

Standards Hearing Sub-Committee

12 November 2024

Public Report

Report of the Monitoring Officer

Complaint received in respect of a City of York Councillor: REF 2024/12

Background

1. On 24 July 2024 the Monitoring Officer received a complaint from an employee of a partner organisation, alleging that a Councillor had breached the Code of Conduct by using offensive and inappropriate language in an email and by recommending a course of action to a member of the public for which there was no basis.
2. The complaint was assessed by a Deputy Monitoring Officer, in consultation with the Independent Person, and subsequently referred for investigation by a Lawyer employed by City of York Council.
3. The investigating officer's report has been completed and provided to the subject member and complainant for comments and must now be considered by a Joint Standards Committee Hearings Committee in accordance with the Case Handling Procedure set out at Appendix 29 of the Constitution.
4. The investigating officer is of the opinion that the Councillor did breach the Code of Conduct.
5. The panel have received a copy of the complaint, the investigating officer's report, as well as a copy of the Council's Code of Conduct and the further representations made by the subject member.

The Code of Conduct

6. As required by the Localism Act 2011, the City of York Council has adopted a Code of Conduct which sets out the conduct expected of

Councillors when acting as such. Particularly relevant to this complaint are the following requirements of members:

1. Respect

As a Councillor:

- a. I treat other Councillors and members of the public with respect.*
- b. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.*

2. Bullying, harassment and discrimination as a Councillor:

- c. I promote equalities and do not discriminate unlawfully against any person.*

5. Disrepute as a Councillor:

- a. I do not bring my role or local authority into disrepute.*

6. Use of position

As a Councillor:

- a. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.*

7. The Local Government Association publishes guidance on the Code and on complaints handling which has been applied in the officer's investigation. Key aspects of that guidance regarding the general obligations under the code of conduct are:

- i. Respect. You will engage in robust debate at times and are expected to express, challenge, criticise and disagree with views, ideas, opinions, and policies. Doing these things in a respectful way will help you to build and maintain healthy working relationships with fellow councillors, officers, and members of the public, it encourages others to treat you with respect and helps to avoid conflict and stress. Respectful and healthy working relationships and a culture of mutual respect can encourage positive debate and meaningful communication which in turn can increase the exchange of ideas, understanding and knowledge. Examples of ways in which you can show respect are by being polite and courteous, listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks and being kind.

- ii. Promoting Equalities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.
- iii. Disrepute. Under paragraph 5 of the Code of Conduct, councillors should not bring their role or the local authority they are elected to into disrepute, including actions which “may lower the public’s confidence in your or your local authority’s ability to discharge your/its functions.” The guidance set out above states this can include “behaviour that is considered dishonest”. As set out in the Code, the Nolan principle of objectivity further requires holders of public office to “act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.”.
- iv. Paragraph 6 of the Code states councillors should not use or attempt to use their role “improperly to the advantage of myself or anyone else”. The guidance adds that councillors should not take advantage of their “opportunities, responsibilities, and privileges” to further their “own or others’ private interests”. This is underpinned by the Nolan principle of integrity, which adds that holders of public office “should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends”

The Hearing Process

- 8. The Joint Standards Committee has approved a procedure for hearings. In line with that procedure the complainant and subject member have been asked to indicate whether they intend to attend the hearing, to identify facts which they say are in dispute, and provide their views as to whether any part of the hearing should be in public. These responses have been shared with the Panel. Neither the complainant nor the Subject Member has asked to attend the meeting of the Hearings Panel.

Issues to be determined

- 9. Has the Councillor breached the Code of Conduct?
- 10. 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)

The Council has a duty of care to its employees and failure to protect employees from harmful behaviour could lead to grievance/ tribunal proceedings.

Equalities

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

As detailed within this report.

Crime and Disorder, Information Technology (IT) and Property

Not applicable to this report.

Other

Not applicable to this report.

Contact Details

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Report **Date** 4 November 2024
Approved

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

- City of York Council Code of Conduct and Procedure for Handling of Complaints
- City of York Council Constitution