

Joint Standards Committee

1 December 2025

Report of the Head of Legal Services and Deputy Monitoring Officer

Review of allegation handling arrangements

Summary

1. This report addresses concerns around the current arrangements for dealing with Code of Conduct breach allegations, as set out in Appendix 29 of the Authority's constitution.

Framework

2. The Authority is required under Localism Act 2011 to promote and maintain high standards of conduct from its members by adopting a Code of Conduct (found at Appendix 14) and by setting out the arrangements under which it will investigate and decide upon breach allegations.
3. The Authority has a discretion to make any arrangements it deems appropriate. There are no Regulations, no codes of practice nor any other Government guidance, but the Local Government Association (LGA) has produced extensive guidance and a volume of caselaw has developed.
4. It remains a function of the Joint Standards Committee to assist and support the Monitoring Officer in establishing and maintaining these arrangements (constitution at Article 10 para 2.1)
5. The Authority's current arrangements were last reviewed in May 2022.

Background

6. The management of conduct and standards in public life was almost entirely changed by the Localism Act in 2011. Standards for England (previously the Standards Board) was abolished and its functions were not retained. The national code of conduct was revoked in favour of local choice, the use of Independent Persons was introduced, committees were no longer mandatory, and most sanction powers were removed.

7. Whilst a new summary offence of withholding or misrepresenting pecuniary interests was created, which carries the penalty of a fine and disqualification from authority membership of up to 5 years, it is otherwise no longer possible for a member to be suspended or disqualified for a standards code breach alone. Disqualification is retained only where a member is criminally convicted and sentenced to a term of imprisonment of at least 3 months and/or is made subject to registration requirements for sexual offences.
8. The rationale at the time was the drive towards localisation of decisions and to reduce the incidence of the standards regime being hijacked by vexatious or politically motivated tactics designed to restrict freedom of speech and discourage whistleblowing.
9. The judiciary famously referred to the new regime as “puzzling, rather odd, difficult and confusing” (Edis J in *Taylor v Honiton TC*), and the Committee on Standards in Public Life 2019 report on ethics in local government was strongly critical, commenting that the belief that “the ballot box acted as the ultimate sanction was insufficient in both principle and practice”.
10. Whilst in 2019 the then Government roundly rejected the criticism, an appetite for change has now arisen. A consultation response was published on 11 November 2025 indicating wholesale changes are now likely, with a move towards the pre 2011 position, the re-introduction of suspensions and disqualifications, nationalising a Code of Conduct and adding review and appeal functions.
11. There are currently no statutory proposals, and no timetable for implementation of any changes, and so this report can only address the current legal position.

Purpose

12. The aim of the Localism Act regime is to provide a “light touch” that is fair, objective and without undue delay. Allegations must be dealt with proportionately, impartially, with transparency and following the principles of natural justice. Clarity of both method and purpose is vital if the public interest is to be served and public confidence in administration is to be preserved.
13. The aim of this report is:
 - i. Provoke a discussion over current procedure and to review proposed changes

- ii. To encourage a more streamlined approach in keeping with the intended aim of a “light touch” response to allegations.

Options

- A To recommend the attached new draft to replace the current Appendix 29 in the constitution
- B To reject the attached new draft and recommend retention of the existing procedure
- C To review and amend the attached new draft before recommending

To note

- 14. Only the Committee has the power to make a finding that a breach of the Code of Conduct has or has not occurred, and to impose sanctions in relation to it. Neither the Independent Person nor Monitoring Officer may do so.
- 15. The committee is expressly exempt from the requirements of political balance under section 17 of Local Government & Housing Act 1989 by virtue of annual full council decision, enshrined in the constitution at Article 7 and Article 10.
- 16. The quorum of the Joint Standards Committee is set in Appendix 6 (para 4.1) and Appendix 7 (para 13.1) as 4, one of whom must be a parish councillor where the committee is concerned with parish business. This is not ideal for a disciplinary decision-making body so ought to be forwarded for review dependant on any decisions made on this report.

Analysis

- 17. The current procedure is complicated, in places repetitive or duplicitous, occasionally inconsistent, and has a tendency to be overly involved and time consuming.
- 18. The framework under the Localism Act is deceptively simple. There are only 4 stages to the approach and the new draft addresses them in a linear way:
 - 1. Gateway

An allegation is received and checked to see if the Authority is legally able to deal with it

2. Initial assessment

The allegation is reviewed to consider whether or not it needs a quick and informal response, further investigation and/or the committee to consider

3. Deeper investigation

More serious or complicated allegations will require time to consider and for a formal report to be prepared

4. Hearing

The public interest may require that a formal decision be made and sanctions to be considered

19. The most notable proposed changes in the new draft are:

- Appendix 29 is now shorter, clearer, and addresses expectations of both complainants and Subject Members in a fair and open way.
- The use of sub-committees is removed entirely.
- In keeping with the “light touch” approach, hearings are reserved for the most serious or complex matters, or where the public interest demands that a Subject member be given the chance to clear their name or a complainant be given the satisfaction that their allegation was formally upheld. The LGA guidance is clear that hearings ought to be a last resort.
- The approach to Anonymity, Confidentiality and Publicity are now clearly explained
- Parallel criminal or regulatory investigations no longer automatically freeze standards procedures
- A chair/vice chair veto is now suggested, in place of using an inquisitorial sub-committee in all cases concerning the Leader, opposition Leader, Executive or shadow executive, and all chairs and vice chairs. This is specifically to address concerns over a previous monitoring officer’s erroneous decision to drop a case against the then leader.

- Hearings may now be “on paper” as well as oral.
- Adjournments are now expressly provided for.
- Hearing procedures are now set out more clearly to control the use and presentation of evidence and witnesses, the order of business and the removal of the requirement for separate hearings for findings and for sanctions
- Provision of reasons for decisions are now restricted to the complainant and Subject Member, to comply with duties for an appeal by way of Judicial Review or to the Ombudsman, but also to free the Authority to better control press releases.
- Sanctions are now clearly explained so that all parties expectations are managed.
- A new ‘written warning’ is added, to provide a documentary train that makes the management of patterned behaviour easier.

Council Plan

20. The Plan seeks a fairer, more accessible York where everyone feels valued. Access to an open and fair complaints framework supports this, and provides greater accountability, whilst recognising equalities and protecting (often conflicting) human rights.

Implications

21. The following implications are to be noted:

- **Financial** none
- **Human Resources (HR)** none
- **Equalities**

The proposed introduction of reasonable adjustments in relation to the mandatory requirement that allegations be in writing is welcome.

Whilst there is otherwise little expressly mentioned in the current or proposed procedures, the duties imposed by the Equality Act 2010

nonetheless apply and reasonable adjustments can and should be made in appropriate cases.

- **Legal**

The functions of Localism Act 2011 are expressly those of full council and not the executive (section 27(8)).

Those powers are delegated to the Joint Standards Committee and the Monitoring Officer by virtue of Article 10 and Appendix 1 of the Constitution.

The Authority must adopt a Code of Conduct (section 27(2)) which parish council may choose also to adopt or may adopt their own. The Authority has chosen to adopt a version of the LGA model code of conduct which is reviewed annually.

The Authority must also have in place arrangements for the investigation and decision on allegations of a Code of Conduct breach by a member or co-opted member.

There is no statutory guidance, code of practice or regulations governing the way an Authority may set out its approach to managing these allegations.

- **Crime and Disorder** none
- **Information Technology (IT)** none
- **Property** none
- **Other** none

Risk Management

22. There are no risks identified with this report

Recommendations

23. The committee is invited to accept option A or C to change the existing procedure

Reason: To address the current issues raised.

Contact Details

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**Report
Approved**



Date 26 November 2025

Wards Affected: List wards or tick box to indicate all

All



For further information please contact the author of the report

Annexes

Annex 1 Draft new appendix 29

Annex 2 Draft new appendix 29 with extensive commentary explaining changes and reasoning behind them

Abbreviations and Initialisms

JSC – Joint Standards Committee

LGA – Local Government Association

IP – Independent Person

MO – Monitoring Officer, or an assigned deputy

NFA – No further action to be taken