period to endure, the report and findings resulted in both of us being completely exonerated of any wrongdoing.

After taking office and examining the Parish Council e-mail account, the vile and abusive comments stated on e-mail between [REDACTED] and some individual Councillors at that time about other fellow Councillors and members of the public

was quite frankly appalling and also alarming when one particular e-mail mentions the suggestion of bringing a gun to the next meeting where I was to attend. Rest assured, as long I am Chair, I will resist any attempt for these individuals to re-join the Council, regardless of whatever threats are made against me. After discussions with my fellow Councillors, I know I have their support in this matter.



It is important that you provide all the information which you wish to have taken into account by the Monitoring Officer and Independent Persons in considering whether your complaint requires a detailed investigation. For example:

- You should be as specific as possible as to what you are alleging the Councillors did. For example instead of saying that a Councillor insulted you, you should state what they said or did.
- You should provide dates of the the alleged incidents if possible or a general timeframe if you cannot remember dates.
- You should confirm whether there were any witnesses.
- You should ensure that your complaint is about the code of conduct. The Joint Standards Committee cannot deal with general complaints about decisions made by a Council or actions taken by Councillors in a purely private capacity.

5. Additional help

Complaints must be submitted in writing. This includes by e-mail. We can make reasonable adjustments if you have a disability which prevents you making your complaint in writing or provide assistance if you have any other difficulty which prevents you completing this form.

Complaint

Report to the Monitoring Officer, City of York Council, into complaints against Parish Councillor Steven Hardcastle who is a member of Deighton Parish Council.

From Walter Burns, appointed as Investigating Officer for this complaint by Janie Berry, Monitoring Officer, City of York Council.

The Complaint referred for Investigation and Background

There are two complaints directed against Cllr Hardcastle (Cllr). One of them also cites the Parish Council. However, only individuals can be in breach of the Code of Conduct (the Code). Both complaints are of a similar nature so I have been asked to deal with them both together.

[REDACTED] The other is from Mrs E.Hale, a member of the public and a local resident who was herself a parish councillor on the DPC for many years up to 2019, then holding the position of Vice Chair. The two Forms of complaint are attached at annex A, but in summary:

- [REDACTED]
- Mrs Hale states the Cllr has a personal animosity against her and that he has delayed her application to be co-opted back onto the council because of this. She refers to the Chair's Statement of 2020 as evidence of this.

Relevant Provisions of the Code of Conduct

The Code of Conduct for the DPC is attached at Annex B and the following Member obligations I believe, are relevant:

1. he/she shall behave in such a way that a reasonable person would regard as respectful.

[REDACTED]

3. he/she shall not seek to improperly confer an advantage or disadvantage on any person.

The Investigation

I carried this out mainly during February 2021 having been allocated the matter in January.

I interviewed both complainants (one over the phone and the other on Skype) during the week commencing 1st February and the Cllr on the 12th February on Zoom. The methods of contact were chosen by the interviewees and there were no time restrictions placed on the discussions. I did not interview anyone else as I felt there was enough written evidence produced to ascertain the salient facts.

I requested any further evidence from each party both before the initial interview and again afterwards if something was raised during it. There were a number of additional pieces of evidence produced after the interviews which took some time to consider before I could draft this report. I did however permit Cllr Brack who is also on DPC (Vice Chair) to submit some documents and to make a written statement in the interests of fairness. This was despite him contacting me in an unsolicited manner and threatening to make a complaint against me if I did not comply.

Documents which were considered in addition to the complaint forms, the parish council's Standing Orders and it's Code of Conduct were:

[REDACTED]

b) **In respect of Mrs Hale's complaint** – her application letter to be co-opted of March 2020; an extract from the Local Elections (Parishes and Communities)(England and Wales)Rules 2006; an email from the Cllr before he was elected referring to [REDACTED]; a letter subsequently sent to her by the Cllr on behalf of the PC in January 2021 informing her of the outcome of her application.

c) **In respect of the Cllr's interview** – [REDACTED] emails from Mrs Hale when she was a Cllr on DPC including comments about the Cllr and containing a reference to a gun; various minutes of the PC relevant to the complaints; emails between the Cllr and the Yorkshire Local Councils Associations (YLCA); [REDACTED] [REDACTED] Some of these emails emanated from another Cllr (Brack) on the PC but were produced by Cllr Hardcastle. As such I did not see a need to interview this other councillor despite Cllr Hardcastle's request. As noted above Cllr Brack nevertheless contacted me of his own accord.

All these can be made available to the Monitoring Officer and any panel.

Interviews and consideration of evidence

In each of the complainants' interviews, I confirmed the nature of the complaints which were agreed. I went through the written evidence produced and asked my own questions if there was anything which needed clarifying. [REDACTED]

Mrs Hale gave me context and background of the recent history including during her time as a councillor; [REDACTED]

[REDACTED] and we discussed the issue with the Cllr feeling the then PC had not in the past supported him in a planning matter before he was elected

The Cllr's interview mainly centred on explaining [REDACTED] [REDACTED] and explaining the investigation process and the conversations he had had

with the YCLA. A discussion took place around the role played by the PC as a body in all these matters.

During the interviews with the complainants reference was made to derogatory comments made by the Cllr and actions he took, most of which were not supported by documentary evidence and could not therefore be proved. An example of this is a written note of complaint to the PC regarding the Cllr's 2020 statement. It is referred to in one of the forms but it was not produced. Another example is the Cllr is alleged to have said in response that he would "go round and speak to them" which the complainant found alarming. I understand a letter was actually sent instead, so the account of some events are reported speech only and thus impossible to confirm.

The Chair's Statement was part of one of the complaint forms and the Cllr confirmed it was correct and that he and the Council stood by it. The Cllr also produced quite a few of the documents dealing with the issues raised and referred to by the complainants (i.e., some of the emails with the YCLA, PC minutes and copies of emails exchanged when one of the complainants was a councillor. Some of these emails originated from another Cllr on the PC).

Finding and conclusions

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re Mrs Hale's complaint:-

I do believe that the paragraphs within the Chair's Statement 2020 which she has appended to her complaint form (from the paragraph starting " Unfortunately , before that , I feel I must make reference ...") are inappropriate for a public document and are ones which a reasonable person may well regard as disrespectful . Both to [REDACTED] and to the Councillors referred to. [REDACTED]

[REDACTED] I would point out however that although the Statement is produced by Mrs Hale, it is done so primarily to show the animosity between her and the Cllr. Her complaint is not about the Statement contents themselves (even though I presume she does not approve of them). So the Monitoring Officer may decide that no judgment is to be made about this aspect.

I believe the delay in dealing with her application to be co-opted was too long, despite the problems presented by the pandemic .This does in my view represent disrespectful behaviour. It was a decision ,I accept , made or backed by the whole Council and not by the Cllr individually but , as stated in the 2020 Statement , he would resist any attempt for certain people to re-join the Council and in fact would resign if that were to be the case . As a Chair of the organisation it was clear what his personal opinions were and this made it very difficult for a fair decision to be made by the PC in respect of the application to be co-opted.

It may well be that other members of the PC felt the same way but it is a personal statement which could be taken as seeking to make an advantage from his position or to confer a disadvantage on another. In this respect, I believe there has been a breach of the Code.

The decision not to co-opt may have been justified for the reasons given in the letter to the complainant in January this year (not a fit and proper person based on the behaviours when last in office) .However, the presumption of bias against the candidate /complainant was clear following the Chair's Statement, thus creating a perception of unfairness and animosity .

Walter Burns
7th April 2021

Annexes

Annex A – Complaints made by [REDACTED] and Mrs Hale
Annex B – Deighton Parish Council Code of Conduct

Code of Conduct for Deighton Parish Council

Introduction

Pursuant to section 27 of the Localism Act 2011, Deighton Parish Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

6. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.
7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.
8. A member shall register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
9. A member need only declare the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if

disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests at meetings

10. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
12. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting.
13. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.
14. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate (other than an interest in Appendix A), the member shall disclose the nature of the interest and not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

15. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

Appendix A

Interests described in the table below.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 above for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses.
	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Council —
	(a) under which goods or services are to be provided or works are to be executed; and
	(b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge)—
	(a) the landlord is the Council; and
	(b) the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where—
	(a) that body (to the member's knowledge) has a place of business or land in the area of the Council; and
	(b) either—
	(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or
	(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'director' includes a member of the committee of management of an industrial and provident society.

*'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Appendix B

An interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;

- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;

- (iii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.

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, 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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City of York Council Standards Committee	
Pre Hearing checklist	
Complainant	Mrs Eve Hale
Subject Member	Councillor
Investigating Officer	Walter Burns
Do you intend to attend the proposed hearing to give evidence or make representations	
<i>Yes/ If allowed</i>	
Do you wish to be represented at the hearing by a solicitor, barrister or another person.¹	
<i>/No</i>	
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?	
<i>No</i>	
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. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public?
/No
If yes please explain why³
Do you disagree with any of the <u>facts</u> found by the investigating officer as set out in his her report?
/No
If yes please set out briefly the facts that you dispute and your view as to the true factual position

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. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

Do you believe that witnesses should be called to the Hearing
<i>No</i>
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

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	
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 Yes	
Do you wish to be represented at the hearing by a solicitor, barrister or another person.¹	
Yes/No Yes	
If so by who?	
<i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i> Councillor Chris Brack	
Do you wish the whole or any part of the hearing to be in private?	
Yes/No No, I welcome the opportunity to have the media present.	
If yes please explain why²	
Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public?	
Yes/No	

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. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

No, again, I welcome the opportunity of the media to have access to all documents.

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 Yes

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

The whole process is flawed and biased against me. There are numerous facts that are incorrect, which will be highlighted at the hearing. The list below is not exhaustive: -

I asked for seven witnesses to be interviewed as part of the investigation, this request was refused outright, despite my protests. Therefore, I believe I was treated unfairly.

Mrs Hales complaint is full of allegations which have not been proven and have no evidence to support them. EG: Continual Harassment from Mr Hardcastle, where are the times and dates? Why was she not challenged on this?

Mrs Hales neglected to inform in her complaint that she and a fellow councillor, [REDACTED] were re-elected in August 2019 (at the expense of CYC), only then for all three to resign and not take up their posts, citing various reasons. A fourth person [REDACTED] did get elected and did take up his post of Councillor and is still a member of the Council.

Mrs Hale states in her complaint ‘this application was blocked by Mr Hardcastle and he continued to refuse my application due to his personal animosity towards me.’ Where is the evidence I blocked her application?

Mrs Hales quite specific allegation against me is that I blocked her

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. The Council’s proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

application. However, the investigation refers, and states quite incorrectly that the allegation is that I delayed her application. Therefore, the whole investigation has not been carried out on the specific allegation stated in the complaint. Notwithstanding, there is no evidence whatsoever that I have blocked her application.

Do you believe that witnesses should be called to the Hearing

Yes/No

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

Chris Brack, Alan Henshall, Jeanne Fletcher, Ian Chambers. They all want to have an opportunity to give evidence that support my claims and give exact times and dates of all events in relation to the allegation against me. An opportunity that was denied them by the investigator.

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.

