

# Please note date and time of meeting

## Agenda

**Meeting: Standards Committee**

**Venue: The Grand Meeting Room, County Hall, Northallerton**

**Date: Monday, 16 December 2013 at 2.15pm**

### Business

1. Minutes of the Meetings held on 15 October 2013. (Pages 1 to 9)
2. Exclusion of the public from the meeting during consideration of each of the items of business listed in column 1 of the following table on the grounds that they each involve the likely disclosure of exempt information as defined in the paragraph(s) specified in column 2 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006:-

<u>Item No on the Agenda</u>	<u>Paragraph No</u>
Item 5 – Unreasonably Persistent Complainants	1 and 2
Item 6 – Complaint Assessment – NYCC/SC/39	1, 2, 3 and 7

**3. Public Questions or Statements.**

Members of the public may ask questions or make statements at this meeting if they have delivered it in writing or by electronic mail to Steve Loach of Democratic Services (*contact details below*) no later than midday 11 December 2013, three working days before the day of the meeting. Each speaker should limit himself/herself to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

- at this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes);
- when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting.

**4. Request for Dispensations – Report of the Monitoring Officer.**

**(Pages 10 to 20)**

**5. Unreasonably Persistent Complainants – Report of the Monitoring Officer.**

**(LATE REPORT (Pages 62 to 453))**

**6. Complaint Assessment – NYCC/SC/39 – Report of the Monitoring Officer.**

**(Pages 21 to 61)**

**7. Such other business as, in the opinion of the Chairman, should, by reason of special circumstances, be considered as a matter of urgency.**

Carole Dunn  
Assistant Chief Executive (Legal and Democratic Services)

County Hall  
Northallerton

December 2013  
SL/ALJ

**NOTES:**

- (a) Members are reminded of the need to consider whether they have any interests to declare on any of the items on this agenda and, if so, of the need to explain the reason(s) why they have any interest when making a declaration.

The relevant Committee Administrator or Monitoring Officer will be pleased to advise on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

(b) **Emergency Procedures for Meetings**

**Fire**

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**Accident or Illness**

First Aid treatment can be obtained by telephoning Extension 7575.

# STANDARDS COMMITTEE

## 1. Membership

County Councillors (5)							
	<i>Councillors Names</i>				<i>Political Party</i>		
1	GOSS, Andrew				Liberal Democrat		
2	GRANT, Helen				NY Independent		
3	JEFFELS, David				Conservative		
4	PATMORE, Caroline				Conservative		
5	SOWRAY, Peter				Conservative		
<b>Total Membership – (5)</b>				<b>Quorum – (3)</b>			
<b>Con</b>	<b>Lib Dem</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Liberal</b>	<b>UKIP</b>	<b>Ind</b>	<b>Total</b>
3	1	1	0	0	0	0	5

## 2. Substitute Members

<b>Conservative</b>		<b>Liberal Democrat</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1	BARKER, Arthur	1	SHIELDS, Elizabeth
2	FORT, John BEM	2	
3	SWEIRS, Helen	3	
4	SANDERSON, Janet	4	
5		5	
<b>NY Independent</b>		<b>Labour</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1	BARRETT, Philip	1	
2		2	
3		3	
4		4	
5		5	

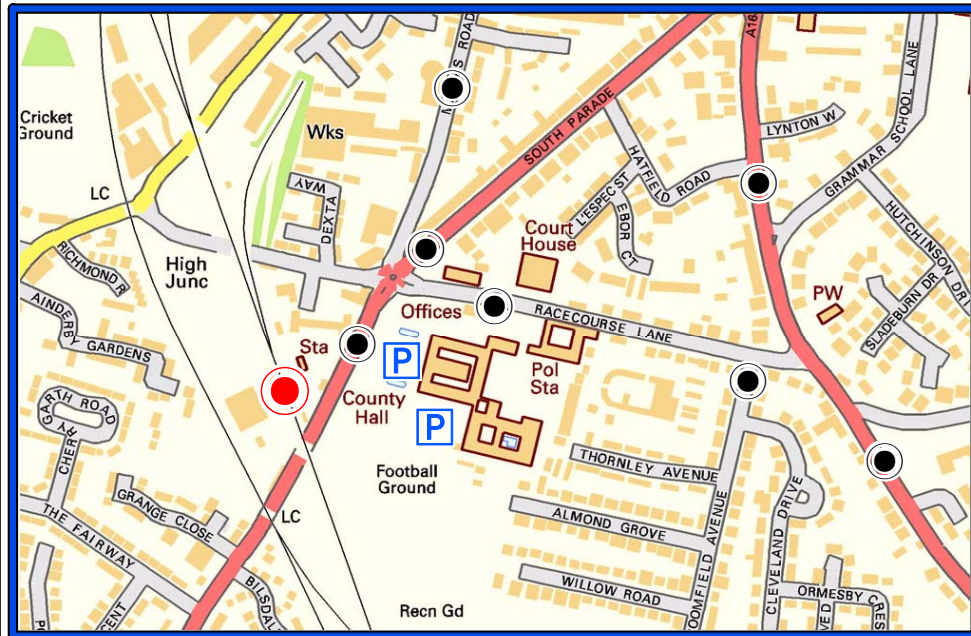
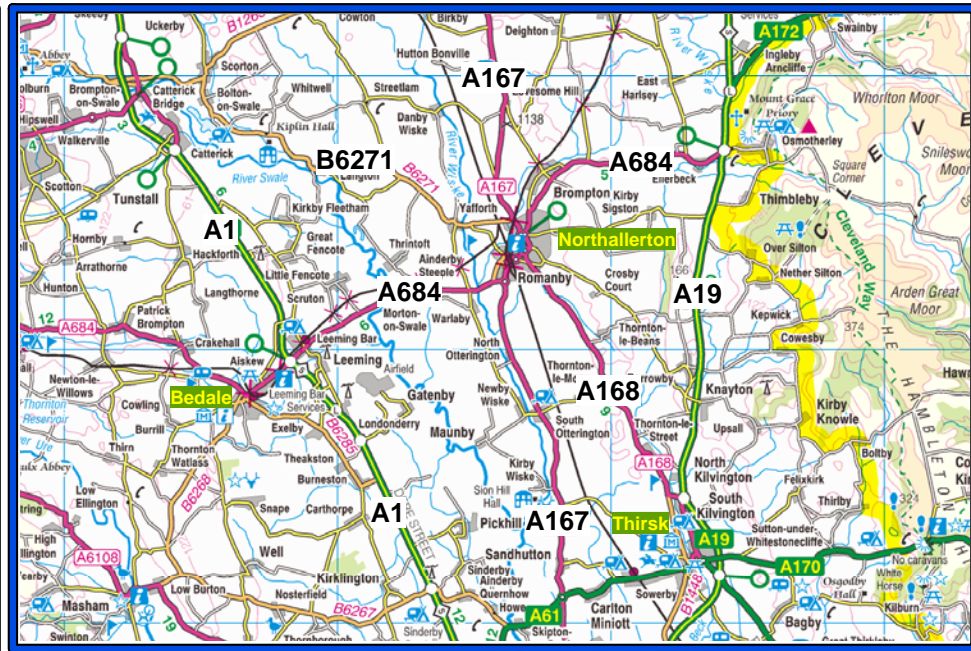
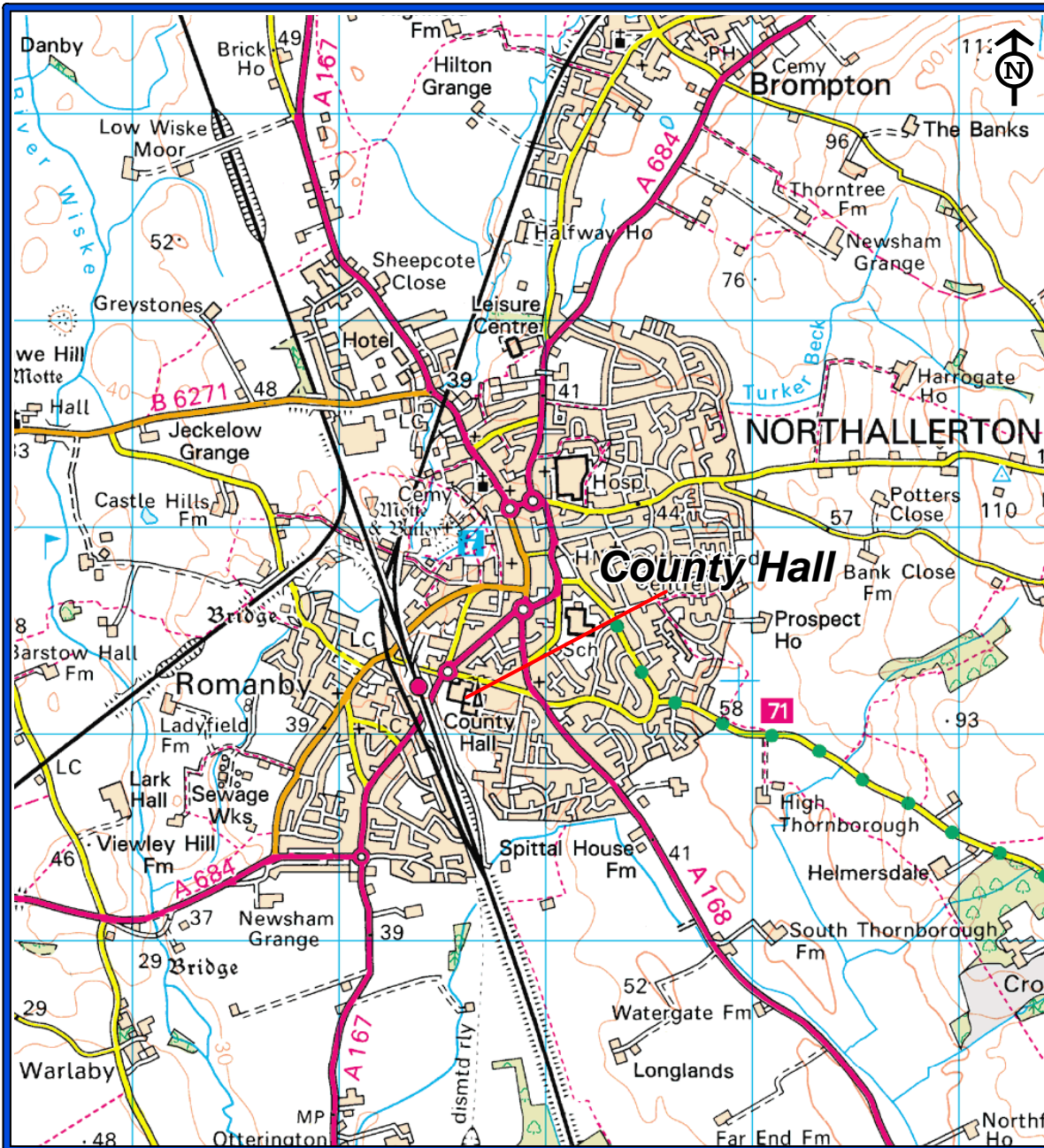
Note:

- (i) The Standards Committee is now subject to the rules on political balance.
- (ii) The Independent Persons for Standards are Hilary Gilberston MBE and Louise Holroyd.

## TERMS OF REFERENCE

As set out in Article 9.03 of the Constitution





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North Yorkshire County Council

## North Yorkshire County Council

### Standards Committee

Minutes of the meeting held on 15 October 2013 at 10.00 am at County Hall, Northallerton.

**Present:-**

County Councillors Andrew Goss, Helen Grant, David Jeffels, Caroline Patmore and Peter Sowray.

Independent Persons: Mrs Hilary Gilbertson MBE and Mrs Louise Holroyd.

**1. Appointment of Chairman**

**Resolved –**

That County Councillor Caroline Patmore be appointed Chairman of the Standards Committee for the full term of the County Council, until the County Council elections scheduled for May 2017.

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**County Councillor Caroline Patmore in the Chair**

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**Copies of all documents considered are in the Minute Book**

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**2. Minutes**

**Resolved –**

That the minutes of the meeting held on 11 February 2013, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

Arising from Minute Number 14 – Members Attendance Monitoring, the Chairman noted that Group Secretaries were to be kept informed of Members attendance details, through an informal process and she wondered whether this had been adhered to. The Monitoring Officer stated that the process had not been implemented as yet, however, details of Member attendance would be required shortly for the purposes of the Remuneration Panel and the process could be implemented at that stage. The Chairman considered it important to follow this matter through and would particularly like to see the monitoring of Members arriving late at, and leaving early from, meetings.

**3. Appointment of Vice-Chairman**

**Resolved –**

That County Councillor David Jeffels be appointed Vice Chairman of the Standards Committee for the full term of the County Council, until the County Council elections scheduled for May 2017.

#### **4. Public Questions or Statements**

There were no questions or statements from members of the public.

#### **5. Corporate Complaints and Compliments – Annual Report 2012/2013**

Considered –

The report of the Monitoring Officer providing Members with details of the Council's Annual Report 2012/2013 regarding Corporate Complaints and Compliments, covering the adult social care, children's social care and corporate procedures.

Danni Reeves, the Corporate Complaints Co-ordinator, presented the report, highlighting the following:-

- A summary of the key figures detailed within the report.
- In comparison to 2011/12, complaints were up and compliments were down.
- It was noted that a new corporate system for monitoring and logging complaints had been introduced and it was suggested that the more efficient system had probably raised the number of complaints in comparison to last year.
- It was noted that, similarly, the way in which compliments were recorded had changed and a simple "thank you" for doing a good job was no longer recognised officially as such.
- The new system allowed for more analysis to be developed in terms of complaints and compliments received, allowing a better response to be developed, particularly in relation to complaints.

Following the initial presentation of the report the following issues were discussed:-

- Clarification was provided in respect of how requests for service were differentiated from complaints. It was noted that when a request for service had not been acted upon this could then become a complaint, however, there was a protocol to follow in relation to that.
- Members congratulated staff on obtaining the large number of compliments despite the system having changed to eliminate a number of these and considered that the performance of staff was encouraging when so many compliments were being received despite the current situation in terms of financial constraints.

**Resolved –**

That the report be noted.

#### **6. Exclusion of the Public and Press**

**Resolved –**



That the public and press be excluded from consideration of the following item – Vexatious Complaints – as this would involve the likely disclosure of exempt information as defined by paragraphs 1 and 2, as specified in column 2, of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

## **7. Vexatious Complaints/Unreasonably Persistent Complainants**

Considered –

The report of the Monitoring Officer requesting the Committee to consider the handling of complaints from a member of the public who had, for a period of time, submitted a succession of complaints and Freedom of Information requests which had absorbed a significant amount of resource. The report summarised the events that had occurred and the various frameworks and guidance that were relevant to the handling of complaints and Freedom of Information requests and sought the Committee's views on the next stages in the handling of those matters.

It was noted that given the nature of the report it had been necessary to include information and appendices which were of a sensitive nature and comprised of personal data. The Minutes produced in relation to this matter reflect the sensitive nature of the information provided.

In view of the extent of involvement that had been required of officers, various files relating to the matters raised by the complainant were made available for members' consideration during the meeting.

The report set out the role of the Standards Committee in handling unreasonably persistent and/or vexatious complaints and details of the protocol, in relation to that, were provided in an appendix to the report.

Details of the Council's Policy on unreasonably persistent complainants were also appended to the report as were details of guidance from the Information Commissioner on vexatious Freedom of Information requests.

Details of the numerous complaints and requests for information from the complainant were provided for Members information.

The report went on to provide details of how to consider whether a complainant was unreasonably persistent in accordance with the Council's Policy, how the current matter which was the subject of the report accorded with the Council's Policy, how the Freedom of Information requests correlated with what was considered to be vexatious in relation to the appropriate guidance, how potentially vexatious requests could be identified and what action could be considered as a response to the matters outlined.

Members outlined the following in respect of the report:-

- The large amount of officer time and finance required to investigate the complaints and requests for information were noted.
- Clarification was provided in respect of the difference between burdensome and vexatious complaints.
- It was noted that each complaint and request had been considered individually and that guidance from the Information Commissioner



suggested that where undue time and resources were required in investigating matters which were unduly burdensome then the Authority was able to refuse to undertake any further consideration of such matters.

- Members welcomed the professional approach undertaken by the County Council's officers in responding to the issues highlighted.

**Resolved –**

- (i) That the matter be the subject of a further report to the Committee as soon as possible;
- (ii) That the Chairman and Independent Persons, in liaison with appropriate officers, give further consideration as to whether the complainant should be advised that this matter was to be the subject of a further report to the Committee and invited to attend;
- (iii) That the authority to determine a process for consideration of the matter, in consultation with the Chairman of the Committee and Independent Persons, be delegated to the Monitoring Officer or, in her absence, the Chief Executive;
- (iv) That approval be given to appending the updated version of the ISO guidance referred to in paragraph 2.6 of the report, to the Standards Committee protocol;
- (v) That any further action considered appropriate in relation to this matter be discussed with the Chairman of the Committee and the Independent Persons and be included in a subsequent report to a meeting of the Committee.

**8. Local Ethical Framework Issues**

**Considered –**

The report of the Monitoring Officer highlighting the following:-

- Briefing Members on new ethical framework issues;
- Seeking authority from the Committee to recommend to full Council the amendment of the Code of Conduct regarding registration requirements and to recommend the making of a consequent change to the current form for registering Members interests at the County Council, so that Members could treat trade union membership as a personal, non-pecuniary interest, as required under new DCLG guidance, and for the Monitoring Officer to contact all Members of the County Council asking them to register such interests;
- Seeking the views of the Committee on whether and how the illustrative text for a Code which accompanied the letter from the DCLG might be used at this Council;
- Seeking the views of the Committee on whether, and, if so, when Registers Of Interest relating to former Members of the County Council, who were no longer County Councillors, should be disposed of;

- Seeking the views of the Committee on whether it would be appropriate and beneficial to provide specific advice to County Councillors who were also Members of a District Council, about claims for and receipt of allowances from more than one Council, or other public body;
- Seeking the views of the Committee on whether any changes to the current County Council Code of Conduct would be appropriate and beneficial;
- Seeking the Committee's agreement to administrative revisions to the Jurisdiction and Assessment Criteria.

The Monitoring Officer reported on recent guidance on interests received from the Department for Communities and Local Government stating that Councillors should treat trade union membership as a personal, non-pecuniary interest which should be registered and declared. This required a change to the Code of Conduct for the County Council as that currently only required registration of statutory disclosable pecuniary interest and made no provision for interests other than disclosable pecuniary interests. This was reflected in the current form for registering Members interests. It was noted that the matter required the approval of full Council. Details of the guidance and an illustration of the revised text for the Code were appended to the report. It was noted that all Members of the County Council had been advised of this matter and that this would be submitted for consideration to the next full County Council meeting.

In respect of the illustrative text for a Code submitted to the County Council by the DCLG it was considered that the County Council's current Code, subject to the addition of the matter relating to trade union membership, was appropriate and reflected the suggestions of the DCLG fully.

In relation to the issue of the holding of the Registers of Interests relating to former Members of the Council who were no longer County Councillors and whether that information should be held, and, if so, for how long, Members suggested that it would be appropriate for those details to be kept by the County Council for a full Council term, following the Council's departure, ie, four years.

It was noted that the DCLG had now clarified that no dispensation was required in respect of issues relating to the setting of the Council Tax as they had defined that any payment of, or liability to pay, Council Tax did not create a disclosable pecuniary interest as defined in the national rules. This accorded with the pragmatic view taken so far by the Council.

In terms of issues that had come to light relating to "dual hatted" members in respect of their allowances from more than one local authority, the views of the Committee were sought on whether it was felt appropriate and beneficial to provide specific advice to Members affected. In response Members contested the fact that these expenses had been "claimed" as many were paid as part of the allowance scheme and it was suggested that any advice should relate to that. In response the Monitoring Officer stated that it would probably be beneficial to re-visit the guidance to Members in relation to expenses and make the position clearer for "dual hatted" Members in respect of the allowances that they received. The Independent Persons considered it appropriate to ensure that the position was as open and transparent as possible.

The views of all County Councillors had been sought on the current Code of Conduct for Members and at the time of the meeting only two Members had expressed a view with neither raising any concerns. It was noted that some neighbouring District

Councils required membership of public bodies to be registered within their Code of Conduct and it was wondered whether Members considered that the County Council's Code should be extended to take account of this. Members suggested that they were satisfied with the current Code of Conduct for Members of the County Council and, subject to the inclusion of the membership of trade unions, as indicated earlier in the meeting, were satisfied with the current Code.

Details of the revised jurisdiction and assessment criteria were appended to the report and presented to the Committee for formal adoption. The document had been amended to reflect the new regime arrangements previously agreed by the County Council in terms of the Monitoring Officer and Independent Persons roles in the assessment of complaints.

The Monitoring Officer noted that the Committee had previously approved the protocol on vexatiousness, but this had not been referred to the County Council for their approval. She stated that she would provide a brief report to the next meeting of the full County Council, allowing them to consider and adopt the protocol on vexatiousness.

A Member queried the political constitution of the Standards Committee. It was noted that agreement had been received to the current membership from all the political groups and this related to the constitution of all Committees throughout the County Council. Members were satisfied that the political constitution of the Committee was satisfactory.

**Resolved –**

- (i) That the content of the report be noted;
- (ii) That approval to change the current Code of Conduct and form for registering Members interests at the County Council, allowing Members to treat trade union membership as a personal, non-pecuniary interest, as required under new guidance, and to authorise the Monitoring Officer to contact all Members of the Council asking them to register such interests, where these are held, be recommended to the County Council for approval;
- (iii) That the current Code of Conduct in place for Members of North Yorkshire County Council, continue as at present, subject to the addition of issues relating to Members membership of trade unions, as detailed above;
- (iv) That, in light of the recent DCLG guidance, the registers of interests relating to former Members of the County Council, who were no longer County Councillors, should be retained for a four year period (the full term of a County Council) following them no longer being a County Councillor;
- (v) That further consideration be given to re-enhancing the advice given to County Councillors, who were also Members of a District Council, about allowances they received from more than one Council, or other public body, with a view to assisting them in avoiding any duplication of allowance obtained and in ensuring that the allowances scheme was open and transparent;
- (vi) That the jurisdiction and assessment criteria document, as detailed in the report, be adopted;
- (vii) That the protocol on vexatiousness, previously approved at an earlier meeting of the Standards Committee, be submitted to the next meeting of the County Council for formal approval.

## 9. Complaints Update

Considered –

The report of the Monitoring Officer informing Members of ethical framework complaints received about Members of the Council since the previous report in February, 2013;

Seeking the views of the Committee on whether, in the light of experience, it would be appropriate to make changes to the timescales set out in the arrangements for dealing with allegations of breach of the Members' Code of Conduct; and

Seeking the views of the Committee on whether it would be appropriate to provide the complainant with any information provided by the Member who was the subject of the complaint.

The report outlined the five further complaints regarding the possible breach of the Authority's Members' Code of Conduct since those reported to the Committee's previous meeting. Updates were also provided on complaints NYCC/SC/28 and NYCC/SC/29.

The Monitoring Officer explained that the arrangements for dealing with allegations of breaches of the Members Code of Conduct gave timescales for the investigation of complaints and experience of handling these, together with all other workload issues, indicated that the timescales were often unachievable. The Committee were asked, therefore, to consider whether it would be appropriate to amend these.

It was also noted, during a recent complaint, that a complainant asked the Monitoring Officer to provide a copy of the information provided by the Member who was the subject of the complaint. The Committee were asked to consider whether there would be any benefit in the complainant being provided with information from the subject Member, or whether that was felt to be inappropriate. In relation to this, Members of the Committee and the Independent Persons considered that giving the complainant details provided by the Member may result in Members being less forthcoming in the details that they were willing to impart in response to the investigation. It was also considered that the provision of that information to the complainant could lead to it being used inappropriately as the County Council could not control how that was used subsequently.

**Resolved –**

- (i) That the current position on complaints received be noted;
- (ii) That the following alterations be made to the timescales in relation to the arrangements for dealing with allegations of the breach of the Members' Code of Conduct:-

5 – Assessment for investigation or other action – the assessment will take place where possible within 20 working days of receipt of the complaint or as soon as possible thereafter.

7 – Investigation – if the Monitoring Officer concludes that a matter merits investigation, the complainant will be invited to submit all information they wish to submit in support of their allegation within ten working days of request.

Once the information is received it will be sent to the Member who is subject to the complaint, who would also be invited to submit all information they wished to be considered in response within ten working days.

12 – What happens at the end of the hearing? – The Monitoring Officer will prepare a decision notice which will be given to the subject Member and the complainant within ten working days.

- (iii) That, in respect of a complaint against a Member it would not be appropriate to provide the complainant with any information provided by the Member who is the subject of the complaint, and that the process should continue as at present.

## **10. Committee on Standards in Public Life – Annual Report 2012/13**

Considered –

The report of the Monitoring Officer outlining those parts of the Annual Report of the Committee on Standards in Public Life which had a particular bearing on standards in local government.

The main issues raised within the report included:-

- Behaviour within public life was important to the public.
- Levels of public trust were low.
- The levels of trust of the public had not been altered significantly by the implementation of the ethical framework.
- It was important that the leadership within local councils embraced high ethical standards.
- There were still some concerns in respect of the New Ethical Framework following the publication of the Localism Act 2011.
- There was a need to ensure that high ethical standards were maintained through the procurement process adopted by local authorities.

**Resolved –**

That the annual report of the Committee on Standards in Public Life relating to local government, including the particular emphasis placed on leadership responsibilities in respect of ethical standards, be noted.

## **11. Standards Bulletin**

Considered –

The report of the Monitoring Officer presenting a draft of the latest edition of the Standards Bulletin for consideration and possible amendment, before this was circulated to Members of the Authority.

A Member noted that in previous editions reports were provided on issues involving other local authorities and it was considered that these had been particularly useful.

In response it was noted that these details were provided on the website of Standards for England and when that body had ceased, the details were no longer available, unless officers were to trawl through the websites of all local authorities. Members suggested that this would not be resource effective and, therefore, accepted that these would no longer be a part of the Bulletin.

It was noted that the Bulletin would be circulated on-line to Members as soon as agreement was provided.

**Resolved –**

That the Bulletin be updated as necessary to provide details of the outcome of today's meeting and then circulated to Members of the Authority.

The meeting concluded at 11.45 am.

SL/ALJ



## NORTH YORKSHIRE COUNTY COUNCIL

### STANDARDS COMMITTEE

16 December 2013

#### **Dispensation Issues**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To present to the Committee, for consideration, requests from two County Councillors for a dispensation from the Standards Committee.

#### **2.0 BACKGROUND**

- 2.1 County Councillors David Chance and Joe Plant have each made a request for a dispensation from the Standards Committee to enable them to speak, vote and be included within the quorum at meetings of the County Council, Executive, Committees and Sub-Committees when such body/ies is/are considering business relating to the Whitby Park and Ride Scheme and parking zone proposals for the Whitby area.

#### **3.0 POWER TO GRANT DISPENSATIONS**

- 3.1 The Monitoring Officer was designated by the County Council as Proper Officer to receive written dispensation requests.
- 3.2 The power to grant dispensations to Members and Co-opted Members under the ethical framework adopted under the Localism Act 2011 was delegated by the Council to this Committee, after consultation with the Independent Person for Standards.
- 3.3 Power was also delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Person) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation.

#### **4.0 INTERESTS ISSUES**

- 4.1 Interests issues in relation to Councillors Chance and Plant arose at the meeting of the Council's Yorkshire Coast and Moors County Area Committee on 19 September 2013 relating to the proposed pay and display and parking zones in Whitby. Both County Councillors had disclosable pecuniary interests and were required to withdraw from the meeting in accordance with the law and the Members' Code of Conduct.
- 4.2 Regarding the Area Committee meeting, Councillors Chance and Plant contacted the Monitoring Officer to seek advice on interests the day before the meeting (Wednesday 18 September 2013). Advice was provided to the Councillors that same day, confirming that they had a disclosable pecuniary interest (via their registered interests in the Register of Members' Interests - disclosable pecuniary interests). The Councillors were also advised that they could make a written statement to the meeting representing their views, and those of their constituents, or alternatively seek to have another Councillor who would be attending at the meeting, represent the

views they wished to put forward. In this case, because the meeting was the next day there would have been little opportunity for the Councillors to have time to pursue the option of seeking a dispensation in relation to their interest.

- 4.3 The overall Park and Ride Scheme will have implications for the wider Whitby community and the proposed pay and display and parking zones will directly affect certain specific areas and residents of Whitby. For those living/working within the parking zones there will be a direct impact as should they wish to continue parking outside their property they will have to pay for a permit. Consequently, their position is different to that of others in the Whitby area but not within the zones and not so directly affected. The proposed Scheme will not affect all residents of Whitby in the same way.

#### Councillor Chance

- 4.4 Councillor Chance declared a disclosable pecuniary interest in relation to the employment of his partner at a business in Whitby. The disclosable pecuniary interest arises as a result of her employment with a firm in Whitby. There is the potential for her employment to be affected if the business is affected as a result of being included within a parking zone. This point was put very strongly by many of those objecting to the proposals who had real concerns about the viability of businesses in Whitby if the parking proposals were approved. If a Councillor had a real concern about the potential for a partner to lose their job as a result of proposals it could be perceived that this would be something that could, or could be perceived to, taint their objective judgment and affect their ability to put the public interest first.
- 4.5 Under the revised parking zone proposals for Whitby, the business which employs the partner of Councillor Chance will still be within a parking zone, albeit it is now proposed as a disc rather than permit zone. On a personal level there is no direct financial impact upon Councillor Chance, however his partner's employment could still be affected by the measures so the disclosable pecuniary interest remains.
- 4.6 Councillor Chance is requesting a dispensation to enable him to fully represent the views of the people of Whitby and his division who are directly affected by the proposals.

#### Councillor Plant

- 4.7 Councillor Plant lives and owns property in, at the time of the Area Committee meeting on 19 September 2013, a proposed parking zone. The inclusion of the Councillor's property within a zone meant he was affected, as if he did want to park on the street he would require a permit to do so. Further, the fact that his property was within a zone meant that there could have been a material effect on the value of his property particularly if it benefitted from off street parking.
- 4.8 Under revised proposals, Councillor Plant's property is now outside the proposed zone, however there is the potential for this to alter again. Councillor Plant has indicated that he would wish to apply for a dispensation from the Committee to ensure that should the position change under the consultation, he is able to fully participate in items of business concerning the Whitby Park and Ride and proposed Whitby parking zones to represent his constituents' views. Councillor Plant is the only elected member for all the potential zones and believes the granting of a dispensation is in the interests of people living in the Council's area.
- 4.9 Complaints were subsequently received from certain Whitby electors about the advice given which led to the local county councillors leaving the Area Committee meeting considering the parking proposals for Whitby, thus preventing them

representing their constituents' views and denying their constituents their right to be represented.

- 4.10 The Act prohibits Members with a disclosable pecuniary interest from participating in any discussion or vote on authority business. The Act does not allow Members with such an interest to speak where a member of the public can (as under the previous Code), before ending their participation. The Council's Code of Conduct also requires Members with such an interest to withdraw from the meeting room.
- 4.11 Dispensations can be granted to enable a member with a disclosable pecuniary interest to participate in the discussion and vote only if, after having had regard to all the relevant circumstances, the authority is satisfied that one or more of the criteria set out in the Act is met.
- 4.12 It is noted that there may well be occasions in the future where items of business refer to the Whitby Park and Ride Scheme and proposed Whitby parking zones, and where, if Councillors Chance and Plant had to leave because of their interests, their absence would mean that those they represent in their divisions would be without representation at the meeting.
- 4.13 After discussing the issues, the Monitoring Officer invited Councillors Chance and Plant to apply to the Standards Committee for a dispensation from non-participation.
- 4.14 Applications for a dispensation must be in writing. Councillor Chance's and Plant's written applications are attached at **Appendices 1** and **2** to this report respectively.

## **5.0 DISPENSATION PROCESS**

- 5.1 Under the Localism Act 2011 and delegated power from the Council, the Standards Committee has power to grant a dispensation to a Member from non-participation in relation to a disclosable pecuniary interest where the Committee concludes that:
  - (a) without the dispensation the number of persons prohibited from participating in particular business would be so great a proportion that the body transacting the business as to impede the transaction of the business;
  - (b) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - (c) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - (d) granting the dispensation is in the interests of persons living in the authority's area;
  - (e) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
  - (f) considers that it is otherwise appropriate to grant a dispensation.
- 5.2 It may be argued in the circumstances above that a dispensation in these particular cases would be viewed as being in the interests of persons living in the Authority's area and that it would be otherwise appropriate to grant a dispensation (criteria (d) and (f)), although it is entirely a matter for the Standards Committee to make that

decision. Members must decide whether it is appropriate to grant the dispensation in these circumstances, after balancing the public interest in preventing a Member with a disclosable pecuniary interest from taking part in Council business, against the public interest in the relevant constituents not being disenfranchised and their views being able to be put forward on the business in question.

- 5.3 If the Standards Committee is minded to grant a dispensation, it must consider the duration of it. Dispensations may be granted for a maximum period of 4 years. Members may feel in this case that it would be appropriate to grant a dispensation until the date of the next local government elections which is consistent with end dates for other dispensations granted to other Councillors in the past.
- 5.4 Any dispensations granted will allow Councillors Chance and Plant to fully participate in the relevant business, including speaking and voting upon it. The dispensation will be recorded in writing and kept with their interests forms in the Council's Register of Members' Interests.

## **6.0 RECOMMENDATIONS**

- 6.1 That the Committee consider and determine the applications for a dispensation by Councillors Chance and Plant to enable them to speak, vote and be included within the quorum at meetings of the County Council, Executive, Committees and Sub-Committees when such body/ies is/are considering business relating to the Whitby Park and Ride Scheme and parking zone proposals for Whitby.
- 6.2 That, should the Committee be minded to grant the dispensations requested, the Committee determine the duration of the dispensations.

CAROLE DUNN  
Monitoring Officer

### Background Papers:

- The Localism Act 2011

County Hall  
NORTHALLERTON

4 December 2013

-----Original Message-----

From: Cllr.David Chance

Sent: 08 November 2013 09:14

To: Catriona Gatrell

Subject: RE: Interests and revised consultation in respect Whitby Park and Ride

Hi Catriona,

I agree but I would rather say "to enable me to fully represent the views of the people of Whitby and my division who are directly affected by the proposals."

Regards

County Councillor David A Chance  
Whitby Mayfield-cum-Mulgrave Division  
North Yorkshire County Council  
Mobile: 07958 583718

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From: Catriona Gatrell

Sent: 07 November 2013 16:41

To: Cllr.David Chance

Cc: Cllr.John Weighell; Cllr.Joe Plant; Carole Dunn; Moira Beighton

Subject: RE: Interests and revised consultation in respect Whitby Park and Ride

Dear Councillor Chance,

Thank you for your email. I have notified Carole of your request for a dispensation and I understand there will be a meeting of the Standards Committee in December. You have indicated that you want a dispensation for you to represent your electorate, but it may be useful to add the basis for your request for example, that it will be in the interests of persons living in the area.

Kind regards,

Catriona

From: Cllr.David Chance

Sent: 07 November 2013 09:04

To: Catriona Gatrell

Cc: Cllr.John Weighell; Cllr.Joe Plant

Subject: RE: Interests and revised consultation in respect Whitby Park and Ride

Importance: High

Dear Catriona,

Thank you for your email the contents of which are noted.

Whether or not I have a pecuniary interest is a matter for continued debate but I would point out that whatever the outcome of deliberations, my partner will not have to pay for parking in Whitby. If she chooses to continue in employment, I say chooses because she is past pension age, then the company she works for will purchase a pass to allow her to park, as they require her to have her car handy to go out on appointments. Ergo no additional cost implications for her or myself, thus I would argue no pecuniary interest.

I think as a safeguard though I would request that you seek a dispensation to allow me to fully represent my electors in the next stage of the "Park and Ride" debate.

Kindest Regards

County Councillor David A Chance  
Whitby Mayfield-cum-Mulgrave Division  
North Yorkshire County Council  
Mobile: 07958 583718

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From: Catriona Gatrell  
Sent: 01 November 2013 14:54  
To: Cllr.Joe Plant; Cllr.David Chance  
Cc: Carole Dunn  
Subject: Interests and revised consultation in respect Whitby Park and Ride

Dear Councillors,

I have been copied into emails concerning the consultation on the revised parking zones for Whitby. I believe you have also been copied into the proposals.

Councillor Plant – it appears that your property is no longer within a proposed parking zone for the purposes of the consultation. I am currently seeking further information about whether there are any other measures which could affect you, but if not, you may no longer have a discloseable pecuniary interest which is affected.



Councillor Chance – I believe that Flowergate is still within a proposed parking zone, but I am checking the position. I am also conscious that you do not agree with the advice given so again there is the option of seeking a dispensation should you wish to do so.

I will get back to both of you next week with more detailed advice once I have further information.

Kind regards,

Catriona Gatrell

Legal Manager – Corporate Services

For Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

North Yorkshire County Council | County Hall | Northallerton | North Yorkshire | DL7 8AD Direct  
Line: 01609 532211- F: 01609 780447

Email: [catriona.gatrell@northyorks.gov.uk](mailto:catriona.gatrell@northyorks.gov.uk)<mailto:catriona.gatrell@northyorks.gov.uk>

Document: 106592/095818

-----Original Message-----

From: Cllr.Joe Plant  
Sent: 28 October 2013 10:31  
To: Carole Dunn  
Cc: Catriona Gatrell; Cllr.Joe Plant  
Subject: RE: Whitby Park and Ride - Freedom of Information Requests  
Importance: High

Thank you for the email Carole and totally understand the situation.

Taking into account what you have said in regard to my circumstances and not knowing what the future zones will look like, I wish to apply for dispensation for the meeting (date not known) which the decision will be made. Please note I do not know where or what the zones are, or indeed if the area where I live will be in one. I am asking for dispensation in case the area will be in a zone.

The reason being is, I have a disloable pecuniary interests, I own a property in a potential zone. I am the only elected member for all the potential zones and as stated in the guide, the granting of dispensation is in the interests of people living in the council's or authority's area.

Kind Regards. Joe

Cllr Joe Plant

Streonshalh Division

St Fillans

White Point Avenue

Whitby

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t: 01947 821159 m: 07780 883507

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From: Carole Dunn  
Sent: 23 October 2013 12:41  
To: Cllr.Joe Plant  
Cc: Catriona Gatrell  
Subject: RE: Whitby Park and Ride - Freedom of Information Requests

Dear Joe

The matter of dispensations seems to have come very much in to focus. We have had some informal discussions about this and you have also spoken to Catriona, but I do think we need to be clear about the position. As you know, the issue of interests arose at the last minute. We did not have an application for a dispensation from any member affected before the 19 September meeting and if we had it would have been properly considered on its merits (if there had been time) and in accordance with the Council's procedures. Any Member can ask for a dispensation on various grounds as set out in the legislation. Realistically however, even if we had received an application at that stage, it could not have been dealt with in the time available. There is a process to go through. It requires a written application from the member applying and then proper consideration of the issues either by the Standards Committee or in consultation with them and the Independent Persons, and all being in agreement.

It is important to bear in mind that the fact that an application is made does not necessarily mean that a dispensation will be granted - it involves a proper evaluation of the circumstances. Dispensations are not lightly granted and are very carefully considered against the legal criteria. In my experience of the Standards Committee in this Council, (one instance apart) the dispensations that have been granted have related to interests arising from dual hatted members having an interest affecting both the district and the County and where so many members were affected that the decision making process would have been impossible because of the quorum etc. The interests in those cases arose solely from their public office, and not from any more personal interests or implications. The only exception relates to a member whose wife is in public office herself, and he has a dispensation to participate where items of business affect her office, but it is also notable that the Standards Committee specifically excluded from the dispensation in that case any Council business that would bring a personal benefit or dis-benefit to the member or his wife.

I have advised you that if you wish to apply for a dispensation for the next stage of this matter it is open to you to do so and as I have said it will be considered on its merits. We will be pleased to offer whatever assistance we can if you want to pursue that route. You did ask me whether it is possible to 'sound out' with the Standards Committee whether they would be likely to grant a dispensation, but really I think they would need to see the application to consider the matter properly.

I hope this sets the position out clearly.

Kind regards

Carole

**From:** Cllr.Joe Plant  
**Sent:** 14 November 2013 22:06  
**To:** Catriona Gatrell  
**Cc:** Carole Dunn; Barrie Mason; Nick West; Helen Watson; Cllr.David Chance  
**Subject:** RE: Whitby Park and Ride

Thanks Catriona.

I agree with going along with the dispensation. You just never know.  
Cheers. Joe

Regards. Joe

Cllr Joe Plant

Streonshalh Division

St Fillans

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**From:** Catriona Gatrell  
**Sent:** 14 November 2013 18:01  
**To:** Cllr.Joe Plant  
**Cc:** Carole Dunn; Barrie Mason; Nick West; Helen Watson; Cllr.David Chance  
**Subject:** Whitby Park and Ride

Dear Councillor Plant,

Apologies for taking a little while to get back to you.

I understand that your property is no longer within a proposed parking zone in the revised consultation. This being the case you no longer have a discloseable pecuniary interest in the context of the parking proposals. This means that you can be involved in the normal way as a local councillor, which is hopefully good news.

The only potential risk to your position is the outcome of the consultation. If the outcome of the consultation lead to your property falling within a zone again or some other parking measures

outside your property, then you would again have a discloseable pecuniary interest in the matter of the parking proposals. I understand that there is little likelihood that your property would be affected by the current proposals, but I think it may be prudent to proceed with your dispensation application in any event.

I hope this advice is helpful, but if you have any queries please let me know.

Catriona

01609 532211