

North Yorkshire Council

Standards and Governance Committee

Minutes of the meeting held on Friday, 15th March, 2024 commencing at 10.00 am.

Councillor Heather Phillips in the Chair, plus Councillors Nick Brown, Sam Cross, Melanie Davis, Clive Pearson, Monika Slater, David Ireton, Andy Solloway and George Jabbour.

Attending remotely; Councillor Sam Cross.

Officers present: Jennifer Norton, Assistant Director Legal, Elizabeth Jackson, Democratic Services, Steve Loach, Democratic Services and Christine Phillipson, Democratic Services.

Other Attendees: Roy Martin & Louise Holroyd, Independent Persons for Standards.

Apologies: Councillors Nigel Knapton and Peter Wilkinson.
Gillian Baker, Richinda Taylor, Hilary Gilbertson.

Copies of all documents considered are in the Minute Book

38 Welcome, introductions and apologies

Apologies were received from Councillor Nigel Knapton with Councillor George Jabbour attending as substitute, and Councillor Peter Wilkinson.
Apologies were also received from Hilary Gilbertson, Gillian Baker and Richinda Taylor.

39 Minutes of the Meeting held on 13th December 2023 and the Special Meeting held on 17th January 2024

The minutes of the meeting held on 13th December 2023 and the special meeting held on 17th January 2024 were agreed and signed as accurate records.

40 Declarations of Interest

There were none.

41 Public Questions or Statements

There were no public questions. The chair advised the Committee that due to the demands on officer time the agenda would be taken in the following order:
Items 11&12 first, then items 10&8 and then the remainder of the agenda in order. The Committee agreed.

42 Feedback from Independent Persons re external training attended - Independent Persons for Standards

This training will now take place in May.

Resolved –

This item will be carried forward to the next meeting of the Standards and Governance Committee in June.

43 Local Ethical Framework - Report of the Monitoring Officer

Considered –

The report of the Assistant Chief Executive Legal and Democratic Services and Monitoring Officer to update Members on the development of the national ethical framework under the Localism Act 2011.

Members receive a report at each ordinary Standards and Governance Committee meeting setting out any recent developments in the national ethical framework.

Members have previously been briefed regarding the Online Safety Bill which received its third reading in the House of Lords on 6 September 2023. The aim of the Bill was to protect people from online abuse and to make social media companies more responsible for their users' safety whilst on their social media sites.

The Local Government Association has published on its website, presentation slides from a presentation on 12 October 2023 regarding "Handling online abuse and intimidation" - Handling online abuse and intimidation, 12 October 2023 | Local Government Association which Members may find interesting and helpful.

Resolved –

That Members note the contents of the report.

44 Annual Report of the Standards and Governance Committee - Report of the Monitoring Officer

Considered –

The draft Annual Report of the Assistant Chief Executive Legal and Democratic Services and Monitoring Officer of the work of the Standards and Governance Committee for the municipal year commencing 1 April 2023.

The predecessor NYCC Standards Committee previously agreed that it would be helpful to publish an Annual Report on its work to full Council in order to raise the profile of the Committee and strengthen awareness of its work and ethical standards generally. An Annual Report also assists in discharging the Council's statutory duty to promote and maintain high standards of conduct and also ensures that the Council has an overview of work undertaken by the Committee in discharging the Council's standards responsibilities.

A draft Annual Report of the NYC Standards and Governance Committee, for the first municipal year commencing 1 April 2023, referencing its expanded role, is attached for Members' consideration and approval at Appendix 1. The Report, if approved by the Committee, will be presented to a future meeting of the Council.

Resolved –

That the Committee approves the draft Annual Report for presentation to a future meeting of full Council.

45 Review of Standards Complaints' Process - Report of the Monitoring Officer

Considered –

The report of the Assistant Director Legal and Deputy Monitoring Officer presenting to the Committee, for consideration and review, the current standards arrangements for the handling of complaints of a breach of the Code of Conduct for Members.

Members will note from the Complaints Update report to today's meeting, the current statistics and trends regarding standards complaints received by North Yorkshire Council since 1 April 2023. In the year to date, not quite 12 months since Vesting Day, at the time of writing this particular report the Council has now received 149 formal standards complaints. This figure does not include informal intimated complaints the subject of correspondence by the Monitoring Officer and his team.

The Committee will note from the Complaints Update report that:

- a) the majority (84%) of complaints received are in relation to parish and town councillors;
- b) the majority of complaints are brought by members of the public (72%), followed by parish/town council councillors and employees (14% and 10% respectively) and 3% are brought by NYC Councillors and 1% by NYC employees;
- c) the majority of complaints concern general conduct obligations such as respect;
- d) a number of the complaints are repeated, overlapping and connected allegations complaints made by the same complainant or connected complainants against several members of particular town/parish councils.
- e) for a number of complaints there is a (sometimes complex) background context, where the standards regime is not the appropriate process for resolving deep-rooted dysfunction issues. In these circumstances, a standards investigation, at a not insignificant cost to the public purse, is unlikely to resolve the issues prevailing;
- f) the majority (81%) of complaints assessed to date do not merit any further action.

The Monitoring Officer therefore feels it is an opportune time to review the standards complaint arrangements both generally and to ensure there is an appropriate, proportionate, balance between maintaining high ethical standards and protecting the public purse.

The nature of the proposed amendments are identified in the report.

The following questions were then raised and discussed;

A Member noted that the inference of innocent until proven guilty is an important criteria and the opportunity for the subject Member to be interviewed also for assurance.

It was noted that all details of the complaint were sent to the subject member at the outset of the process and they were asked for comment and given the opportunity to respond prior to the assessment hearing. The subject Members response is sent to the Monitoring Officer and the Independent Person as part of the assessment. If the matter goes to an investigation and a hearing, then again the subject Member is provided with an opportunity to make representations to the investigator and again at the hearing.

It was asked if there were any complaints over 6 months old that had not been responded to and closed.

This would need to be checked. Whilst there are no complaints that are more than 6 months old that have not been assessed there may be some that have been assessed, investigated and await either a hearing or being closed.

A Member noted that it must be difficult to put a specific timescale on each case and could see why an extension to the procedure was being requested as there are such a high number of complaints. The Member asked whether it could be possible to complete a preliminary assessment within 4-6 weeks.

It was reiterated that each case turns on its own facts and for some the initial assessment stage can take time, for instance, details of the cases are not always clear and can require clarification, Members who are the subject of the complaint need to be provided with details of the complaint and they need to be given time to read and respond before assessments are completed.

A Member noted that as long as all parties to the complaint were kept informed and up to date then we should endeavour to complete the investigation and report of complaints within 3 months but with a caveat that more complex cases may take 6.

A Member raised the point of when a Councillor is acting in an official capacity. This was discussed, it was stated that standards should always be upheld and that guidance is available from the LGA.

Councillor Jabbour moved and Councillor Ireton seconded that the recommendations in 11.1 and 11.2 a and b of the report be approved.

This was agreed unanimously.

46 Protocol for relationship between Code of Conduct complaints and local authority grievance procedures - Report of the Monitoring Officer

Considered –

Report of the Monitoring Officer on the Draft Protocol regarding the relationship between Code of Conduct complaints and local authority grievance procedures.

Where an employee of a local authority (including the clerk of a parish or town council) feel they have not been treated properly by an elected or co-opted Member, they may choose to raise such allegations through the relevant authority's grievance procedure.

However, if the allegations relate to concerns re bullying, intimidation, harassment or discrimination by the Member, then the allegations are also likely to come within the remit of an authority's standards regime and potentially amount a complaint that the Member has failed to comply with the authority's code of conduct for Members.

Under the Localism Act, North Yorkshire Council is the principal authority for parish and town councils in North Yorkshire and is responsible for the handling of complaints that a parish/town councillor has breached their authority's code of conduct. North Yorkshire Council's standards arrangements therefore provide for the consideration of standards complaints made against elected Members and voting co-opted Members of North Yorkshire Council Members and those of parish and town councils in its area.

Discussion raised the following points;

The law is clear and appendix 1 was created to support this in that the Localism Act regime and involvement of an Independent Person is required before certain steps can be taken in respect of complaints against Members.

If a parish clerk is at fault and the complaint is about the clerk then this is not a matter for the standards complaints process as the clerk is not a Member. Rather it is an employment issue and should be dealt with through employment law and advice can be provided to parish and town councils through YLCA.

Resolved –

That the Protocol regarding the relationship between code of conduct complaints and local authority grievance procedures be approved.

47 Code of Conduct Complaints - Statistics and Themes - Report of and Presentation by the Monitoring Officer

Considered –

The report of the Assistant Chief Executive Legal and Democratic Services and Monitoring Officer to update the Committee regarding ethical framework complaint activity.

A standing report regarding complaints that Members and voting co-opted Members of North Yorkshire Council and parish and town councils in North Yorkshire may have breached the relevant Code of Conduct for Members is brought to scheduled ordinary meetings of the Standards and Governance Committee.

North Yorkshire Council is the principal authority for parish and town councils in North Yorkshire for the purposes of the standards provisions in the Localism Act 2011. It is responsible for receiving and handling complaints that a parish/town councillor may have breached that authority's code of conduct for Members. That is the extent of North Yorkshire Council's jurisdiction in respect of parish/town council governance; parish/town councils are separate legal entities and North Yorkshire Council has no jurisdiction to consider other complaints for example about the way in which the parish/town council has or has not done something, or about particular parish/town council decisions or employees.

Jennifer Norton, Assistant Director Legal and Deputy Monitoring Officer gave a short presentation on behalf of the Monitoring Officer to talk through the complaint statistics in more detail highlighting the following points:

- Since 1 April 2023, NYC is the principal authority for parish and town councils in North Yorkshire for the purposes of the standards complaints regime in the Localism Act 2011.
- That is the extent of NYC's jurisdiction in respect of parish/town council governance; parish/town councils are separate legal entities and North Yorkshire Council has no jurisdiction to consider other complaints eg about the way in which the parish council has or has not done something, or about particular parish council decisions.
- All parish and town councils were contacted via E mail on 6 April 2023 advising of arrangements and encouraging local councils to adopt NYC's Code of Conduct which is based on the Local Government Association's Model Code.
- The adoption of NYC's code is recommended as there is value in having a consistent approach to a code of conduct across all councils in North Yorkshire, not least because it will facilitate the public's and elected members' understanding of the requirements of the code and how complaints can be framed and addressed.
- NYC have in place, a) Arrangements under which written complaints of breach of code can be investigated b) Arrangements under which decisions on allegations can be made.
- Such arrangements must include provision for the appointment of at least one

Independent Person.

- A breakdown of the number of complaints and the reasons.
- Reiteration of the complaints procedure.

This raised the following questions:

A Member asked about the response times to complaints and the need for them to be investigated quickly and timely but thoroughly.

It was noted that filtering and assessing the volume of complaints received is time consuming but agreed that the process needs to be responsive and decisions reached as soon as possible.

It was asked if there was a triage system to prioritise concluding more serious complaints in which there is significant public interest.

It was agreed that each case is individual and whilst there is an element of prioritisation for more serious cases, other factors are also relevant to timescales including whether the police become involved (in which case NYC's process may be held in abeyance) and how quickly parties respond.

A Member asked if there was any learning to be gained from the items that were deemed to have no further action taken, as this number was large, in order to prevent further claims that were not relevant.

It was confirmed that the individual assessment reports would include any recommended lessons in the feedback.

Members noted that 1 case under investigation was from North Yorkshire Council and 17 were from the previous District and Borough Councils. Understanding the volume and timeframe currently, Members asked if the Committee could be updated on a regular basis and were there any lessons to learn or training needs to be identified going forward.

It was noted that 8 authorities coming together had resulted in a higher number of complaints received by one authority. A lot of the complaints related to parish matters and these would previously have been dealt with at the District/Borough level.

A Member asked if the reduction in Councillors from 319 to 90 in any way correlated to the increase in complaints.

It was explained that it did not and that the majority of complaints related to town and parish councils. Furthermore the complaints were not from across the whole of the County, some were very specific to certain areas. Some issues were down to a breakdown in relationships.

The Chair reiterated that all Parish and Town councils were offered training through North Yorkshire Local Association of Council's.

Members suggested that having a regular update on the number of complaints could prove useful in identifying early trends and providing early intervention.

Resolved-

That the Committee notes the current position on standards complaints received.

Considered –

The report of the Assistant Chief Executive Legal and Democratic Services informing the Committee of the situation of Kirby Grindalythe and Duggleby Parish Council and to seek approval to invoke the power to temporarily appoint 3 North Yorkshire Council division members to sit on the Parish Council.

In order for a town and parish council to operate, they need to be quorate. There are occasions where a town or parish council is not able to operate for this reason. Section 91 (1) of the Local Government Act 1972 provides that the principal authority (North Yorkshire Council) can make an order to appoint to a town or parish council until such time as the vacancies on the parish council have been filled by either election or co-option.

Kirby Grindalythe and Duggleby Parish Council (KGDPC) comprises of 7 seats and requires a minimum of 3 seats to be filled to be considered quorate. There are currently 3 parish councillors on the parish council, who were re-elected at an uncontested election in May 2022. The last meeting of the parish council took place in 2021, and no meetings have been arranged since then. The parish council has been without a parish clerk since September 2020.

Section 85 (1) of the Local Government Act 1972 provides that if a member of a local authority fails throughout a period of 6 consecutive months to attend a meeting of the authority, then they cease to be a member. As the parish council was quorate meetings could have been convened.

Section 86 of the Local Government Act 1972 makes clear that where a member of a parish council ceases to be a member by reason of failure to attend meetings, the parish council shall declare their office to be vacant. A casual vacancy will only occur after the office has been declared to be vacant.

Where a council's constitution has granted the proper officer of the council, which would be the parish clerk, the power to declare the office of councillor vacant, they can do so once the six-month deadline has passed and the person has ceased to be a member. Where no such powers have been granted to the parish clerk, the vacancy must be declared at a parish council meeting.

As there is currently no proper officer for KGDPC, the vacancies arising through non attendance of the parish councillors must be declared at a council meeting.

As the three parish councillors are no longer members of the parish council, the only option left is to invoke the power to make 3 appointments to enable the business of declaring the 3 vacancies to take place. Once declared vacant a notice of vacancy can be posted inviting requests for an election. If no election is requested then the appointees would then be able to co-opt new parish councillors to the remaining vacant seats.

Once the vacant seats have been filled by election (contested or non-contested) or by co-option, the appointees can then resign from the Parish Council if they wish to do so.

Resolved –

(i) That the Council appoints the division member for Easingwold, Councillor Nigel Knapton, the division member for Thornton Dale and Wolds, Councillor Janet Sanderson and the division member for Sheriff Hutton and Derwent, Councillor Caroline Goodrick under Section 91 (1) of the Local Government Act 1972 to Kirby Grindalythe Parish Council in order to make it quorate, unless or until either sufficient vacancies on Kirby Grindalythe Parish Council have been filled by way of co-option or election so that the Parish Council is able to act lawfully, or the Order made under Section 91 (1) is revoked.

ii) That the Assistant Chief Executive Legal and Democratic Services be authorised to make the required order as attached at Appendix A.

This was approved unanimously.

49 Community Governance Review of Dishforth Parish Council - Report of the Assistant Chief Executive (Legal and Democratic Services)

Considered –

The report of the Assistant Chief Executive Legal and Democratic Services updating members in relation to changing circumstances, since the Committee's last meeting, regarding the request from Dishforth Parish Council for an urgent community governance review to increase the number of parish councillors on the parish council and to request Members to consider whether any recommendations to full Council in this respect are still required.

At its meeting held on 13 December 2023 the Standards and Governance Committee considered a request from Dishforth Parish Council for a Community Governance Review (CGR) to increase the number of parish councillors from 5 to 8.

The request for a CGR was being treated as an urgent request, under the 'Community Governance Reviews - Protocol for consideration of requests' approved by the committee on 15 September, which set out how the Council would respond to requests for CGRs in the period between mid-2023 and mid-2025 when the review of division boundaries was expected to conclude.

At the meeting of the Committee it was resolved unanimously:
"That the Committee supports the request from Dishforth Parish Council for a Community Governance Review and make recommendation to Council that the draft Terms of Reference for a Community Governance Review of Dishforth parish, as attached at Appendix 1 to the report, be approved."

Since that meeting two casual vacancies have arisen on the parish council, meaning that the council can co-opt new parish councillors. Notices of vacancy have been posted in the village and we have been advised that there has been a good amount of interest in the vacancies and a number of applications have been received.

The vacancies mean the parish council can now co-opt new parish councillors with the ability to attend meetings. It is hoped that following the co-options there would no longer be difficulties in achieving quorate meetings, and therefore there would no longer be an urgent need for a CGR. Should the parish council still wish for an increase in the number of parish councillors they can make a further request in 2025 and a CGR can be undertaken alongside other CGRs in the county and to conclude in time for the ordinary parish elections in 2027.

The Standards and Governance Committee is therefore being asked to review its earlier decision to make recommendation to Council that the draft Terms of Reference for a community governance review of Dishforth parish be approved, which would mark the formal commencement of a CGR.

The parish clerk has been contacted about the contents of this report and raised no objections to the proposal that the request no longer be treated as urgent.

Resolved-

That Members note the change in circumstances since the Committee's last meeting regarding the request for an urgent community governance review made by Dishforth Parish Council and agree that this is no longer considered as urgent but to avoid a similar situation occurring in the future that a CGR is completed at the earliest opportunity after the boundary review.

This was agreed unanimously.

50 Standards Bulletin - Report of the Monitoring Officer

Considered –

The Assistant Chief Executive Legal and Democratic Services and Monitoring Officer's draft Standards Bulletin.

The Standards Bulletin is produced periodically and circulated to Members and relevant Officers of the Council to keep them informed of key developments in the standards regime. Members have also previously agreed that the Bulletin should be circulated to town and parish councils in the North Yorkshire area.

The following points were raised:

Members are advised to report unusual behaviour, could clarity be given as to where this should be reported to.

This detail will be added to the bulletin for future reference but any immediate issues around member safety should be reported to Daniel Harry, Head of Democratic Services and Scrutiny.

Resolved –

The Bulletin be updated following the outcome of the Committee's meeting and approved for circulation.

51 Standards and Governance Committee Work Programme - Report of the Assistant Chief Executive (Legal and Democratic Services)

Considered –

The Assistant Chief Executive Legal and Democratic Services and Monitoring Officer's report on the draft work programme.

The Committee is asked to consider whether it would be helpful for the Committee to implement a forward Work Programme of its work, as far as this can be anticipated.

Members were agreeable to the work programme and asked for regular updates on statistics and standards issues.

The Committee also wished to express its gratitude to the work of the Independent Persons and the number of assessments completed by them so far.

Resolved –

That the report be noted and the work programme adopted. This was agreed unanimously.

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

Steve Loach thanked members for their cooperation and confirmed that as part of the Legal

and Democratic Services restructure, he would no longer be clerking the Standards and Governance Committee, this would be taken over by Christine Phillipson, Principal Democratic Services Officer, Local Area Support Team.

The meeting concluded at 11.39am.

The meeting concluded at 11.39 am.