

# Public Document Pack



## Agenda

**Meeting Standards and Governance Committee**

**Venue: Meeting Room 3, County Hall, Northallerton, DL7 8AD**

**Date: Friday, 15 March 2024**

**Time: 10.00 am**

**Councillors: Nick Brown, Sam Cross, Melanie Davis,**

**Clive Pearson (Chairman), Heather Phillips, Monika Slater,**

**David Ireton, Nigel Knapton, Andy Solloway and Peter Wilkinson.**

**Independent Persons for Standards: Gillian Baker, Hilary Gilbertson,**

**Louise Holroyd, Roy Martin, James Nelson and Richinda Taylor**

Members of the public are entitled to attend this meeting as observers for all those items taken in open session. Please contact the Democratic Services Officer whose details are at the foot of the first page of the agenda if you would like to find out more.

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Please note: This agenda was updated on Tuesday 12 March to include the covering report and Appendix 1 for item 10 – Code of Conduct Complaints.

### **Business**

1. **Welcome, introductions and apologies**
2. **Minutes of the Meeting held on 13th December 2023 and the Special Meeting held on 17th January 2024** (Pages 3 - 14)
3. **Declarations of Interest**

**4. Public Questions or Statements**

Members of the public may ask questions or make statements at this meeting if they have given notice (including the text of the question/statement) to Steve Loach of Democratic Services (contact details at the foot of page 1 of the agenda sheet) by midday on Tuesday 12th March 2024. Each speaker should limit themselves 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); or

when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting.

**5. Feedback from Independent Persons re external training attended - Independent Persons for Standards**

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|--|-------------------------|
| <b>6. Local Ethical Framework - Report of the Monitoring Officer</b>   | <b>(Pages 15 - 18)</b>  |
| <b>7. Annual Report of the Standards and Governance Committee - Report of the Monitoring Officer</b>   | <b>(Pages 19 - 26)</b>  |
| <b>8. Review of Standards Complaints' Process - Report of the Monitoring Officer</b>   | <b>(Pages 27 - 50)</b>  |
| <b>9. Protocol for relationship between Code of Conduct complaints and local authority grievance procedures - Report of the Monitoring Officer</b>           | <b>(Pages 51 - 54)</b>  |
| <b>10. Code of Conduct Complaints - Statistics and Themes – Report and Presentation by the Monitoring Officer</b>  | <b>(Pages 55 - 76)</b>  |
| <b>11. Temporary appointments to Kirby Grindalythe and Duggleby Parish Council - Report of the Assistant Chief Executive (Legal and Democratic Services)</b> | <b>(Pages 77 - 82)</b>  |
| <b>12. Community Governance Review of Dishforth Parish Council - Report of the Assistant Chief Executive (Legal and Democratic Services)</b>                 | <b>(Pages 83 - 86)</b>  |
| <b>13. Standards Bulletin - Report of the Monitoring Officer</b>   | <b>(Pages 87 - 96)</b>  |
| <b>14. Standards and Governance Committee Work Programme - Report of the Assistant Chief Executive (Legal and Democratic Services)</b>                       | <b>(Pages 97 - 102)</b> |
| <b>15. Such other business as, in the opinion of the Chairman should, by reason of special circumstances, be considered as a matter of urgency</b>           |                         |

Barry Khan  
Assistant Chief Executive  
(Legal and Democratic Services)  
County Hall  
Northallerton  
7<sup>th</sup> March 2024

## North Yorkshire Council

### Standards and Governance Committee

Minutes of the meeting held on 13th December 2023 commencing at 2.00 pm.

Councillor Clive Pearson (Chair), Councillors Nick Brown, Melanie Davis, David Ireton, Nigel Knapton, Monika Slater, Andy Solloway and Peter Wilkinson; together with, Louise Holroyd and Roy Martin (Independent Persons for Standards).

Attending remotely – Councillors Sam Cross and Heather Phillips; together with Gillian Baker (Independent Person for Standards).

Officers present: Steve Loach (Democratic Services); Elizabeth Jackson (Democratic Services Manager); Ben Nattress (Elections Manager); Jennifer Norton, (Assistant Director Legal); Kerry Russett (Head of Electoral Services).

Apologies: Hilary Gilbertson; James (Jamie) Nelson and Richinda Taylor (Independent Persons for Standards)

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

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#### **29. Minutes of the Meeting held on 15th September 2023**

##### **Resolved -**

An amended version of the minutes of the meeting held on 15<sup>th</sup> September 2023 was circulated at the meeting as those provided with the papers for the meeting were a draft version. The amended minutes were confirmed and signed as an accurate record.

#### **30. Declarations of Interest**

Councillor Nick Brown declared a registered interest in relation to the agenda items “North Yorkshire Polling District and Polling Place Review Final Proposals” and “A decision whether to proceed with a Community Governance Review of Dishforth Parish” as the Divisional Councillor that covers Dishforth.

#### **31. Public Questions or Statements**

There was a public question/statement from Cllr Anne Sturzaker of Dishforth Parish Council in relation to the item on the agenda determining whether to proceed with a Community Governance Review of Dishforth Parish. It was agreed that her

question/statement would be best delivered to the Committee at the time when the item was considered.

### **32. North Yorkshire Polling District and Polling Place Review Final Proposals**

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) requesting the Committee to approve the final recommendations for polling districts and polling places within the North Yorkshire Council area.

The Head of Electoral Services and the Electoral Services Manager presented the report, highlighting the following:-

- Local authorities are required to review their polling districts and polling places for UK parliamentary constituencies at least once every five years and this would be the first such review for North Yorkshire Council.
- This was considered to be the most appropriate opportunity to review given the forthcoming major elections in 2024.
- Details of the legislative requirements relating to the review were set out in the report, together with details of what was required to be reviewed.
- The review was undertaken in line with the relevant guidance and this was reflected in the report's recommendations.
- The review commenced in October with a proposed structure which was then subjected to a one-month consultation period.
- Following the responses to the initial consultation, a revised document was produced and subject to further consultation.
- It was noted that the Polling Districts were in danger of failing without the structural requirements in place, which would create issues for the forthcoming elections.
- A subsequent review could be undertaken at anytime, should that be necessary, as there was no compulsion for the structure to remain for the 5-years period, and the forthcoming national boundary review may necessitate that.
- Details of the proposals were included in the report and included around 20 recommended changes to polling places and boundary changes to around 50 polling districts.
- A summary of the changes had been sent out to all stakeholders and had generated 135 responses. This in turn had resulted in a number of other changes where these were considered to be appropriate. All the relevant details were provided in the report.

The following issues were raised in relation to the report:-

- A Member had written to Officers raising concerns regarding the proposed closure of a polling station in her division. It was noted that the closure of polling stations was not a decision for the Committee, as this had been delegated to the Assistant Chief Executive (Legal and Democratic Services), therefore these concerns would be referred to him and the Member would be advised accordingly.
- A Member noted that the arrangements for Sowerby saw both polling areas sharing the Sowerby Scout hut until another venue could be identified and he asked whether the venue would be in place soon. In response it was stated

that the current arrangements would be in place for the foreseeable future as attempts had been made to obtain a suitable venue, but these had not come to fruition. Further enquiries would be made.

- A Member referred to the arrangements for Houghton in Ribblesdale and Ingleton, highlighting how the shared polling station arrangements benefited those communities.
- Concern was expressed in relation to the suggested relocation of the polling station for Bishop Monkton, and it was asked why Topcliffe Village Hall had not been considered. In response it was stated that the Topcliffe venue was in a different Parliamentary Constituency, therefore, two sets of polling station staff would be required. The Member who raised the concerns suggested that this option was preferable to people have to travel long distances to the polling station suggested in the report and asked that further consideration be given to this matter. He also noted the change of the polling station arrangements for Roecliffe and Mowbray Place and suggested that those arrangements be re-examined. It was stated that decisions in relation to polling stations had been delegated to the Assistant Chief Executive (Legal and Democratic Services), therefore these issues could be raised and discussed with him.
- A Member asked whether proposals for large scale housing developments were taken account of within the review processes for these electoral issues. It was stated that this and numerous other issues were taken account of when the reviews took place. It was also stated that the results of a country-wide review of constituency boundaries was due shortly, which would have a knock-on effect for polling districts, therefore, a further review would be required.
- Should there be a substantial housing development in a specific location that made a significant difference to the population, consideration would be given to the development of an additional polling district.
- Clarification was provided in relation to the differences between polling places and polling stations. It was also clarified that the Committee was able to determine polling districts but not places or stations as the decision on these was delegated to the Assistant Chief Executive (Legal and Democratic Services), however, the Committee could express their views on these and alterations to the recommendation were required to reflect that position.

**Resolved –**

That the final recommendations for polling districts, as shown in Appendix C to the report be approved, and any comments on designated polling places be submitted to the Assistant Chief Executive (Legal and Democratic Services).

This was approved unanimously

**33. Schedule of election fees for elections and by-elections in North Yorkshire**

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) requesting the Committee to approve a schedule of election fees to be paid at future scheduled elections and unscheduled by-elections in North Yorkshire.

The fees set out in Appendix A to the report were recommended for approval and were based on written guidance received from the Election Claims Unit on indicative fees for elections. The recommended fees were based on adopting the interim fees already approved on a permanent basis where those fees sit within the newly published pay bands. Reference to, "out of hours" related to hours worked on Saturdays and in the evening, while any hours worked on Sundays or bank holidays would be paid at double the day rate, as covered in the guidance document, Appendix B to the report.

It was further recommended that when the Election Claims Unit published updates to its indicative fees in future years, the North Yorkshire fee schedule was automatically updated in line with it e.g. if the pay bands were to be uplifted for 2024/25, the North Yorkshire fees would have the same uplift applied.

The following issues were raised in relation to the report: -

- A Member stated his surprise at the significant reduction of hourly payment for Clerical Support Supervisors, noting that there was little difference between these positions and those of Clerical Support in terms of pay. In response it was stated that the initial levels set had been what was considered to be appropriate but subsequent guidance had indicated the levels recommended in the report. It was stated that, should the guidance not be followed, there was a risk that reimbursement from the Government for elections may not fully match what had been paid out.
- It was asked what would be the approximate cost for a Parish Council to hold an election. In response it was stated that the cost would vary, dependent upon size, however, the cost to the smallest of Parish Councils would be around £2000, with costs rising as the size of the Council increased.
- It was noted that the rates of pay had not been agreed with the unions as the payment was made by the Returning Officer, not the Council, with elections staff not considered to be Council staff.
- A Member asked whether the bill sent to Parish Councils for elections could be provided prior to, or held off until, they were setting their precept, as a large bill could cause financial difficulties for Parish Councils if it had not been accounted for. In response it was stated that currently such an arrangement was not in place, however, it was suggested that this could be considered for the future should Members request that. Members suggested that consideration be given to developing an appropriate policy in relation to this, and officers agreed to consider this and bring back to a subsequent meeting. It was emphasised that should any Parish Council find themselves in financial difficulty due to the requirement to hold an election the issue should be discussed with North Yorkshire Council to manage a way forward. It was clarified that, ultimately, the public paid for elections through Council Tax and Parish Council precepts, and care had to be taken in terms of ensuring that these were organised appropriately. A Member noted that on many occasions there insufficient nominations received for Parish Council elections to be held and the Parish Council would use a co-option process to fill vacancies.

**Resolved -**

- (i) that the recommended fee schedule, shown Appendix A to the report, be used by the Returning Officer for the purposes of employing staff to work at elections taking place in North Yorkshire.

- (ii) that this fee schedule be amended in line with amendments made to the national indicative fee schedule in future years.

This was approved unanimously

### **34. Temporary Appointments to Aldbrough St. John Parish Council**

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) informing the Committee of the situation of Aldbrough St. John Parish Council and to seeking approval to invoke the power to temporarily appoint named persons to sit on the Parish Council.

Aldbrough St. John Parish Council comprises of 5 seats and requires a minimum of 3 seats to be filled to be considered quorate. Following resignations of the 3 remaining councillors, the casual vacancy procedures were followed, and following expiration of the notices, the Council was notified that the Parish Council was inquorate.

As the Parish Council was now no longer quorate, it could not meet or conduct any business. The only option left was to invoke the power to make appointments so that business could continue. Once appointed, the parish would be quorate and the vacant seats could be filled via co-option. A number of parishioners had expressed an interest in being co-opted to the Council and had also agreed to be appointed on a temporary basis.

Once the vacant seats had been filled, any appointee can then resign from the Parish Council if they wish to do so.

It was noted that the recommendation within the report sought to co-opt to the five vacant seats on the Parish Council, however, as a quorum was only required on a temporary basis to undertake a co-option process, there was no reason to undertake the co-option as outlined, and it was suggested that the recommendation be changed to co-opt Division member for North Richmondshire – Angus Thompson, Mr Mike Banks and Mr Stephen Baddon, with Mr Stuart Reed and Ms Kirstie Thornton removed.

The following issues were raised in relation to the report: -

- Noting the nominated appointees highlighted in the recommendation a Member suggested that Ms Kirstie Thornton should be retained on the initial co-option list to maintain a balance of representation. In response it was stated that the representatives taken forward to the amended recommendation were provided in the order they had volunteered, and, as this process was only required to have a quorum to co-opt to the Parish Council, there was no requirement for this position to be changed.
- A discussion of the process raised questions in relation to the need for the co-option procedure to take place as there appeared to be sufficient volunteers for the Parish Council to be formed. In response it was clarified that the report before Members provided an opportunity to grant a Temporary Order allowing the Parish Council to become quorate for the purpose of carrying out a co-



option process only. Those involved were aware of this process and, once the co-option had taken place they could resign their positions.

**Resolved –**

- (i) That it be delegated to the Assistant Chief Executive (Legal and Democratic Services) to determine the first two parish representatives to put their selves forward to be temporarily appointed to form a quorum
- (ii) that the two representatives identified through (i) above, alongside Division member for North Richmondshire – Angus Thompson, be appointed by the Council under Section 91 (1) of the Local Government Act 1972 to Aldbrough St John (Richmondshire) Parish Council in order to make it quorate, unless or until either sufficient vacancies on Aldbrough St John 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.
- (iii) that the Assistant Chief Executive Legal and Democratic Services be authorised to make the required order as attached at Appendix A to the report.

Voting on this item was as follows:-

7 for  
1 abstention

**35. Temporary Appointment to Irton Parish Council**

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) informing the Committee of the situation of Irton Parish Council and to seek approval to invoke the power to temporarily appoint a North Yorkshire Council division member to sit on the Parish Council.

Irton Parish Council comprises of 5 seats and required a minimum of 3 seats to be filled to be considered quorate. Following 2 resignations, the casual vacancy procedures were followed, and the Parish Council were advised on 12 October 2023 that they could proceed to fill the vacant seats via co-option. On 30 October 2023, a further resignation from Irton Parish Council left only 2 remaining councillors.

As the Parish Council was no longer quorate, the council could not meet or conduct any business. The only option left was to invoke the power to make an appointment so that business could continue. Once appointed, the parish would be quorate and the vacant seats could be filled via co-option. Officers understood that there was interest within the parish from parishioners who wished to sit on the Council.



Once the vacant seats had been filled, any appointee could then resign from the Parish Council if they wished to do so.

Clarification was provided in relation to further, subsequent, resignations from the Parish Council, following this process. It was noted that the Parish Councillors could request an election to elect further resignations or could undertake a co-option process prior to their resignation, to ensure continuity.

**Resolved –**

- (i) That the Council appoints the division member for Seamer, Councillor Heather Phillips, under Section 91 (1) of the Local Government Act 1972 to Irton Parish Council in order to make it quorate, unless or until either sufficient vacancies on Irton 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 to the report.

This was approved unanimously

**36. Decision on whether to proceed with a Community Governance Review of Dishforth Parish**

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) requesting Members to:-

To consider a request from Dishforth Parish Council for a community governance review to increase the number of parish councillors on the parish council. If the Committee support the request of the parish council for a community governance review, to make recommendation to Council that the draft Terms of Reference (Appendix 1) be approved.

Councillor Anne Sturzaker of Dishforth Parish Council addressed the Committee requesting a Community Governance Review (CGR) to increase the number of seats for parish councillors on the Parish Council. She highlighted the increase in parishioners due to new developments in the area and suggested that having only 5 councillors put pressure on the Council which, at times, could see the Council inquorate as had happened on a number of occasions recently. Cllr Sturzaker suggested an increase to either 7 or 8 councillors to overcome this issue.

At a meeting of this Committee in September 2023 a protocol was approved which set out how the Council would respond to such requests for community governance reviews in the period from now until the conclusion of the Local Government Boundary Commission for England's (LGBCE) review of division boundaries for the county, expected to conclude in mid-2025. Following the LGBCE review it was intended to undertake a whole-county CGR. Where requests are received before mid-2025 a decision would need to be taken as to whether they were to be treated as urgent.

At that meeting the Committee agreed to delegate authority to the Assistant Chief Executive (Legal and Democratic Services) in consultation with the Executive Member for Corporate Services to determine if requests for CGRs should be treated as urgent. At a meeting held in November 2023 to consider such requests it was agreed that the request from Dishforth Parish Council could be treated as urgent and brought forward to the Standards and Governance Committee.

Appendix 1 to the report outlined the draft Terms of Reference for a review of Dishforth parish, setting out the issues to be considered, how a review would be undertaken and a proposed timetable for a review.

The Divisional Member, also a Member of the Committee, outlined his support for the review.

It was stated that should the Committee resolve to support the request from Dishforth Parish Council for a Community Governance Review it would need to make recommendation to Council that the Terms of Reference at Appendix 1 be approved, at which point the CGR would formally commence.

**Resolved –**

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.

This was approved unanimously

The meeting concluded at 3.25pm

# North Yorkshire Council

## Special Meeting

### Standards and Governance Committee

Minutes of the meeting held on 17th January 2024 commencing at 3.00 pm.

Councillors Clive Pearson (Chair), Melanie Davis, David Ireton, George Jabbour (as substitute for Nigel Knapton), Heather Phillips, Monika Slater, and Peter Wilkinson; together with Roy Martin (Independent Persons for Standards).

Attending remotely – Councillors Sam Cross and Andy Solloway.

Officers present: Steve Loach (Democratic Services) and Jennifer Norton, (Assistant Director Legal and Democratic Services).

Apologies: Councillors Nick Brown and Nigel Knapton; together with Hilary Gilbertson; Louise Holroyd; James (Jamie) Nelson and Richinda Taylor (Independent Persons for Standards)

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

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#### **37. Temporary Appointment to Welburn Parish Council**

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) informing the Committee of the situation of Welburn Parish Council and seeking approval to invoke the power to temporarily appoint named persons to sit on the Parish Council.

Welburn Parish Council comprises of 6 seats and requires a minimum of 3 seats to be filled to be considered quorate. Following a resignation in March 2023, the appropriate casual vacancy procedures were followed. As a result no request for an election was made within the required timeframe. In November 2023 there was a further resignation, and again the casual vacancy procedure was followed with no call for an election was received. A further 2 resignations in November and December resulted with the same position. The Parish Council could proceed to fill the vacant seats via co-option but as there it is not quorate and therefore cannot make the decision to co-opt.

As the Parish Council is now no longer quorate, the council cannot meet or conduct any business. The only option left is to invoke the power to make an appointment so that business can continue. Once appointed, the parish will be quorate, and the vacant seats can be filled via co-option.

Whilst legislation does not specify who may be appointed as temporary parish councillors, it was common practice for the elected member of the relevant division of the principal council to fulfil this role. In relation to this it would be Councillor Caroline

Goodrick who would be appointed, together with local resident Andrea Lumb, as two appointments were required to achieve a quorum.

Once the vacant seats had been filled, any appointee can then resign from the Parish Council if they wish to do so.

The following issues were raised in relation to the report:-

- The Division Councillor, Caroline Goodrick had raised concerns with a Member of this Committee regarding her appointment to the Parish Council, particularly in respect of her role on the local Planning Committee and how this could be compromised by her considering the applications at a Parish Council meeting. In response it was emphasised that this was a temporary appointment and as soon as sufficient members had been appointed to undertake a quorate meeting, she could step down. In terms of the Parish Council's consideration of Planning applications, it was stated that not all would be submitted to the Planning Committee for determination, and provided that Councillor Goodrick did not openly give her support or rejection of an application, she would be free to take part in the eventual determination.
- Noting the number of resignations and the lack of call for elections to fill the vacancies, a Member asked whether consideration was ever given to closing down a Parish Council due to lack of interest in the local community. She also asked how North Yorkshire Council liaised with Parish Councils to determine whether they required assistance with any matters and suggested that a report be brought to a subsequent meeting of the Committee on how and when this was taking place. In response it was stated that a Parish Council could be closed down, or merged with another Parish Council should there be a request for a Community Governance Review in that area. In terms of liaison, the Assistant Chief Executive, Rachel Joyce, oversaw the Parish Charter which provided details of how the Parishes interacted with North Yorkshire Council. Liaison was also provided through Legal and Democratic Services who assisted Parish Councils with assistance and advice where this was required and it was expected that this would be strengthened, going forward.
- A Member suggested that the electorate should be listened to in terms of Parish Councils, with many people fairly apathetic to their existence, and he suggested that amalgamation to create larger local Parish Councils which covered a number of local communities would assist in making them more sustainable.
- A Member stated that he understood the value of Parish Councils but emphasised the need for two way communication between them and the local Divisional Councillors to ensure that the needs of local communities were being met. He considered that there was a need to promote the importance of local elected representatives and to take action to change the current negative public attitude towards elected representatives. Members considered it important that Parish Councils were given appropriate support and were provided with positive leadership.

**Resolved –**

- (i) That the Council appoints the division member for Sheriff Hutton and Derwent, Councillor Goodrick, and local representative, Andrea Lumb, under Section 91 (1) of the Local Government Act 1972, to Welburn Parish Council

in order to make it quorate, unless or until either sufficient vacancies on Welburn 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 to the report.

This was approved unanimously

The meeting concluded at 3.20pm

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NORTH YORKSHIRE COUNCIL  
STANDARDS AND GOVERNANCE COMMITTEE

15 March 2024

**Local Ethical Framework Developments**

**1.0 PURPOSE OF REPORT**

- 1.1 To update Members on the development of the national ethical framework under the Localism Act 2011.

**2.0 BACKGROUND**

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

**3.0 ONLINE SAFETY ACT 2023**

- 3.1 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.

- 3.2 The Online Safety Act 2023 ([Online Safety Act 2023 \(legislation.gov.uk\)](https://legislation.gov.uk)) received Royal Assent on 26 October 2023 and the majority of its provisions have been brought into force via three sets of Commencement Regulations.

- 3.3 The Act aims to address illegal and harmful content online and provides for a new regulatory framework which has the general purpose of making the use of internet services regulated by the Act safer for individuals, particularly children, in the UK. The Act also introduces new criminal offences and creates Ofcom as the regulator for online safety, granting it new powers including those required to enforce the framework.

- 3.4 Section 1 of the Act explains that, among other things, the Act—

(2)(a) imposes duties which, in broad terms, require providers of services regulated by this Act to identify, mitigate and manage the risks of harm (including risks which particularly affect individuals with a certain characteristic) from—

- (i) illegal content and activity, and
- (ii) content and activity that is harmful to children, and

(b) confers new functions and powers on the regulator, OFCOM.

(3) Duties imposed on providers by this Act seek to secure (among other things) that services regulated by this Act are—

(a) safe by design, and

(b) designed and operated in such a way that—

- (i) a higher standard of protection is provided for children than for adults,
- (ii) users' rights to freedom of expression and privacy are protected, and
- (iii) transparency and accountability are provided in relation to those services.



- 3.5 Ofcom has set out its plans for implementing the Act on its website - [Ofcom's approach to implementing the Online Safety Act - Ofcom](#).
- 3.6 The Department for Science, Innovation & Technology published an Online Circular regarding certain provisions of the Act, particularly new criminal offences. Details can be found here - [Online Safety Act: new criminal offences circular - GOV.UK \(www.gov.uk\)](#).
- 3.7 Further information can be found here - [UK children and adults to be safer online as world-leading bill becomes law - GOV.UK \(www.gov.uk\)](#).

#### **4.0 LGA – HANDLING ONLINE ABUSE AND INTIMIDATION**

- 4.1 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.

#### **5.0 CSPL – LOBBYING SEMINAR, SUMMARY NOTE**

- 5.1 As part of its watching brief on such issues, the Committee on Standards in Public Life (CSPL) held a seminar on 21 September 2023 to look at lobbying and transparency and how the currently lobbying rules are working in practice. The CSPL has produced a note of the themes discussed at the seminar. Further information is available here:

[Committee on Standards in Public Life - Lobbying Seminar, Summary Note - GOV.UK \(www.gov.uk\)](#)

[2023-09-21 Lobbying Seminar Summary Note \(publishing.service.gov.uk\)](#)

#### **6.0 CSPL – LOCAL GOVERNMENT STANDARDS**

- 6.1 In October 2023, the outgoing Chair of the Committee on Standards in Public Life, Lord Evans, at the end of his five year term, stated that there is “still a major problem” regarding local government standards and reiterated the CSPL’s disappointment that the Government’s response to their 2019 report on Local Government Standards had taken three years and rejected the CSPL’s recommendations.
- 6.2 Lord Evans highlighted gaps in the standards regime and how he feels these need to be addressed going forwards, particularly in terms of compliance systems, development of an underpinning ethical culture within organisations and that there are appropriate consequences if standards are not met. He also recognised the serious problem of the abuse and intimidation of those in public life.
- 6.3 A transcript of the speech can be accessed here - [2023-10-17 Final IfG speech as delivered.docx \(publishing.service.gov.uk\)](#).
- 6.4 On 22 December 2023 the CSPL’s newly appointed Chair, Doug Chalmers, published a statement on his appointment, in which he states that:

“The Nolan Principles are a well embedded cornerstone of public life in this country but they cannot be taken for granted. They take constant energy if they are to be meaningful. I look forward to working with all those who play a part in helping to maintain the high standards expected by the public of those that serve them.

As I start my five year term, I will endeavour to continue the Committee's reputation for carefully researched reports that make sound arguments to assist those in public life retain high ethical standards. We will be announcing the Committee's future work programme in the New Year."

6.5 He also reiterated that standards processes should be frequently reviewed. The full statement can be viewed here - [Introducing our new Chair, Doug Chalmers - Committee on Standards in Public Life \(blog.gov.uk\)](#).

## **7.0 FINANCIAL IMPLICATIONS**

7.1 There are no significant financial implications arising from this report.

## **8.0 LEGAL IMPLICATIONS**

8.1 The legal implications are set out in the body of this report.

## **9.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

9.1 There are no significant environmental implications arising from this report.

## **10.0 EQUALITIES IMPLICATIONS**

10.1 There are no significant equalities implications arising from this report.

## **11.0 RECOMMENDATIONS**

11.1 That the Committee notes the contents of this report.

BARRY KHAN  
Assistant Chief Executive Legal and Democratic Services and Monitoring Officer

### Background Papers:

None

County Hall  
NORTHALLERTON

26 February 2024

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## NORTH YORKSHIRE COUNCIL

### STANDARDS AND GOVERNANCE COMMITTEE

15 March 2024

#### **Annual Report of Standards and Governance Committee**

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

- 1.1 To present Members with a draft Annual Report of the work of the Standards and Governance Committee for the municipal year commencing 1 April 2023.

##### **2.0 BACKGROUND**

- 2.1 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.
- 2.2 The Committee previously resolved that each Annual Report should be 'light touch' and as brief as possible.

##### **3.0 DRAFT ANNUAL REPORT**

- 3.1 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.
- 3.2 Members' views are welcomed.

##### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are no significant financial implications arising from this report.

##### **5.0 LEGAL IMPLICATIONS**

- 5.1 There are no significant legal implications arising from this report.

##### **6.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

- 6.1 There are no significant environmental/climate change implications arising from this report.

##### **7.0 EQUALITIES IMPLICATIONS**

- 7.1 There are no significant equalities implications arising from this report.

**8.0 RECOMMENDATIONS**

8.1 That, subject to any comments Members may have, the Committee approves the draft Annual Report for presentation to a future meeting of full Council.

BARRY KHAN

Assistant Chief Executive Legal and Democratic Services and Monitoring Officer

Background Papers:

- The Localism Act 2011
- Minutes of NYC Standards and Governance Committee meetings

County Hall  
NORTHALLERTON

29 February 2024

## NORTH YORKSHIRE COUNCIL

15 May 2024

**Annual Report of the Standards and Governance Committee****1.0 PURPOSE OF REPORT**

- 1.1 To provide the Council with an Annual Report on the work of the Standards and Governance Committee for the municipal year commencing 1 April 2023.

**2.0 BACKGROUND**

- 2.1 The Standards and Governance Committee is part of the Council's ethical framework under the Localism Act 2011 ("the Act").
- 2.2 The Committee has agreed that it would be helpful to publish an Annual Report on its work to the 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.

**3.0 THE ETHICAL FRAMEWORK**

- 3.1 The ethical framework introduced under the Act includes:
- i. **The Standards and Governance Committee:** The Committee has two scheduled ordinary meetings per annum, but other meetings have been convened as required given the Committee's expanded role. During the period in question, the Committee met on 17 May 2023, 5 July 2023, 15 September 2023, 13 December 2023, 17 January 2024 and 15 March 2024. The Committee is responsible for:
- Standards Functions:
    - All functions of the Council under the Act relating to ethical standards (save as delegated to the Monitoring Officer) including the granting of dispensations and certain elements of standards complaint handling as appropriate under the standards complaints procedure;
    - The Committee also has a role in relation to issues raised by or in relation to persistent and/or vexatious complainants.
  - Governance Functions:
    - making temporary appointments to parish councils under section 91 Local Government Act 1972;
    - making recommendations to Council in relation to Community Governance reviews;
    - all functions of the Council relating to elections (save as may be delegated elsewhere through the Constitution and statute) including:
      - ❖ recommending to Council the appointment of an Electoral Registration Officer and the appointment of a Returning Officer for local government elections under the Representation of the People Act 1983;

- ❖ dividing Parliamentary constituencies into polling districts and dividing electoral divisions into polling districts at local government elections under the Representation of the People Act 1983;
  - recommending to Council the conferring of the title of Honorary Alderman or Alderwoman;
  - recommending to Council the opposition or approval of local or personal Bills under Section 239 of the Local Government Act 1972 (save as may be delegated elsewhere).
- ii. **Independent Persons for Standards:** Each relevant authority must appoint at least one “Independent Person” under the Act. At its meeting on 19 July 2023, full Council agreed to extend, for four years, the terms of office of the predecessor authority NYCC’s two Independent Persons for Standards, Hilary Gilbertson MBE and Louise Holroyd (whose terms of office automatically continued post Vesting Day); and further approved the appointments, for four years, of Gillian Baker, Roy Martin, James Nelson and Richinda Taylor as additional Independent Persons for Standards for North Yorkshire Council. Full Council also delegated power to the Monitoring Officer to extend the Independent Persons’ terms of office, in consultation with the Chair of the Standards and Governance Committee. The Independent Persons are invited to all meetings of the Standards and Governance Committee and are consulted on all key standards matters including at all stages of standards complaints’ handling.
- iii. **Principal authority for parish and town councils regarding the Act’s standards provisions**
- iv. **A statutory duty to promote and maintain high standards of conduct**
- v. **Members’ Code of Conduct** - parish and town councils may adopt the Council’s or their own. The Monitoring Officer has encouraged them to adopt North Yorkshire Council’s Code (based on the voluntary LGA model code) in an aim to have standardised provisions across North Yorkshire for consistency and clarity;
- vi. **Register of NYC Members’ Interests and gifts and hospitality** and the publication on the Council’s website of parish and town councils’ registers of members’ interests;
- vii. **Complaint handling process** for Members and voting co-opted Members of North Yorkshire Council and parish and town councils in North Yorkshire;
- viii. **Ethical Statements**
- ix. **Standards Bulletins**
- x. **Protocol re the role of the Leader and Chief Executive Officer in the Ethical Framework**
- xi. **Protocol for Member/Officer Relations**

3.2 The **Monitoring Officer** and **Deputy Monitoring Officer** support the Committee in its work, including dealing with complaints that Members may have breached the relevant Code of Conduct for Members.

#### **4.0 WORK UNDERTAKEN BY THE COMMITTEE**

4.1 The work undertaken by the Standards and Governance Committee in its inaugural municipal year is set out below:

- (a) Review of ethical framework developments: the Committee has considered developments in the national standards regime and provided guidance to Members, for example in relation to:
  - i. Documents published by the Local Government Association (LGA), for example, the LGA Local Leadership Framework for Councillors, the LGA



- publication “Debate not Hate – Ending abuse in public life for Councillors” and the LGA survey re Model Code of Conduct for Members;
- ii. The Online Safety Bill and the subsequent Online Safety Act 2023;
  - iii. documents published by the Committee on Standards in Public Life, for example its Annual Report 2022/23 and Upholding standards in public life recommendation tracker;
- (b) Training: The Committee ensures that Members receive appropriate training to maintain their awareness of ethical standards. Standards training was provided to Members in 2022 prior to Vesting Day and refresher training will be scheduled through the Member seminar programme and as may be required. Guidance on the Code and standards regime is also provided in the Standards Bulletins. Standards training was provided to the Standards and Governance Committee on 16 September 2022. The Monitoring Officer and his team undertook training on the Members’ Code of Conduct and Complaint Handling for the Independent Persons for Standards on 15 September 2023. The Committee has also received feedback from the Independent Persons for Standards regarding external training they have attended in February and March 2024.
- (c) Register of Members’ Interests: The Register of Members’ Interests is published on the Council’s website. The Committee monitors the operation of the Register. The Committee received a report from the Monitoring Officer in response to question raised by the Committee as to whether membership of a masonic lodge would need to be registered and declared at meetings. The Committee noted the guidance relating to registration and declaration of interests provided by the Monitoring Officer. The Committee has also been briefed as to the process for the registration of officers’ interests.
- (d) Review of standards documentation: The Committee has reviewed documentation related to the standards regime, for example:
- i. The Protocol re Unreasonably Persistent/Vexatious Complainants – the Committee took the opportunity to update the Protocol following Vesting Day on 1 April 2023. Consequential amendments to the standards complaints procedure were also agreed by the Committee.
  - ii. The Committee considered a Protocol re the relationship between code of conduct complaints and local authority grievance procedures.
- (e) Review of other related matters: The Committee has received briefing reports on matters such as the appointment of the additional Independent Persons for Standards and the broadcasting and recording of public committee meetings.
- (f) Dispensation requests: the Committee considered five dispensation requests from North Yorkshire Councillors, four of which were approved and one of which was refused.
- (g) Standards Bulletin: The Committee has issued three Standards Bulletins during the period covered by this Report, aimed at keeping Members and officers up to date regarding developments in the standards regime. Copies of the Bulletin are published on the website and have also been requested by, and circulated to, other authorities.
- (h) Complaints: The Committee receives a Complaints Update report at each scheduled ordinary meeting. Since Vesting Day on 1 April 2023, to 28 February 2024, the Council has received 147 complaints that Members may have breached the relevant authority’s code of conduct for Members:
- a) 24 of those complaints are complaints about Members of North Yorkshire Council. Of those 24 complaints:

- i. 5 are connected complaints against the same Councillor raised by connected complainants in relation to a particular parish council (also linked to the 10 such connected parish council complaints);
  - ii. 1 complaint is connected to 15 connected complaints against members of a particular town council.
  
- b) the other 123 complaints relate to complaints about members of parish and town councils in the North Yorkshire area. Of those 123 complaints:
  - i. 10 are connected complaints against parish councillors raised by connected complainants in relation to a particular parish council (also linked to the connected 5 NYC complaints mentioned above);
  - ii. 47 are connected complaints, brought by the same complainant, against members of a particular town council, in relation to connected issues. These 47 cases are linked to another 2 of the 123 parish/town council complaints;
  - iii) 15 are connected complaints against members of a particular town council (also linked to an NYC complaint mentioned above).
  
- c) 123 of the 147 cases have so far been assessed by the Monitoring Officer/Deputy Monitoring Officer in consultation with the Independent Person for Standards and of those 123 cases:
  - i. 100 cases did not merit any further action;
  - ii. 5 cases were recommended for informal resolution;
  - iii. 17 cases are to be investigated through a total of five Investigations:
    - ♦ One investigation covers related complaints made against 11 town councillors. Only one allegation within the complaints is to be investigated (no action on the other complaint allegations);
    - ♦ one investigation covers related complaints made against two parish councillors,
    - ♦ one investigation covers two related complaints about the same town councillor,
    - ♦ two investigations are in relation to complaints against a single councillor (one an NYC councillor and one a parish councillor)
  - iv. One case was closed as the subject Member was no longer a Councillor.

All the investigations are currently live.

- d) the remainder of the complaints are in preparatory stages or awaiting assessment by the Monitoring Officer/Deputy Monitoring Officer in consultation with the Independent Person for Standards.
  
- (i) Standards Committee Annual Report: the consideration of an Annual Report of the Committee for the municipal year commencing 1 April 2023 for presentation to full Council on 15 May 2024.
  
- (j) Elections: Regarding the Committee's responsibilities regarding elections functions:
  - i. The Committee delegated to the Electoral Registration Officer the power to appoint one Deputy Electoral Registration Officer per legacy district and to revoke or vary such appointments as necessary;

- ii. The Committee approved an interim Schedule of Election Fees for by-elections in May and June 2023 re employing staff to work at the scheduled by-elections and subsequently approved a final Schedule of Election Fees for Elections and By-elections in North Yorkshire. The Committee agreed that the fee Schedule be amended in line with amendments made to the national indicative fee schedule in future years;
  - iii. North Yorkshire Polling District and Polling Place Review – the Committee approved its final recommendations for polling districts and designated polling places.
- (k) Temporary appointments to Parish Councils: the Committee agreed to invoke the power to temporarily appoint a North Yorkshire Council division Member to sit on inquorate parish Councils on four occasions - Hellifield Parish Council, Aldbrough St John Parish Council, Irton Parish Council and Welburn Parish Council.
- (l) Community Governance Reviews: Regarding the Committee’s responsibilities regarding community governance reviews:
- i. The Committee approved a Protocol re Requests for Community Governance Reviews, covering the period up to the scheduled May 2027 elections, setting out how the Council will respond to such requests. The Committee also granted authority to the Assistant Chief Executive Legal and Democratic Services, in consultation with the Executive Member for Corporate Services, to determine if requests for Community Governance Reviews should be treated as urgent and brought forward to the Standards and Governance Committee to recommend approval of terms of reference to the Council;
  - ii. The Committee determined its final recommendations to full Council on the Community Governance Reviews relating to the unparished town centres in Harrogate and Scarborough;
  - iii. The Committee supported the request from Dishforth Parish Council for a Community Governance Review and determined its recommendations to Council.
- 4.2 The Committee will continue its work in the promotion of high ethical standards and governance and in the training of officers and Members at an appropriate stage.

**5.0 RECOMMENDATION**

- 5.1 That the Council receives and notes the Annual Report of the Standards and Governance Committee.

COUNCILLOR CLIVE PEARSON  
Chair of NYC Standards and Governance Committee

Background Papers:  
Minutes of and reports to the Standards and Governance Committee

29 February 2024

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## NORTH YORKSHIRE COUNCIL

### STANDARDS AND GOVERNANCE COMMITTEE

15 March 2024

#### **Review of standards complaints process**

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

- 1.1 To present 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.

#### **2.0 BACKGROUND**

- 2.1 The Localism Act 2011 sets out the statutory ethical framework for relevant authorities. Under the Act, relevant authorities (except parish and town councils) must put in place arrangements for the investigation of allegations of breaches of the Members' Code of Conduct and to decide upon allegations. These arrangements must involve the appointment of at least one Independent Person, whose views:

- are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
- *may* be sought—
  - by the authority in relation to an allegation in circumstances other than where being investigated;
  - by a subject member or co-opted member.

- 2.2 Following local government reorganisation on 1 April 2023, North Yorkshire Council became principal authority for parish and town councils in North Yorkshire for the purposes of the standards complaints provisions in the Localism Act. Parish and town councils may adopt the Council's Code of Conduct for Members or their own. The Monitoring Officer has encouraged them to adopt North Yorkshire Council's Code (based on the voluntary LGA model code) in an aim to have standardised provisions across North Yorkshire for consistency and clarity. North Yorkshire Council also publishes parish and town councils' registers of interests on its website.

- 2.3 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 about them 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; those complaints should be directed to the parish/town council itself.

- 2.4 As a continuing authority form of reorganisation, the predecessor county council standards complaint handling procedures continued post Vesting Day, with minor consequential administrative amendments being made by the Monitoring Officer, upon reorganisation, in terms of nomenclature.

- 2.5 The Standards and Governance Committee's Terms of Reference include exercising all functions of the Council under the Localism Act 2011 (save as delegated elsewhere in accordance with the Constitution). Under the Act, only the function of adopting,

revising or replacing the Code of Conduct has to be discharged by full Council, therefore the Committee has power to review and amend its standards complaint handling arrangements under its Terms of Reference.

- 2.6 The Committee last reviewed the standards arrangements on 15 September 2023 when it approved consequential amendments to the standards complaints procedure arising out of amendments agreed by the Committee on that date to the Committee's Protocol re Unreasonably Persistent/Vexatious Complaints.
- 2.7 Given that the inaugural municipal year of North Yorkshire Council is now almost at an end, this is an opportune time for the Committee to reflect on the year, consider the information learned through the standards complaint statistics and recurring themes and determine whether any revisions are required to its standards complaints handling arrangements.

### **3.0 STANDARDS COMPLAINTS ARRANGEMENTS**

- 3.1 The current arrangements for dealing with allegations of a breach of the relevant Members' Code of Conduct are set out at **Appendix 1** to this report for Members' consideration. They aim to fairly and effectively deal with complaints of a breach of the Code of Conduct in a timely manner. The Independent Persons are consulted, where possible on a rota basis, at all stages of complaint handling.
- 3.2 Under the complaints process, the Monitoring Officer has responsibility for the receipt and assessment of complaints of a breach of the Code, in consultation with the Independent Person for Standards. The purpose of the initial assessment is to decide whether a complaint passes the Jurisdiction criteria and discloses a potential breach of the Code and, if so, whether it merits a formal investigation or any other action (such as informal resolution) being taken in relation to it, as judged against the Assessment Criteria. The current Jurisdiction and Assessment Criteria used in the assessment of complaints is attached at **Appendix 2**.
- 3.3 At the conclusion of the assessment, the Monitoring Officer, in consultation with the Independent Person for Standards, is required to reach one of the following conclusions in relation to the complaint:
- (a) That no action should be taken in respect of the complaint.
  - (b) Referral of the complaint for investigation.
  - (c) Whether to seek informal resolution of the matter.

If there is a difference of opinion between the Monitoring Officer and the Independent Person then the complaint will be referred for investigation. The decision and reasons for it are recorded and the Complainant and subject Member advised of the outcome.

- 3.4 The assessment is not an investigation and makes no determination as to the truth or otherwise of the allegations. All formal standards complaints go through this initial filter stage. The Standards and Governance Committee would only be involved at assessment stage if the Monitoring Officer/Deputy Monitoring Officer had a conflict of interests or if the Monitoring Officer/Deputy Monitoring Officer considers assessment by the full Committee would be appropriate.
- 3.5 The standards arrangements in **Appendix 1** set out the process to be followed where complaints are referred for investigation or other action such as informal resolution. Not all complaints referred for investigation will necessarily be considered by the Standards and Governance Committee: it is generally only where the investigating officer has found evidence of a potential breach of the Code and local resolution is not agreed or appropriate, that the complaint would be referred to the Standards and Governance Hearings Panel for determination. It is, however, always open to the Monitoring

Officer/Deputy Monitoring Officer to refer a matter to the Standards and Governance Committee in their discretion where they feel it appropriate in the particular circumstances.

- 3.6 If a complaint is referred to the Committee's Hearings Panel and the Panel determines that the subject Member has breached the relevant Code of Conduct, then it may have regard to the breach in deciding whether to take any action and, if so, what sanction(s) should be imposed. The Panel will consult the Independent Person and decide what, if any, publicity should be undertaken for example publishing the decision notice on the Council's website or issuing a press release. Until this point, standards complaints are treated **in strict confidence**.
- 3.7 There is no right of appeal against decisions taken on assessment, investigation and determination of standards complaints however a complainant may make a complaint to the Local Government and Social Care Ombudsman if they are dissatisfied with the handling of the complaint.
- 3.8 The overall timescale for dealing with complaints as set out in the arrangements is within 3 months of receipt, or as soon as possible thereafter.

#### **4.0 REVIEW OF CURRENT ARRANGEMENTS**

- 4.1 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.
- 4.2 The Committee will note from the Complaints Update report that:
- a) the majority (84%) of complaints 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) many complaints are repeated, overlapping, connected complaints made by the same complainant or connected complainants against several members of particular town/parish councils. Several of such complaints pre-date local government reorganisation and were the subject of other complaints to, and correspondence with, the relevant predecessor district/borough councils;
  - e) for many 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 do not merit any further action.
- 4.3 For comparison purposes, the predecessor authority NYCC received the following numbers of cases in the 5 years prior to Vesting Day:

1 April 2018 – 31 March 2019: 4  
1 April 2019 – 31 March 2020: 10  
1 April 2020 – 31 March 2021: 1



1 April 2021 - 31 March 2022:	2
1 April 2022 - 31 March 2023:	8

- 4.4 Members will note the significant increase in complaints received and complaint handling activity. This unprecedented high volume of complaints, complaint correspondence and associated Freedom of Information Act and Subject Access Requests is placing a significant burden on the standards complaint regime and consuming a significant proportion of officer time, resulting in it currently taking longer than usual to process standards complaints.
- 4.5 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. Members' views are welcomed.

## **5.0 PROPOSED AMENDMENTS TO ARRANGEMENTS**

- 5.1 Proposed amendments to the standards arrangements and Jurisdiction and Assessment Criteria are set out by way of tracked changes in **Appendices 1 and 2**.
- 5.2 The nature of the proposed amendments relate to:

### **Standards arrangements**

- a) Amending the formatting of the document to match other standards documentation and corporate guidelines eg the font size and numbering of paragraphs and sub-paragraphs;
- b) An amendment in the introductory paragraph to clarify that the code applies to *voting* co-opted Members and to remove the repetition in the paragraph;
- c) To clarify that North Yorkshire Council has no jurisdiction to consider complaints about parish and town councils which do not relate to an alleged breach of the Members' Code of Conduct;
- d) Ensuring consistency and clarification of terminology (for example in relation to first and third person references to the complainant);
- e) Highlighting the request to use the complaint form and explaining why this is desirable;
- f) Build in further flexibility around timescales for handling complaints, given the high volume of complaints now being handled by the Monitoring Officer and his team and to specifically reference a period of six months or as soon as possible thereafter for the carrying out and reporting into an investigation, as set out in the LGA guidance on standards complaint handling - [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#);
- g) To clarify that references to the Monitoring Officer include reference to the Deputy Monitoring Officer;
- h) To clarify current practice in relation to assessments;
- i) To clarify that an assessment of a complaint makes no finding as to the truth or otherwise of the allegation;
- j) To re-order some of the assessment related paragraphs to a more chronological order;
- k) To clarify that either of the parties may object to a proposed method of informal resolution, not just the complainant;

- l) To clarify that a person appointed to investigate is not necessarily an officer in Legal and Democratic Services;
- m) To clarify that complaints are dealt with in the strictest confidence unless and until a Standards and Governance Committee Hearings Panel, on finding a breach of the Code, determines, in consultation with the Independent Person, that some level of publicity is required to the decision;

### **Jurisdiction and Assessment Criteria**

- a) To remove the word “Local” from the “Jurisdiction and Local Assessment Criteria” title, as this is no longer relevant following the abolishment of Standards for England;
- b) To clarify that references to the Monitoring Officer include reference to the Deputy Monitoring Officer;
- c) Minor clarification amendments and amendments for consistency of terminology;
- d) To include a further Jurisdiction Criteria relating to acting in official capacity, as set out in the LGA’s guidance on standards complaint handling - [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#);
- e) To clarify that if there is any doubt as to whether the first stage Jurisdiction Criteria are satisfied, then the complaint should proceed to be further assessed against the second stage Assessment Criteria
- f) To include a specific Assessment Criteria relating to liaison with the Police/relevant regulatory body where a complaint identifies potential criminal conduct or breach of other regulation;
- g) To expand the ‘Current Membership’ criteria to clarify the position regarding subject Members who may have been a councillor at the time of the alleged misconduct but who are no longer a councillor;
- h) To include a criteria to cover serious ill health of a subject Member;
- i) To include a criteria regarding the nature of the parties and whether it is a complaint by a Member against another Member, in which case a greater allowance may be made for robust political debate;
- j) To include a criteria considering the general public interest in taking any action on a complaint, which can include various factors, including local knowledge and experience;
- k) To include a specific criteria highlighting the need to take the general public interest into account in deciding whether to take any action in relation to a complaint;
- l) To expand the criteria with guidance from the LGA guidance on standards complaint handling;
- m) To reorder the Assessment Criteria for clarity;

5.3 Since Vesting Day, the Deputy Monitoring Officer has liaised with the Chief Officer of the Yorkshire Local Councils Association regarding standards support to parish and town councils in the North Yorkshire area and delivered a standards training session to

parish and town councils and clerks through the YLCA's online training webinar on 19 February 2024. This was poorly attended and the Deputy Monitoring Officer intends to re-run the training session for parish and town councils in North Yorkshire.

- 5.4 The Deputy Monitoring Officer is also liaising with North Yorkshire Police regarding the development of a protocol between the Council and the Police regarding the handling of complaints where there is a potential criminal offence disclosed.
- 5.5 Guidance on the Code and standards regime is also provided in the Committee's Standards Bulletins which are published on the Council's website - [Standards Bulletin September 2023 | North Yorkshire Council](#). The Committee's last Bulletin was also sent to the YLCA.
- 5.6 The Monitoring Officer is also reviewing the standards information on the Council's website to provide further information and ensure clarity around the standards arrangements.
- 5.7 Subject to any comments Members may have, it is recommended that the proposed amendments to the standards arrangements and Jurisdiction and Assessment Criteria be approved.

## **6.0 PROPOSED AMENDMENTS TO COMPLAINT FORM**

- 6.1 The Monitoring Officer has also taken the opportunity to review the standards complaint form and proposed amendments are set out by way of tracked changes on the version attached at **Appendix 3**. These are mainly updating and clarification amendments, including requiring the complainant to specify the council on which the Member complained of serves.
- 6.2 Subject to any comments Members may have, it is recommended that the proposed amendments to the standards complaint form be approved.

## **7.0 FINANCIAL IMPLICATIONS**

- 7.1 The financial implications are set out in the body of this report.

## **8.0 LEGAL IMPLICATIONS**

- 8.1 The legal implications are set out in the body of this report.

## **9.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

- 9.1 There are no significant environmental/climate change implications arising from this report.

## **10.0 EQUALITIES IMPLICATIONS**

- 10.1 There are no significant equalities implications arising from this report

## **11.0 RECOMMENDATIONS**

- 11.1 That Members review the Council's standards arrangements.
- 11.2 That, subject to any comments Members may have:

- a) the Committee approves the proposed amendments to the standards arrangements and Jurisdiction and Assessment Criteria set out in **Appendices 1 and 2** respectively; and
- b) the Committee approves the proposed amendments to the standards complaint form set out at **Appendix 3**.

JENNIFER NORTON  
Assistant Director Legal and Deputy Monitoring Officer

Background Documents:

The Localism Act 2011

Minutes of Standards and Governance Committee meetings

County Hall  
NORTHALLERTON

3 March 2024

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## NORTH YORKSHIRE COUNCIL

### ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACH OF THE MEMBERS' CODE OF CONDUCT

These arrangements set out how you may make a complaint that an elected or voting co-opted member ("Member") of the North Yorkshire Council, ~~(or of a parish or town council within its area.)~~ ~~that an elected or voting co-opted Member has may have~~ failed to comply with ~~that Council's~~ the relevant Code of Conduct for Members.

Please note that regarding parish and town councils, North Yorkshire Council only has jurisdiction to consider complaints that a parish/town councillor may have breached the relevant parish/town council's Members' Code of Conduct; any complaints about the way in which the parish/town council has or has not conducted its business or about a decision made by the parish/town council or about its employee(s), must be made to the relevant parish/town council.

These arrangements are made under Sections 28(6) and (7) Localism Act 2011.

References to the Monitoring Officer also include reference to the Deputy Monitoring Officer.

#### **1.0 Independent Person for Standards**

1.1 The Council has appointed Independent Persons whose views must be sought by the Council before it takes any decision on an allegation which has been decided should be investigated. The Independent Person's views can also be sought by the Council at any other stage or by a Member ~~(or member or co-opted member of a parish or town council within the Council's area)~~ against whom an allegation has been made. In practice complaints are dealt with by the Monitoring Officer, under their delegated powers, and by the Standards and Governance Committee as set out in these arrangements.

#### **2.0 Members' Code of Conduct**

2.1 ~~The North Yorkshire~~ Council has adopted a Code of Conduct for Members, which is ~~also~~ published on the Council's website and available from the Monitoring Officer.

2.2 Each parish or town council is also required to adopt a eCode of eConduct. If you wish to inspect a parish or town council's eCode of eConduct, ~~you should inspect it~~ may be published on any website operated by the parish or town council or you may request the clerk to allow you to inspect that council's eCode.

#### **3.0 Making a Complaint**

3.1 If ~~someone-you~~ considers there has been a breach of the Code of Conduct by a Member, and wants to make a complaint, ~~they should please write or send an email to~~ contact the Monitoring Officer at:

The Monitoring Officer  
North Yorkshire Council  
County Hall  
NORTHALLERTON  
North Yorkshire  
DL7 8AD

email: [MonitoringOfficer@northyorks.gov.uk](mailto:MonitoringOfficer@northyorks.gov.uk)

**Where possible, the standards complaint form should be used.** It is available from the Monitoring Officer at the above address and is also published on the Council's website - Councillors' code of conduct | North Yorkshire Council. Using the complaint form will guide you through giving the information expected by the Monitoring Officer to enable a full consideration of your complaint.

3.2 It is important to provide a name and contact address details. Please note that the Council will not investigate anonymous complaints unless there is a significant public interest in doing so. Further information is contained in the Council's Jurisdiction and Assessment Criteria, which are published on the Council's website and available from the Monitoring Officer.

#### **4.0 Timescales**

4.1 We aim to deal with any complaint, so far as possible, within 3 months of receipt, or as soon as possible thereafter. It may take longer during periods of high volume complaint activity. If your complaint is referred for investigation we aim to carry out the investigation and complete the investigation report within six months of the complaint being referred for investigation or as soon as possible thereafter. Please be assured that the Council takes complaints seriously and aims to deal with all complaints as expeditiously as possible in prevailing circumstances.

4.2 The Monitoring Officer will aim to acknowledge receipt of your complaint within 5 working days (or as soon as possible thereafter), informing you of the next steps, and will keep you informed of progress. You will be notified as to the outcome of your complaint.

#### **5.0 Assessment ~~for Investigation or Other Action~~ of the complaint**

5.1 Every complaint relating to the Code of Conduct will be received by the Monitoring Officer.

5.2 If the complaint identifies potential criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as they consider appropriate. This may have an impact on the handling of the standards complaint and may require it to be held in abeyance pending the outcome of any criminal or regulatory investigation.

5.3 The Member who is the subject of a complaint ('the subject Member') will be advised of the complaint and copied into any relevant correspondence or complaint form received from ~~the you as~~ Complainant (with contact details redacted), to enable them to comment on the allegations made against them. Where a complaint relates to a parish or town councillor, the Monitoring Officer may also, in their discretion, inform the parish or town council of the complaint and seek views before deciding whether the complaint merits formal investigation or any other action.

5.4 The Monitoring Officer will ~~review~~ assess formal standards complaints (save as set out in paragraph 5.9 below) and consult in consultation with the Independent Person ~~in doing so,~~ and will decide whether a complaint falls within the jurisdiction of the standards regime and, if so, whether it merits formal investigation or any other action (such as informal resolution) being taken in relation to it, as judged against the Council's Jurisdiction and Assessment Criteria. Where there is a difference of opinion between the Monitoring Officer and the Independent Person, then the allegation will be ~~investigated~~ referred for investigation.

5.5 This assessment will take place, where possible, within 20 working days of receipt of the complaint or as soon as possible thereafter. The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

5.6 The subject Member may also be requested to provide information about the matter.

5.7 The Monitoring Officer will advise you, in writing, of their assessment decision ~~about whether or not the matter should be investigated~~ and the reasons for it.

~~If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as they consider appropriate.~~

5.8 The Monitoring Officer will not refer for investigation matters which are, in their opinion, and after consultation with the Independent Person, vexatious, offensive, trivial, disproportionate or politically motivated. Regard may be had to the Standards and Governance Committee Protocol for dealing with Unreasonably Persistent/Vexatious Complainants in this respect and in relation to the handling of such complaints generally.

5.9 Where the Committee has been consulted by the Monitoring Officer under the Protocol for dealing with Unreasonably Persistent/Vexatious Complainants, and a decision made that a standards complaint has ended, any further complaints on essentially the same issue(s) do **not** need to be considered through the assessment process in the usual way through the standards complaints procedure.

5.10 If the Monitoring Officer and Deputy Monitoring Officer have ~~has~~ a conflict of interest or ~~does~~ not for any other reason consider it appropriate that they undertake the initial assessment of a complaint, it will be referred to the Standards and Governance Committee.

5.11 The assessment of the complaint is not an investigation and makes no determination as to the truth or otherwise of the allegations. It simply looks at whether the complaint falls within jurisdiction disclosing a potential breach of the Code and, if so, whether it warrants any further action being taken.

5.12 The Standards and Governance Committee will be informed of the outcome of all complaints received. In addition, the Monitoring Officer shall, when they deem it appropriate, liaise with the Chair of the Committee regarding patterns of complaints, for example where large numbers of complaints are received against a particular Member or parish/town council, a specific complaint relating to one Member is registered by more than one complainant or there is an unusually large number of complaints generally.

## **6.0 Informal Resolution**

6.1 Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Standards and Governance Committee.

6.2 This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Council.

6.3 If ~~the Member~~ either party or the Council make a reasonable offer of local resolution but the ~~Complainant~~ other party is not willing to accept the offer, the Monitoring



Officer will take this into account in deciding whether a complaint merits formal investigation.

## **7.0 Investigation**

**7.1** If the Monitoring Officer concludes that a matter merits investigation, the Complainant will be invited to submit ~~all any further~~ information they wish to submit in support of their allegation within 10 working days of request.

**7.2** ~~Once the~~Any further information ~~is~~ received ~~it~~ will be sent to the subject Member ~~who is subject to the complaint~~, who would also be invited to submit ~~all any further~~ information they wish to be considered in response within 10 working days.

**7.3** Throughout the process the Monitoring Officer will ensure the subject Member and Complainant receive appropriate support and assistance.

**7.4** The Monitoring Officer may also appoint an officer member of their staff to oversee the gathering of information relating to the matter which will comprise the investigation ('the Nominated Officer'). The Nominated Officer will consider whether any further information is needed and take steps so far as possible to secure its production.

**7.5** A report containing the information provided by the Complainant and subject Member will be prepared by the Nominated Officer and copied to both parties and sent to the Monitoring Officer. The report will conclude with a recommendation as to whether, on the balance of probabilities, it is considered that there ~~has been~~ evidence of a breach of the Code.

## **8.0 Conclusion of no evidence of failure to comply with the Code of Conduct**

**8.1** The Monitoring Officer will receive and review the investigation report and consult the Independent Person upon it. Subsequently, if satisfied that the report is sufficient, the Monitoring Officer will write to the Complainant and the subject Member notifying them that they are satisfied that no further action is required.

## **9.0 Conclusion that there is evidence of failure to comply with the Code of Conduct**

**9.1** The Monitoring Officer will review the report and consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Standards and Governance Committee for consideration and determination.

**9.2** If the matter can reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing they will consult the Independent Person, with the Complainant and subject Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

**9.3** As with initial assessment this can include the Member accepting that conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution the matter will be reported to the Standards and Governance Committee but no further action will be taken.

## **10.0 Hearing**

**10.1** If local resolution is not appropriate, or the Complainant or subject Member are not satisfied with the proposed resolution, or the subject Member is not prepared to

undertake any proposed remedial action, the report will be reported to a Hearings Panel ('the Panel') of 3 Members from the Standards and Governance Committee. Where a complaint is in relation to a town or parish councillor the Panel will also include a town or parish councillor representative. The parish representative will not be from the same parish as the subject Member. The Independent Person will attend all Panel meetings and will be consulted by the Panel in making its decision about whether there has been a breach of the Code and any action to be taken.

**10.2** The Panel will meet to decide whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

**10.3** The report will be presented to the Panel.

**10.4** The Complainant and the subject Member will be invited to attend the Panel to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be present. The Panel can proceed in the absence of either the subject Member or the Complainant where it deems this to be appropriate.

**10.5** The Panel shall consult with the Independent Person and be advised by the Monitoring Officer or officer nominated by them. It may conclude:

- (a) that the Member did not fail to comply with the Code of Conduct;
- (b) that the Member did fail to comply with the Code of Conduct; and, if it so concludes, the Panel may determine whether any action is necessary and, if so, what sanction is appropriate.

## **11.0 What action can the Panel take if there has been a breach of the Code of Conduct?**

**11.1** The Panel may:

- (a) issue a letter of censure to the subject Member and, where appropriate, require an apology to be ~~\_\_\_\_\_~~ given to the Complainant;
- (b) recommend to the subject Member's Group Leader that they be removed from any or all committees or sub-committees of the Council;
- (c) instruct the Monitoring Officer to arrange training for the subject Member;

except where the sSubject Member is a parish or town council Member, in which case the Panel can only make recommendations to the relevant town/parish council.

**11.2** The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

**11.3** The Panel shall consult the Independent Person and decide what, if any, publicity should be undertaken regarding the outcome of the matter. Options for such publicity include a notice on the Council's website or a press release. Until a decision has been made by the Panel as to what, if any, publicity should be given to the complaint and its outcome, all aspects of the complaint will be dealt with in the strictest confidence.

## **12.0 What happens at the end of the hearing?**

12.1 The Chair of the Panel will announce the decision of the Panel as to whether the subject Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the subject Member and the Complainant within 10 working days or as soon as possible thereafter. The outcome will be reported to the next meeting of the Standards and Governance Committee.

### **13.0 Revision of these arrangements**

13.1 The Council-Committee may by resolution agree to amend these arrangements and delegates to the Chair of the Panel the right to depart from these arrangements where they consider it expedient to do so to secure the effective and fair consideration of any matter.

### **14.0 Appeals**

14.1 There is no right of appeal for the Complainant or the subject Member against a decision of the Monitoring Officer, Standards and Governance Committee or Hearings Panel.

14.2 If the Complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government and Social Care Ombudsman.

~~15 September 2023~~ 15 March 2024

# NORTH YORKSHIRE COUNCIL

## ETHICAL FRAMEWORK

### Complaints of breach of Members' Code of Conduct

#### Jurisdiction and ~~Local~~ Assessment Criteria

References in this document to the Monitoring Officer include reference to the Deputy Monitoring Officer.

#### Jurisdiction

Before assessment of a complaint begins, the Monitoring Officer, in consultation with the Independent Person for Standards, should be satisfied that the complaint meets the following tests:

1. it is a complaint against one or more named Members/voting co-opted Members ("Members") of ~~the authority~~ North Yorkshire Council or of a parish or town council within the Council's area;
2. the named Member was in office at the time of the alleged conduct and the relevant Code of Conduct was in force at the time;
- 2.3. the complaint relates to matters where the councillor was acting as a councillor or representative of the authority and it is not a private matter; and
- 3.4. the complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint. If there is any doubt as to whether any of the above first stage criteria are met, then the complaint should proceed to be assessed against the second stage Assessment Criteria below.

#### Assessment Criteria

All complaints falling within the jurisdiction of the standards regime will be assessed by the Monitoring Officer, in consultation with the Independent Person, in accordance with the criteria below.

More than one criteria may be applicable to a complaint.

#### 1. Capacity

##### **Was the Member acting in their official capacity at the time of the alleged conduct?**

If the answer is **no**, then unless there is some direct link between the activity and the Member's office, the Code did not apply to the Member at the time of the alleged conduct and therefore there can be no breach of the Code. The response should therefore be: "The Member concerned was not acting in their official capacity at the time

of the alleged conduct and therefore the Code of Conduct for Members did not apply to the Member at that time. Consequently no potential breach of the Code has been disclosed and no action may be taken in respect of the complaint.”

The Code does not currently apply to Members’ conduct outside of the performance of their functions as Members. Only if they have engaged in private conduct/activity which has a link with the functions of the office of member, might the conduct in question be covered by the Code.

## 2. Potential criminal offence or regulatory breach

### **Does the complaint disclose a potential criminal offence or regulatory breach?**

If the complaint identifies potential criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as they consider appropriate. This may have an impact on the handling of the standards complaint and may require it to be held in abeyance, or other action taken, pending the outcome of any criminal or regulatory investigation.

## 3. Current Membership

### **Is the complaint about someone who is no longer a Member of the relevant council?**

The subject Member may have been a councillor at the time of the alleged misconduct but may have since ceased to be a councillor. The Monitoring Officer will need to consider whether North Yorkshire Council still has jurisdiction. If so, then the Monitoring Officer may decide not to take any further action unless they believe the matter is so serious, and the councillor may return to the authority, that it would still be in the public interest to pursue the matter. If they do pursue the matter the range of potential sanctions ultimately available is inevitably more limited.

### **Is the complaint about someone who is no longer a Member of the authority, but is a member of another authority? If so, does the Monitoring Officer wish to refer the complaint to the monitoring officer of that other authority?**

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the Monitoring Officer of that authority for consideration.”

If a councillor is still a member of a town or parish council within North Yorkshire, then the principal authority can still deal with the matter if it relates to matters at the town or parish council.

## 4. Ill health

### **Is the complaint about a Member who is seriously ill?**

If the Member the subject of the complaint is seriously ill at the time of assessment, the Monitoring Officer will need to decide, in the prevailing circumstances and in the public interest, what action is most appropriate to take in relation to the complaint at that time. This may include deciding to hold the complaint in abeyance for a period of time.

## 5. Sufficient Information

**Has the complainant submitted enough information to satisfy the Monitoring Officer assessing the complaint that the complaint should be referred for investigation or other action?**

If the answer is **no**, the response should be: “The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the Monitoring Officer is taking no further action on this complaint.”

**2. Triviality**

**Is the complaint too trivial to warrant further action?**

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

**Sufficient Information**

**Has the complainant submitted enough information to satisfy the Monitoring Officer assessing the complaint that the complaint should be referred for investigation or other action?**

If the answer is **no**, the response should be: “The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the Monitoring Officer is taking no further action on this complaint.”

**3. Current Membership**

**Is the complaint about someone who is no longer a Member of the authority, but is a member of another authority? If so, does the Monitoring Officer wish to refer the complaint to the monitoring officer of that other authority?**

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the Monitoring Officer of that authority for consideration.”

**4.6. Prior Investigation/Action**

**Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?**

**Where:**

- a substantially similar complaint has been submitted and accepted; or
- a substantially similar complaint has previously been considered and no new material evidence has been submitted;

then the Monitoring Officer may decide that there is no merit in any further action being taken in relation to the complaint.

If the answer is **yes**: “The matter of complaint has already been subject to a previous investigation or other action and there is nothing more to be gained by further action being taken.”

**5.7. Passage of Time**

**Is the complaint about something that happened so long ago that there would be little benefit in taking action now?**

Where a matter happened some time ago then the Monitoring Officer may decide that any further action would be unwarranted. The Monitoring Officer should consider whether there is any reason why there has been a delay in making the complaint.

If the answer is **yes**: “The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided under the circumstances that further action was not warranted.”

8. Nature of the parties

**Is the complaint by one Member against another?**

The Monitoring Officer will consider the capacity in which the complainant has brought the complaint: where the complaint is by one Member against another, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression.

9. Triviality

**Is the complaint too trivial to warrant further action?**

The Monitoring Officer will need to consider whether the complaint is sufficiently serious to warrant any action being taken in relation to it. A referral of a complaint for investigation or other action costs both public money and officer and councillor time. This is an important consideration when the complaint is minor or petty.

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

6-10. Underlying Motivation

**Does the complaint appear to be simply malicious, vexatious, politically motivated or tit-for-tat?**

The Monitoring Officer discourages such complaints but will consider, regardless of any alleged motive of the complainant, whether the complaint itself is sufficiently serious to warrant any further action regardless of the motive. A complaint may appear on the face of it to be politically motivated, for example, because of the timing of its submission, but if it raises sufficiently serious matters it would nevertheless need to be considered fully.

If the answer is **yes**: “The matter appears to be simply malicious, vexatious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted”.

11. Public Interest

**Is it in the general public interest to take any action in relation to the complaint?**

The Monitoring Officer will, in assessing the complaint in consultation with the Independent Person, consider the information presented by the complainant and subject Member and balance it against the various important considerations contained in the



Assessment Criteria. The Assessment Criteria are, however, only indicative and the Monitoring Officer will need to take all circumstances into account, including local knowledge and experience, in assessing whether it is in the general public interest to take any action in relation to a complaint.

This can include looking at whether the behaviour complained of has already been addressed, for example through an apology having already being given by the subject Member.

This can also include looking at any background context in which the complaint has arisen and considering whether the standards regime is the appropriate process for dealing with the complaint in the prevailing circumstances and whether a referral of the matter for investigation or other action under the standards regime is likely to resolve the issues. This can include where there is evidence of dysfunction within the relevant council and in its relationships, standards of behaviour, conduct of meetings and entrenched views.

It may be the case that there are alternative, more appropriate, remedies that should be explored first.

Where the Monitoring Officer concludes that it would not be in the public interest to take any action in relation to the complaint, the assessment record will set out the rationale for this decision.

#### 7.12. Anonymous Complaints

##### **Is the complaint under consideration anonymous?**

If the answer is **yes**, the Monitoring Officer will only refer such a complaint for investigation or some other action if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter and/or if there is a significant public interest in doing so.

#### 913. Requests for Confidentiality

##### **Has the complainant asked for their identity to be withheld?**

If the answer is **yes**, the Monitoring Officer will need to consider the request by the complainant for confidentiality alongside the substance of the complaint itself.

As a matter of fairness and natural justice, Members will usually be told who has complained about them. Requests for confidentiality should only be granted in exceptional circumstances and at the discretion of the Monitoring Officer, in consultation with the Independent Person.

The following considerations may assist the Monitoring Officer's deliberations in this respect:

- (a) Whether the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;
- (b) Whether the complainant is an officer who works closely with the subject Member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (NB: this should be covered by the Council's Whistle-Blowing Policy);



- (c) Whether the complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such circumstances, the Monitoring Officer may wish to request medical evidence of the complainant's condition. In such cases, the Monitoring Officer may give the complainant the option of requesting a withdrawal of their complaint;
- (d) Whether the disclosure of the complainant's identity is necessary for the investigation of the complaint; for example, this may be relevant in a bullying allegation. In such cases, the Monitoring Officer may give the complainant the option of requesting a withdrawal of their complaint;
- (e) Whether it is possible to investigate the complaint without making the complainant's identity known;
- (f) Whether the public interest in proceeding with an investigation outweighs the complainant's wish to have their identity withheld from the subject Member.

Where the Monitoring Officer decides to refuse a request by a complainant for confidentiality, the Monitoring Officer may, in the particular circumstances, decide to offer the complainant the option to withdraw the complaint, rather than proceed with their identity being disclosed.

#### 104. Withdrawal of Complaints

##### **Has the complainant indicated that they wish to withdraw their complaint?**

If the answer is **yes**, the Monitoring Officer will need to decide whether to grant the request. The following considerations may assist the deliberations in this respect:

- (a) Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- (b) Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- (c) Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured to withdraw the complaint?

##### **Possible decisions**

The Monitoring Officer assessing a complaint, in consultation with the Independent Person, may decide to refer the complaint for investigation or other action (eg training, conciliation); or may decide that no action should be taken in respect of the complaint.

The assessment of the complaint is not an investigation and makes no determination as to the truth or otherwise of the allegations. It simply looks at whether the complaint falls within jurisdiction disclosing a potential breach of the Code and, if so, whether it warrants any further action being taken in all the circumstances.

There is no right of appeal in relation to the assessment decision. If a complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government and Social Care Ombudsman.

March 2023 15 March 2024

# NORTH YORKSHIRE COUNCIL

## ETHICAL FRAMEWORK

### **COMPLAINT FORM – Members’ Code of Conduct**

If you consider that there has been a breach of the Members’ Code of Conduct by an elected Councillor or voting co-opted member of North Yorkshire Council or of a parish or town council within its area (“Members”) ~~on one of the Council’s committees~~, and you wish to make a complaint, please complete this form and then send or email it to:

The Monitoring Officer  
North Yorkshire Council  
County Hall  
NORTHALLERTON  
North Yorkshire  
DL7 8AD

email: [MonitoringOfficer@northyorks.gov.uk](mailto:MonitoringOfficer@northyorks.gov.uk)

Please note that the ~~Standards and Governance Committee~~ Monitoring Officer can only consider complaints about the behaviour of individual Members of the Council and parish and town councils in its area and has no jurisdiction to consider complaints about the Councils as a whole or Council employees. If you wish to make a complaint about the North Yorkshire Council as a whole, or one of its services, please ~~send your complaint to the Chief Executive Officer at the above address~~ see the Council’s website for further information - Complaints, comments or compliments | North Yorkshire Council; if you wish to make a complaint against a parish/town council which does not relate to a breach of the Code of Conduct, please contact ~~or~~ the relevant parish/town council Clerk, if the complaint is about a parish or town council as a whole.

#### **Your Details**

1. Please provide us with your name and contact details:

<b>Title:</b>	
<b>First Name:</b>	
<b>Last Name:</b>	
<b>Address:</b>	
<b>Contact telephone number:</b>	

<b>Email address:</b>	
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It is important to provide a name and contact [address details](#). Please note that the Council will not take any action in relation to anonymous complaints unless there is a significant public interest in doing so.

The Member(s) who is/are the subject of your complaint ('the subject Member(s)') will be advised of the complaint and copied into any relevant correspondence (including this completed complaint form, [redacted to remove your contact details](#)) received from you.

2. Please confirm the status in which you are making this complaint:

- Member of the public;
- An elected or co-opted Member of the North Yorkshire Council;
- Member of Parliament;
- Local Authority Monitoring Officer;
- Other Council Officer or North Yorkshire Council employee; or
- An elected or co-opted Member of the subject town/parish council; or
- An employee of the subject town/parish Council; or
- Other (please specify)

3. Please provide us with the name(s) of the Member(s) you believe to have breached the Members' Code of Conduct:

Title	First name	Last name	<u>Council</u>

4. A copy of the North Yorkshire Council Code is published on the Council's website ([Councillors' code of conduct | North Yorkshire Council](#)). (For town/parish councillor complaints the relevant Code is published on the relevant town/parish council website [or is available from the Clerk](#)). Please indicate which paragraphs of the relevant Code of Conduct you believe the Member(s) to have breached [and please ensure you are referencing the applicable Code](#):

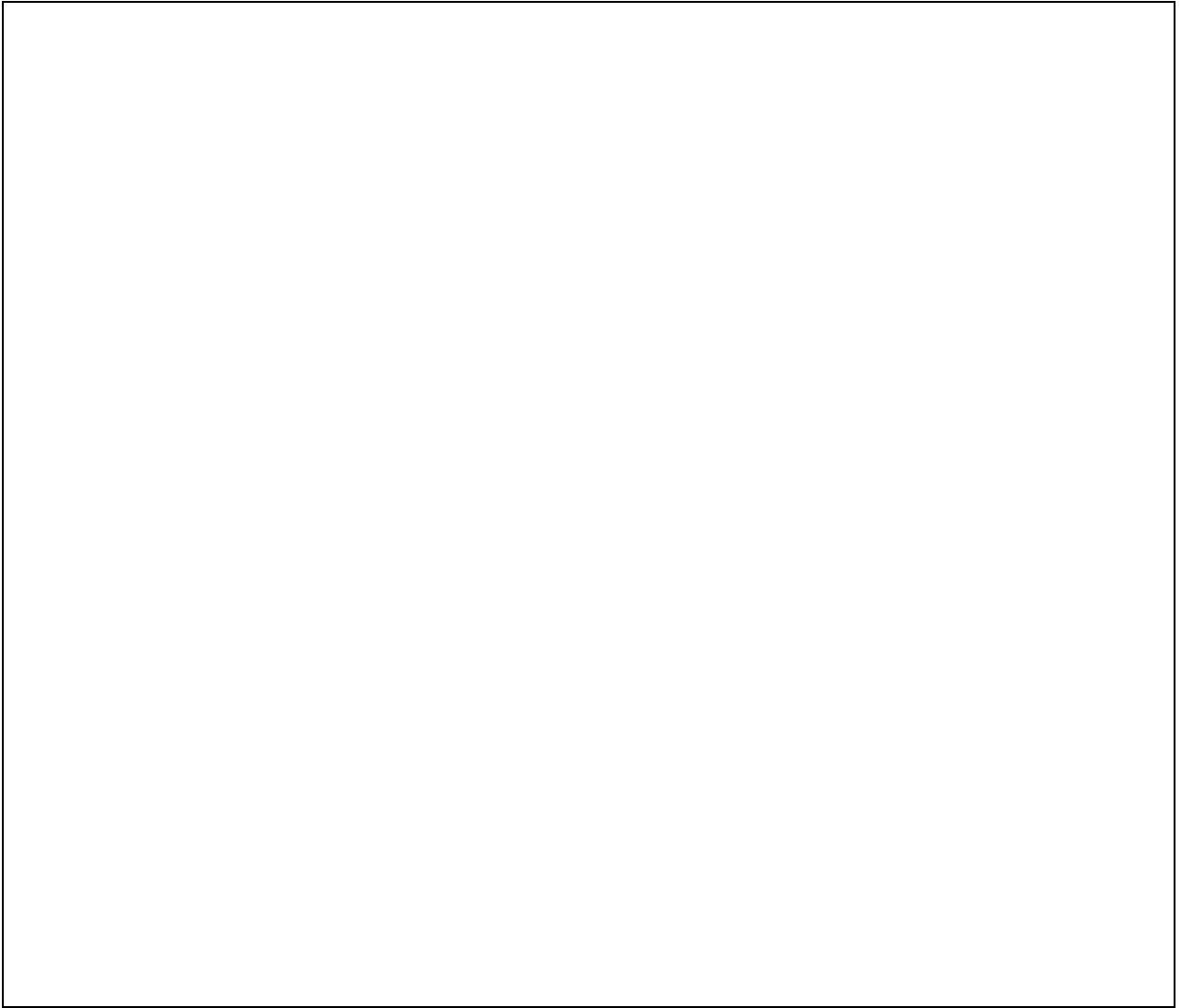
<b>Councillor</b>	<b>Code paragraph alleged to have been breached</b>
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5. Please explain in this section (or on a separate sheet) **what the Member has done** which you believe breaches the Code of Conduct.

If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code.

It is important that you provide all the information you wish the Monitoring Officer to take into account when deciding, in consultation with the ~~Authority's~~ Independent Person for sStandards, whether to take any action in respect of your complaint.

**Please provide us with the details of your complaint. Continue on a separate sheet if necessary.**



| SignedName:.....Date:.....

....

## NORTH YORKSHIRE COUNCIL

### STANDARDS AND GOVERNANCE COMMITTEE

15 March 2024

#### **Protocol regarding relationship between code of conduct complaints and local authority grievance procedures**

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

- 1.1 To present to the Committee, for consideration and approval, a draft Protocol regarding the relationship between code of conduct complaints and local authority grievance procedures.

##### **2.0 BACKGROUND**

- 2.1 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.
- 2.2 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.
- 2.3 The High Court case of R (on the application of Harvey) v Ledbury Town Council has determined that such allegations cannot be dealt with otherwise than in accordance with an authority's arrangements under section 28(6) of the Localism Act 2011 ie through an authority's standards regime for the receipt, assessment, investigation and determination of complaints of a breach of the Members' code of conduct.
- 2.4 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.
- 2.5 The Ledbury case mentioned above determined that a grievance process could not be run in tandem with, or as an alternative to, a standards complaint of a breach of the Code under the Localism Act 2011. In the Ledbury case a town council's decision to impose sanctions on a councillor after finding her guilty of bullying and harassment was therefore determined ultra vires, as the formal process under the code of conduct, including the involvement of an independent person, should have been instigated instead.

##### **3.0 THE DRAFT PROTOCOL**

- 3.1 It is therefore important that the role of the standards complaints procedure in relation to employee grievances against Members is observed. To that end, a

Protocol regarding the relationship between code of conduct complaints and local authority grievance procedures has been drafted and a copy attached at **Appendix 1** to this report.

3.2 Members' views are welcomed on the draft Protocol.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 There are no significant financial implications arising from this report.

#### **5.0 LEGAL IMPLICATIONS**

5.1 The legal implications are set out in the body of this report.

#### **6.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

6.1 There are no significant environmental/climate change implications arising from this report.

#### **7.0 EQUALITIES IMPLICATIONS**

7.1 There are no significant equalities implications arising from this report

#### **8.0 RECOMMENDATIONS**

8.1 That, subject to any comments Members may have, the Protocol regarding the relationship between code of conduct complaints and local authority grievance procedures be approved.

JENNIFER NORTON  
Assistant Director Legal and Deputy Monitoring Officer

#### **Background Documents:**

The Localism Act 2011

County Hall  
NORTHALLERTON

28 February 2024

## NORTH YORKSHIRE COUNCIL

**PROTOCOL FOR RELATIONSHIP BETWEEN CODE OF CONDUCT COMPLAINTS AND LOCAL AUTHORITY GRIEVANCE PROCEDURES**

This protocol sets out the legal position regarding the relationship between a local authority grievance procedure and the Code of Conduct regime under the Localism Act 2011.

**Summary**

Situations may arise where a local authority employee, (including a Town or Parish Council clerk), is of the view that they have not been treated properly by an elected or co-opted member of their authority. The employee may raise such allegations through their authority's grievance procedure.

However, if the allegation is one of bullying, intimidation, harassment or discrimination by a member, the allegation is also likely to be that a member has failed to comply with their authority's code of conduct. The High Court has determined that such allegations cannot be dealt with otherwise than in accordance with the arrangements made under section 28(6) of the Localism Act 2011.

In these circumstances, an employee grievance process cannot therefore be run in tandem with, or as an alternative to, the Localism Act procedure for assessing and determining whether there has been a breach of the code of conduct by elected or co-opted council member.

When an allegation of bullying, intimidation, harassment or discrimination is made against an elected or co-opted member of a local authority the proper course for the formal investigation and determination of such alleged behaviour is through NYC's procedure for considering complaints that the code of conduct has been breached.

**The Law**

Section 28 of the Localism Act 2011 is the section which makes detailed provision in relation to codes of conduct. Section 28(4) provides: "*A failure to comply with a relevant authority's code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6)...*"

Subsections 28(6)-(9) set out the statutory process for investigating and determining complaints that a member has failed to comply with a code. Subsection (6) provides that: "*A relevant authority other than a parish council must have in place arrangements under which allegations can be investigated, and arrangements under which decisions on allegations can be made.*" It is in accordance with this section that NYC, as principal authority, has agreed procedures in place for dealing with complaints against NYC members and Town and Parish Council members.

Subsection (7) states: "*Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and (b) whose views may be sought (i) by the authority in relation to an allegation in circumstances not within paragraph (a), (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.*"



"Independent person" is defined in detail in section 28(8). Again NYC's procedure complies with this provision and NYC has appointed 6 Independent Persons.

Section 28(11) states, "*(If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding—*

- (a) whether to take action in relation to the member or co-opted member, and*
- (b) what action to take."*

The above provisions were considered by the High Court in *R. (on the application of Harvey) v Ledbury Town Council*, in determining that a grievance process could not be run in tandem with, or as an alternative to, the code of conduct for Councillors established by the Localism Act 2011. In the Ledbury case a town council's decision to impose sanctions on a councillor after finding her guilty of bullying and harassment was therefore determined ultra vires, as the formal process under the code of conduct, including the involvement of an independent person, should have been instigated instead.

It is therefore important that the role of the code of conduct procedure in relation to employee grievances is observed.

### **Procedure under this protocol**

Should any allegation by an employee of NYC or a Town or Parish Council of bullying, intimidation, harassment or discrimination by a member come to the attention of NYC's Monitoring Officer, the Monitoring Officer's approach will comply with section 28 of the Localism Act which contemplates potentially a four-stage process:

1. The making of an allegation
2. An optional non-formal investigatory or mediation stage, or a pause pending other relevant steps being taken;
3. A formal stage, leading to a decision on breach;
4. If breach was found, a formal stage, dealing with action.

In accordance with the provisions of the Localism Act set out above the independent person must be involved and consulted at stages 3 and 4.

In the event that an allegation is made in writing and a non-formal investigation or mediation stage (2) is either not going to take place or has not resulted in a resolution of the complaint, then the member who is the subject of a complaint ('the subject member') will be advised of the code of conduct complaint and copied into any relevant correspondence or complaint form received from the complainant. The Monitoring Officer will review the complaint and consult with the Independent Person in doing so, and will decide whether a complaint merits formal investigation or any other action.

The Monitoring Officer will advise the complainant and subject member, in writing, of their decision about whether or not the matter should be investigated.

Stages 3 and 4 will be through NYC's code of conduct procedure only.

## NORTH YORKSHIRE COUNCIL

### STANDARDS AND GOVERNANCE COMMITTEE

15 March 2024

#### **Complaints Update**

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

- 1.1 To update the Committee regarding ethical framework complaint activity.
- 1.2 The Deputy Monitoring Officer will also make a short presentation to talk through the complaint statistics in more detail.

#### **2.0 BACKGROUND**

- 2.1 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.
- 2.2 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.
- 2.3 Information about complaints received that Members may have breached the relevant Code of Conduct are set out later in this report.

#### **3.0 STANDARDS COMPLAINTS RECEIVED**

- 3.1 Since Vesting Day on 1 April 2023, to 28 February 2024, the Council has received 147 complaints that members may have breached the relevant authority's code of conduct for members:
  - a) 24 of those complaints are complaints about Members of North Yorkshire Council. Of those 24 complaints:
    - i. 5 are connected complaints against the same Councillor raised by connected complainants in relation to a particular parish council (also linked to the 10 such connected parish council complaints). All those connected complaints were also the subject of several Freedom of Information Act requests;
    - ii. 1 complaint is connected to 15 connected complaints against members of a particular town council.
  - b) the other 123 complaints relate to complaints about members of parish and town councils in the North Yorkshire area. Of those 123 complaints:
    - i. 10 are connected complaints against parish councillors raised by

- connected complainants in relation to a particular parish council (also linked to the connected 5 NYC complaints mentioned above);
- ii. 47 are connected complaints, brought by the same complainant, against members of a particular town council, in relation to connected issues. These 47 cases are linked to another 2 of the 123 parish council complaints;
  - iii) 15 are connected complaints against members of a particular town Council (also linked to an NYC complaint mentioned above).
- c) 123 of the 147 cases have so far been assessed by the Monitoring Officer in consultation with the Independent Person for Standards and of those 123:
- i. 100 cases did not merit any further action;
  - ii. 5 cases were recommended for informal resolution;
  - iii. 17 cases are to be investigated through a total of five Investigations:
    - ♦ One investigation covers related complaints made against 11 town councillors. Only one allegation within the complaints is to be investigated (no action on the other complaint allegations);
    - ♦ one investigation covers related complaints made against two parish councillors,
    - ♦ one investigation covers two related complaints about the same town councillor,
    - ♦ two investigations are in relation to complaints against a single councillor (one an NYC councillor and one a parish councillor)
  - iv. One case was closed as the subject was no longer a Councillor.

All the investigations are currently live.

- d) the remainder of the complaints are in preparatory stages or awaiting assessment by the Monitoring Officer/Deputy Monitoring Officer in consultation with the Independent Person for Standards and a further update will be given to the Committee when the Monitoring Officer is in a position to do so.

3.2 A more detailed breakdown of the complaints is attached at **Appendix 1** to this report for Members' information. Members will see from the report and the Appendix that there has been a significant increase in complaint activity since North Yorkshire Council came into being on 1 April 2023.

3.3 Members will be kept updated.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 There are no significant financial implications arising from this report.

#### **5.0 LEGAL IMPLICATIONS**

5.1 There are no significant legal implications arising from this report.

#### **6.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

6.1 There are no significant environmental/climate change implications arising from this report.

## **7.0 EQUALITIES IMPLICATIONS**

7.1 There are no significant equalities implications arising from this report

## **8.0 RECOMMENDATIONS**

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

BARRY KHAN

Assistant Chief Executive Legal and Democratic Services and Monitoring Officer

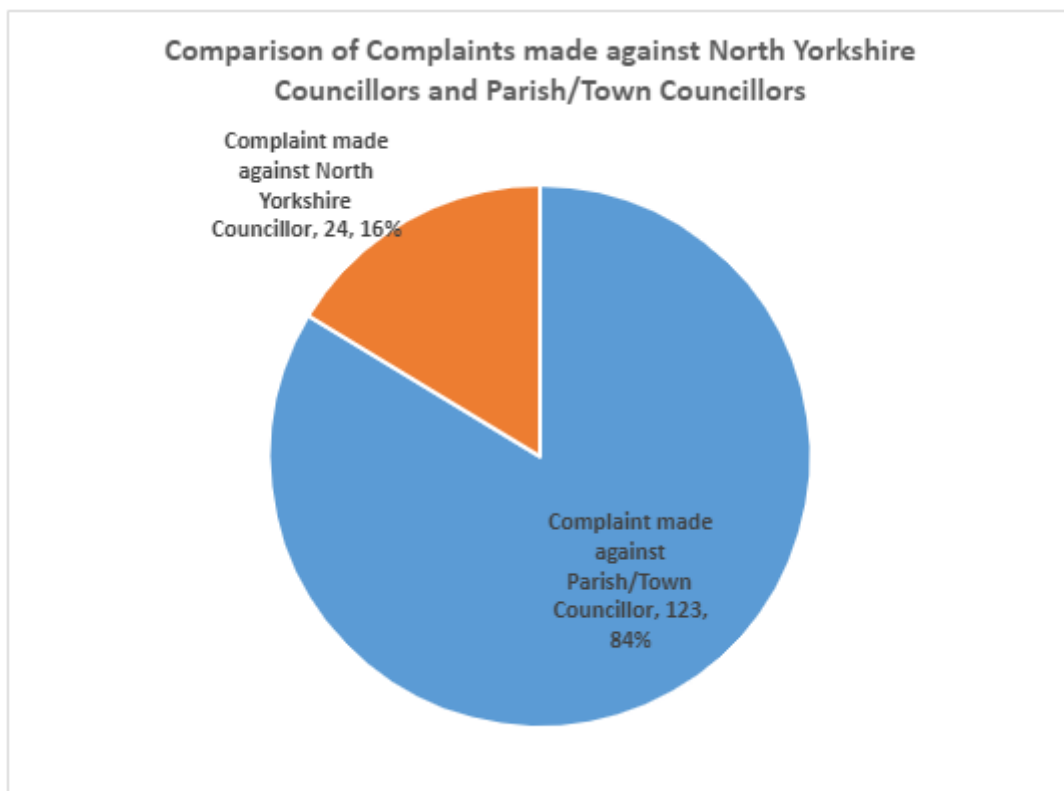
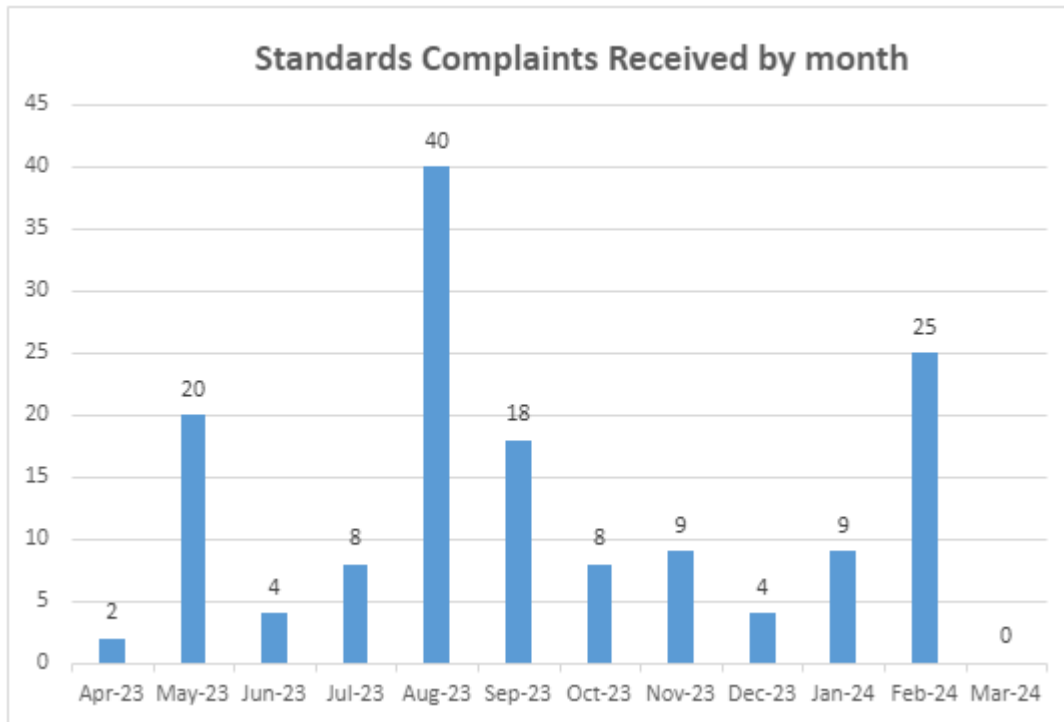
Background Documents: None

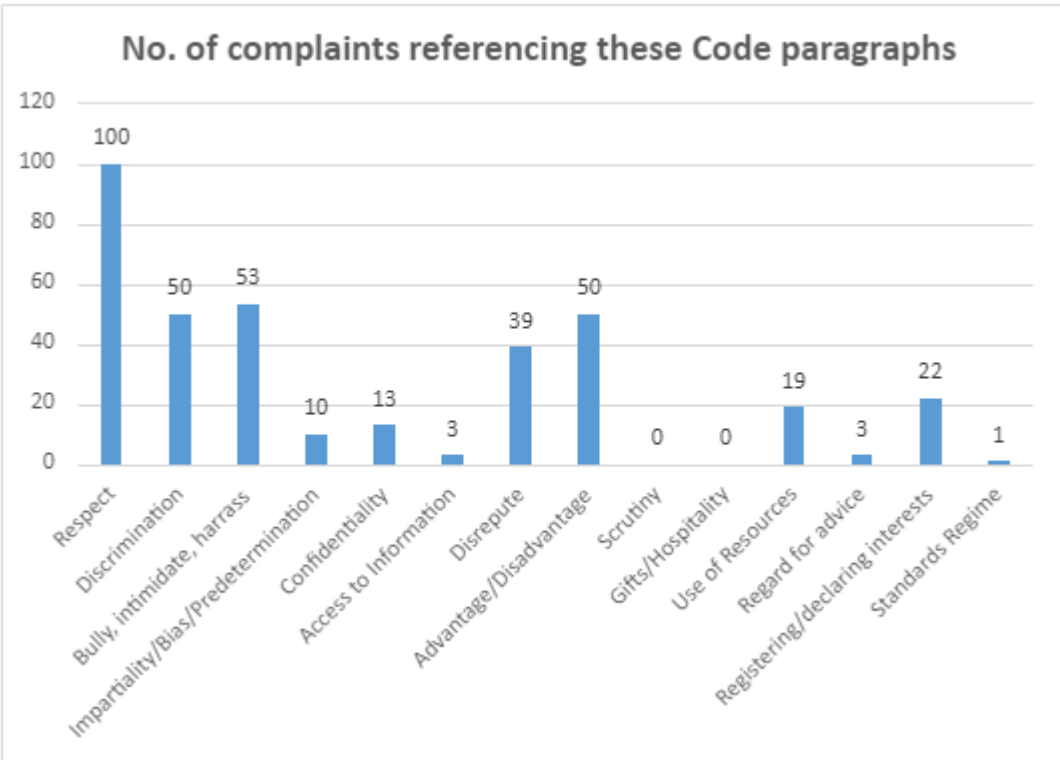
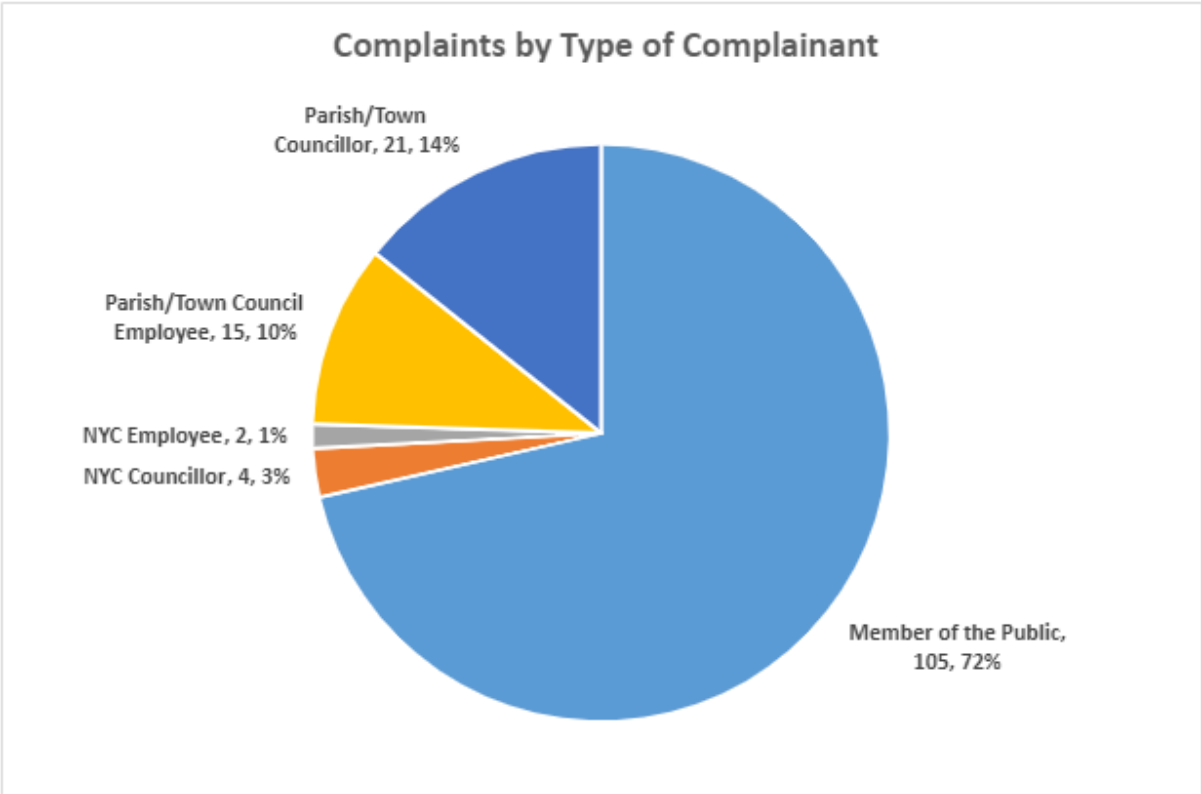
County Hall  
NORTHALLERTON

28 February 2024

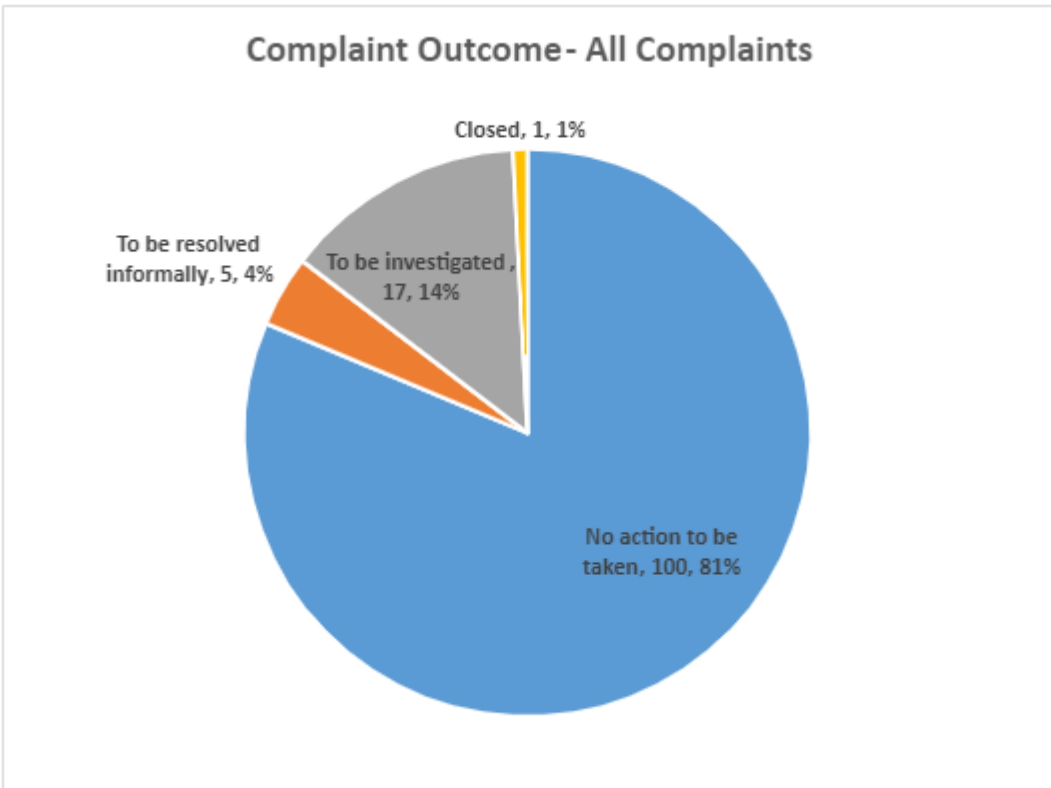
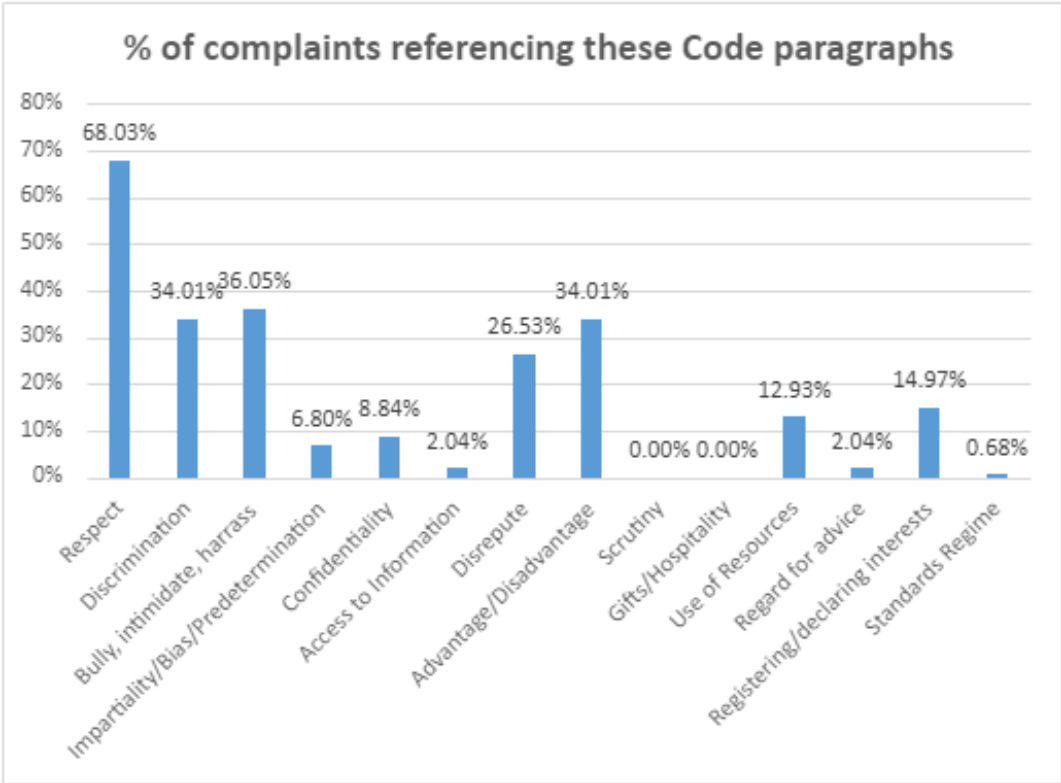
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## Details of Complaints re Breaches of the Members' Code of Conduct – 1 April 2023 – 28 February 2024



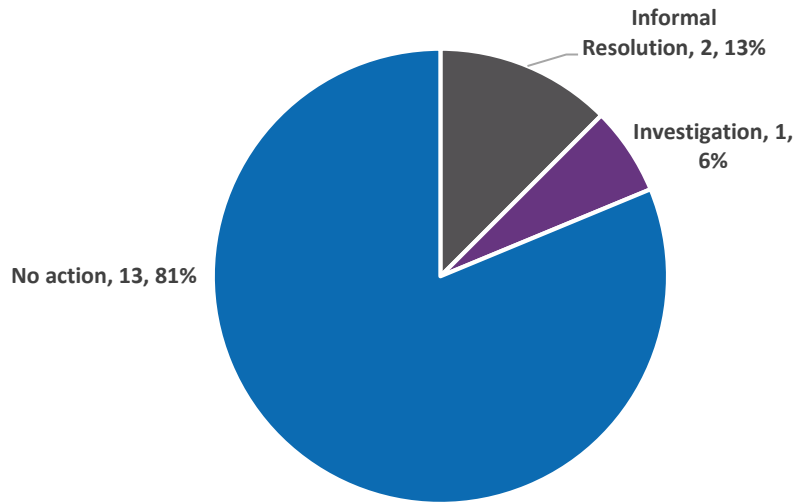


NB: Complaints may reference several paragraphs of the Code as being breached

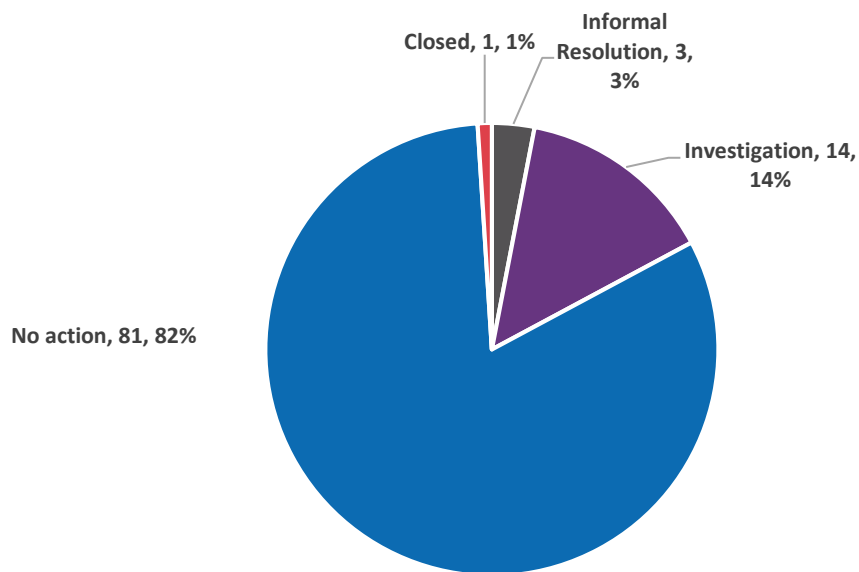




### Outcomes of Complaints against North Yorkshire Councillors



### Outcomes of Complaints against Town and Parish Councillors



# Code of Conduct complaints

## Statistics and themes

Page 63



**Jennifer Norton**, Assistant Director Legal and Deputy Monitoring Officer, Legal and Democratic Services, North Yorkshire Council

**15 March 2024**

OFFICIAL - SENSITIVE

# The importance of standards in public life

*“Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence”*

The Committee on Standards in Public Life

## General Principles of Conduct

- Apply to anyone who works as a public office-holder – includes:
  - Members
  - Council employees
  
- Codes of conduct (and actions) must be consistent with the Principles:
  - (a) selflessness
  - (b) integrity
  - (c) objectivity
  - (d) accountability
  - (e) openness
  - (f) honesty
  - (g) leadership

# Parish and Town Councils – role of NYC

- 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
  - Responsible for upholding high standards of conduct by members by having a process in place for considering complaints of breach of Code of Conduct for Members
    - 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.**
- Page 65 Emailed all parish and town councils 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.

# Complaint Handling

- NYC must 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) Whose views **must** be sought and taken into account by the authority before it makes a decision on an allegations it has decided to **investigate** and
  - b) Whose views **may** be sought –
    - i. By the authority in relation to an allegation not being investigated
    - ii. By a subject Member
- NYC – **6 Independent Persons**
  - consulted on a rota basis where possible re complaints received
  - consulted at every stage of complaint handling
- Complaints not involving an alleged breach of the Code (eg complaint about the Council as a whole, one of its services or employees) should be referred to the CEO/Clerk
- NYC's assessment process enables the filtering out of trivial and vexatious matters at an early stage
  - misunderstandings can be dealt with swiftly and effectively
- No right of appeal but complainant can contact Ombudsman if dissatisfied
- Timescale for dealing with complaints - within 3 months of receipt, or as soon as possible thereafter

# Assessment

- ALL formal standards complaints go to an initial **assessment** by MO/Deputy MO in consultation with IP
- Purpose - to decide whether a potential breach of the Code is disclosed and, if so, whether the complaint merits formal investigation or any other action

## 1<sup>st</sup> stage - Jurisdiction tests:

- (a) That the complaint is against a **named Member** of the relevant authority.
- (b) The named Member was **in office at the time** of the alleged conduct, and the relevant Code of Conduct was in force at the time.
- (c) The complaint, if proven, would be a **breach** of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint **fails one or more** of these tests it **cannot be investigated** and complainant must be informed that no further action will be taken.

If passes all, then look at Assessment Criteria.

## 2<sup>nd</sup> stage - Assessment Criteria

1. Capacity
2. Triviality
3. Sufficient Information
4. Current Membership
5. Prior Investigation/Action
6. Passage of Time
7. Underlying Motivation
8. Anonymous Complaints
9. Requests for Confidentiality
10. Withdrawal of Complaints

MO must reach one of following conclusions:

- (a) That **no action** should be taken in respect of the complaint.
- (b) Referral of the complaint for **investigation**.
- (c) Whether to seek **informal resolution** of the matter.

Where **difference of opinion** between MO and IP, allegation will be **investigated**.



# Investigation

- Where complaint referred for **investigation**:
  - MO appoints **Nominated Officer** to undertake investigation
  - Nominated Officer prepares **investigation report**, copied to both parties and sent to the MO, with a **recommendation** as to whether it is considered that there has been a **breach** of the Code.
- **Conclusion of no breach of Code**
  - MO **receive and review** the report and **consult IP**. If MO satisfied that the report is sufficient, s/he will write to the Complainant and the subject Member notifying them that s/he is satisfied that **no further action** is required.
- **Conclusion of breach of Code**
  - MO will **review** the report and **consult the IP** as to whether **local resolution** may be possible without the need for a hearing.
  - If the matter **can** reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing they will **consult** the IP, with the Complainant and Subject Member, to seek to **agree** a fair resolution, eg apology and/or other remedial action
  - If the Member **complies** with the suggested resolution the matter will be **reported** to the Standards and Governance Committee but **no further action** will be taken.
  - If any suggested resolution is **not agreed**, the matter will be **referred to Hearings Panel** of the Committee for consideration.

# Hearings

- If local resolution is not appropriate or fails, the investigation report goes to a Hearings Panel of 3 Members from the Committee.
- Panel meets to decide whether the Subject Member has failed to comply with the Code and, if so, whether to take any action
- IP will attend and be consulted
- Panel may conclude:
  - a) that the Member **did not fail to comply** with the Code of Conduct;
  - a) that the Member **did fail to comply** with the Code of Conduct; and, if it so concludes, the Panel may determine whether any action is necessary and, if so, what, if any, sanction is appropriate.



# Sanctions

- A Hearings Panel may:
  - issue a letter of **censure** to the Member
  - require an **apology** to be given to the Complainant;
  - **recommend** to the Member's Group Leader that they be **removed** from any or all committees or sub-committees of the Council;
  - instruct the Monitoring Officer to arrange **training** for the Member.
- **No** power to suspend or disqualify or to withdraw allowances.
- Panel consults the IP and decides what, if any, **publicity** should be undertaken eg publish a notice on the Council's website or a press release. Until this point, standards complaints are treated **in confidence**.
- MO prepares a **Decision Notice** which will be given to the Subject Member and the Complainant within 10 working days.
- **No** right of appeal through standards regime.
  - Complainant may make complaint to the **Local Government and Social Care Ombudsman** if dis-satisfied.

# Context: Complaint statistics – 1 April 2023 to date

## 147 formal standards complaints received

### a) 24 – NYC Members

- i. 5 are connected complaints against the same Councillor raised in relation to a particular parish council (also linked to the 10 such connected parish council complaints)
- ii. 1 is connected to 15 related complaints against a particular town council

### b) other 123 - PC/TC members

Page 71

- i. 10 are connected complaints against parish councillors raised by connected complainants in relation to a particular parish council (also linked to the connected 5 NYC complaints mentioned above);
- ii. 47 are connected complaints, brought by the same complainant against members of a particular town council, in relation to connected issues. These 47 cases are linked to another 2 of the 123 parish council complaints
- iii. 15 are connected complaints against members of a particular town Council (also linked to an NYC complaint mentioned above).

## 123 of 147 cases assessed so far:

- i. 100 cases did not merit any further action;
- ii. 5 cases were recommended for informal resolution;
- iii. 17 cases are to be investigated through a total of five Investigations:
  - ♦ One investigation covers related complaints made against 11 town councillors. Only one allegation within the complaints is to be investigated (no action on the other complaint allegations);
  - ♦ one investigation covers related complaints made against two parish councillors;
  - ♦ one investigation covers two related complaints about the same town councillor;
  - ♦ two investigations are in relation to complaints against a single councillor (one an NYC councillor and one a parish councillor).

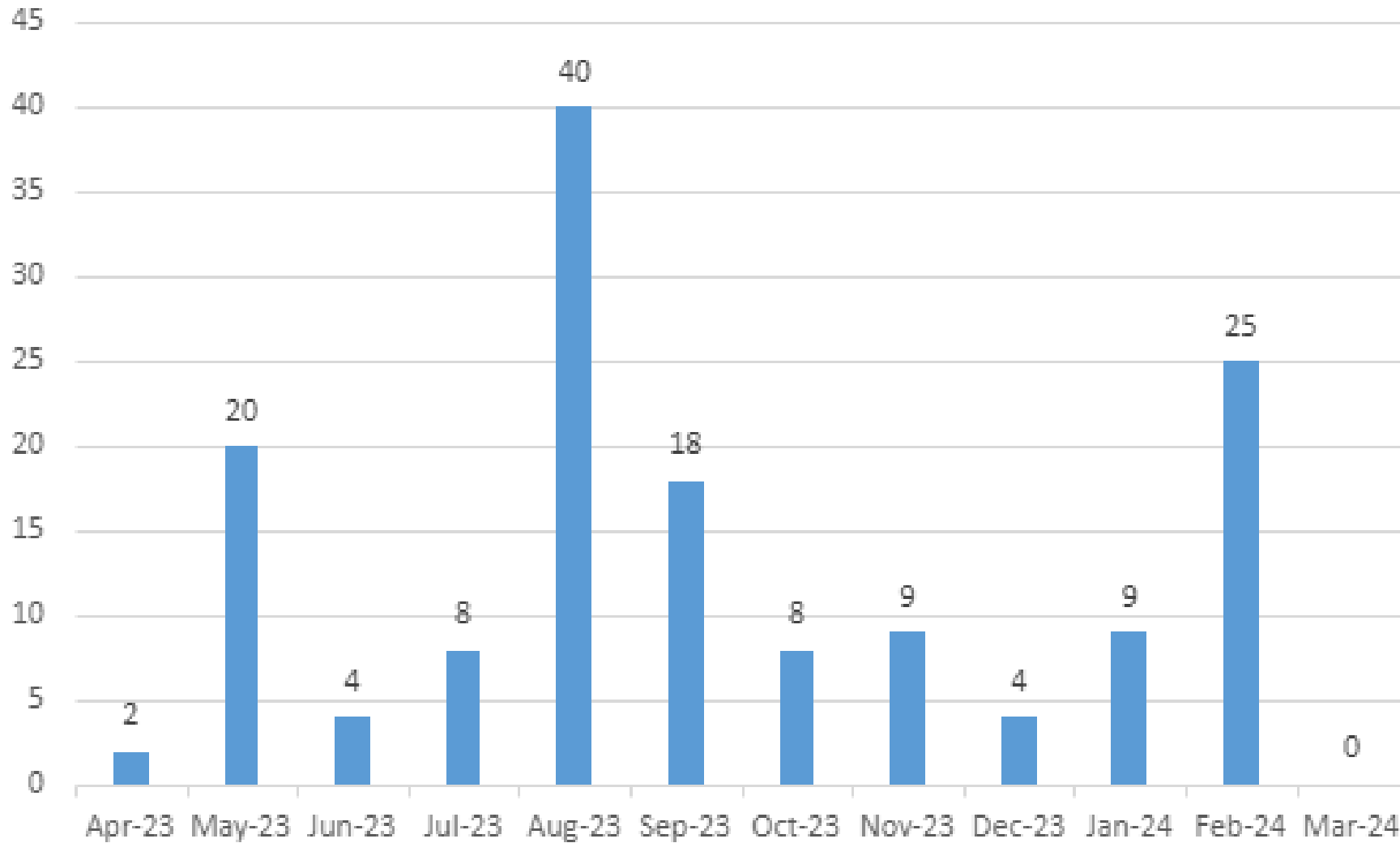
All investigations are currently live.

- iv. One case was not pursued as the subject was no longer a Councillor.
- v. the remainder are in preparatory stages or awaiting assessment

# Context: Complaint themes

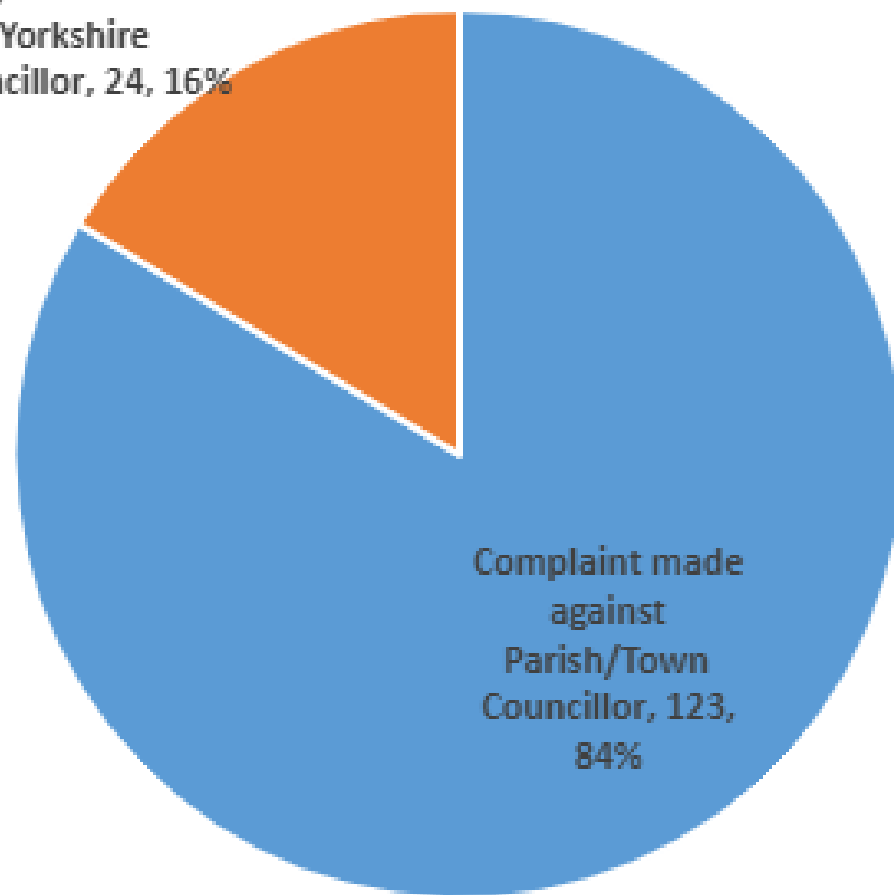
- Communications
  - Lack of response/timely response to complainant
  - Tone of response to complainant – eg lack of respect/civility
  - Terminology used
    - ❖ Swearing
    - ❖ Lack of equality/diversity awareness
  - Comments/posts on social media
  - Comments/behaviour at meetings
- Behaviour – bullying, aggressive, sexist
- Discrimination
- Failure to register/declare interests
- Biased behaviour/closed mind
- Compromising officers' impartiality
- Using position improperly
- Disclosure of confidential information

### Standards Complaints Received by month



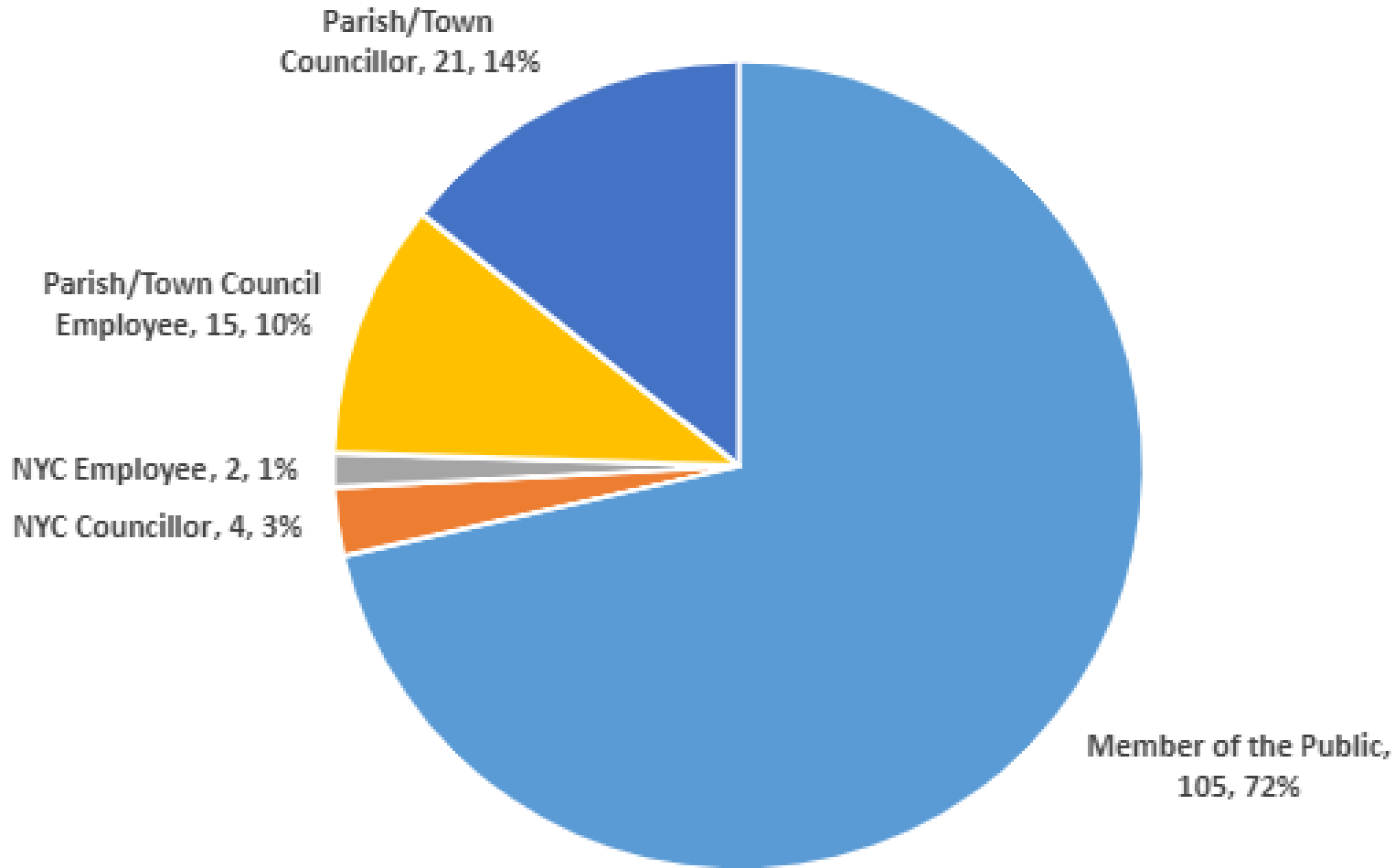
## Comparison of Complaints made against North Yorkshire Councillors and Parish/Town Councillors

Complaint made  
against North  
Yorkshire  
Councillor, 24, 16%

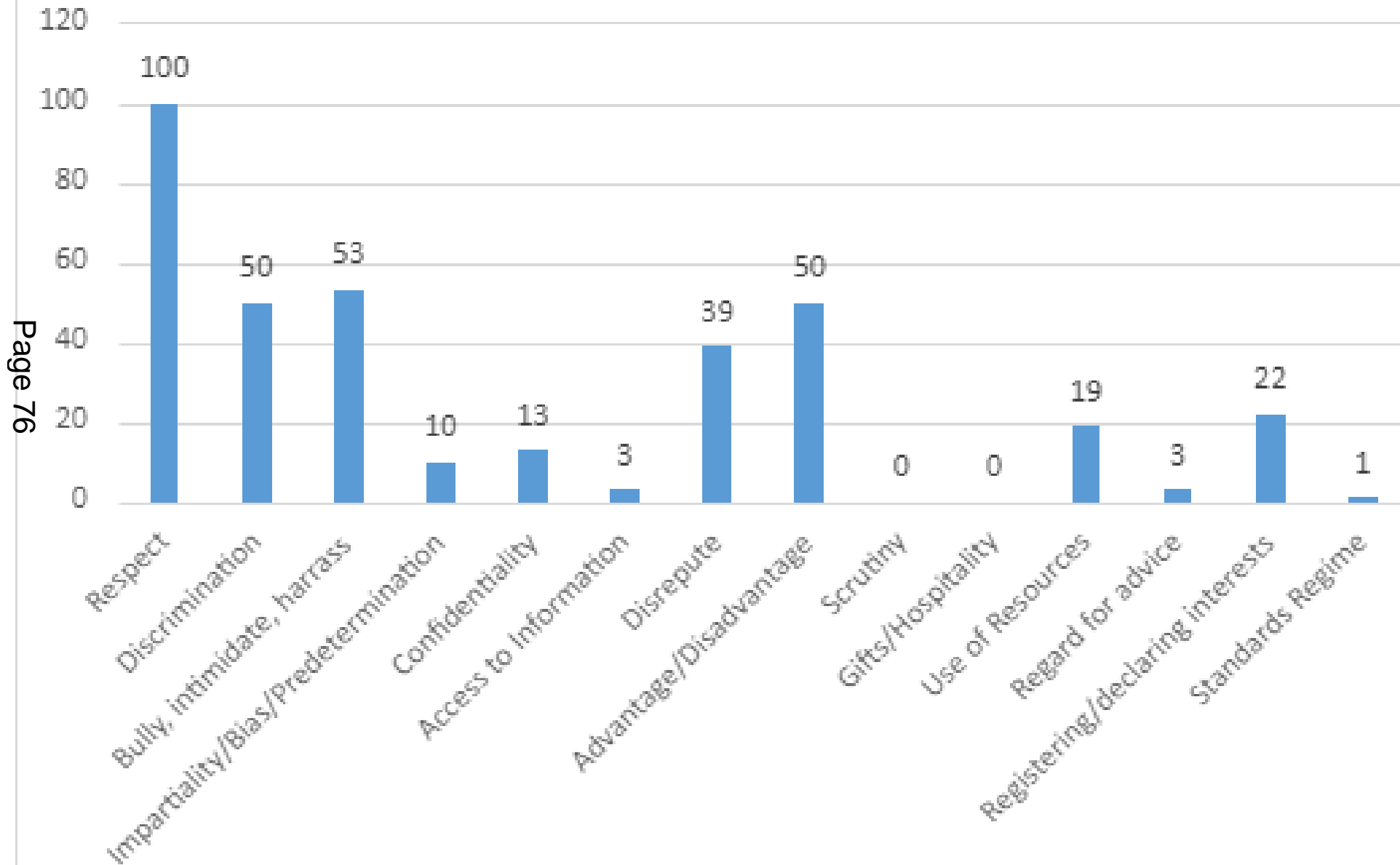


Complaint made  
against  
Parish/Town  
Councillor, 123,  
84%

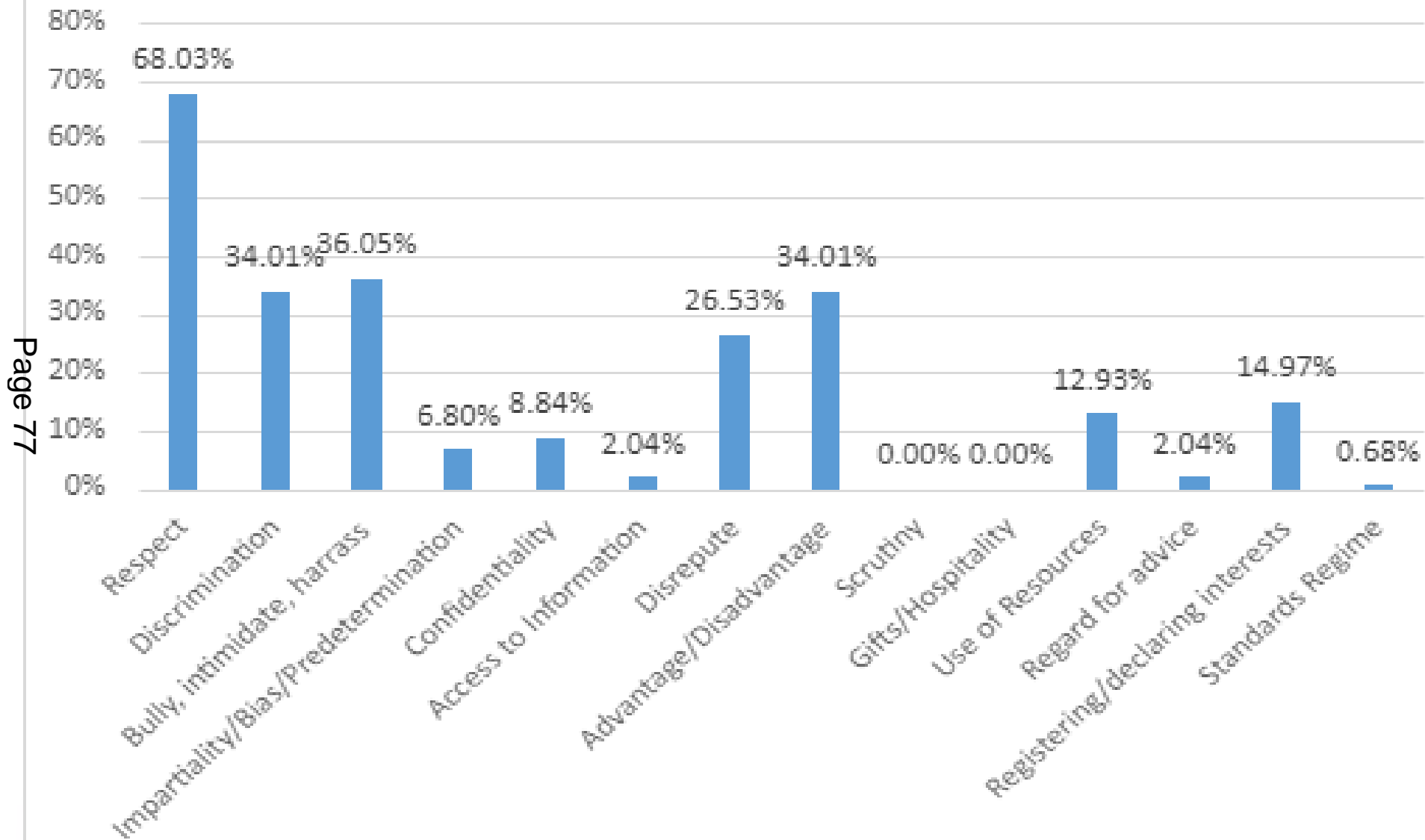
## Complaints by Type of Complainant



## No. of complaints referencing these Code paragraphs

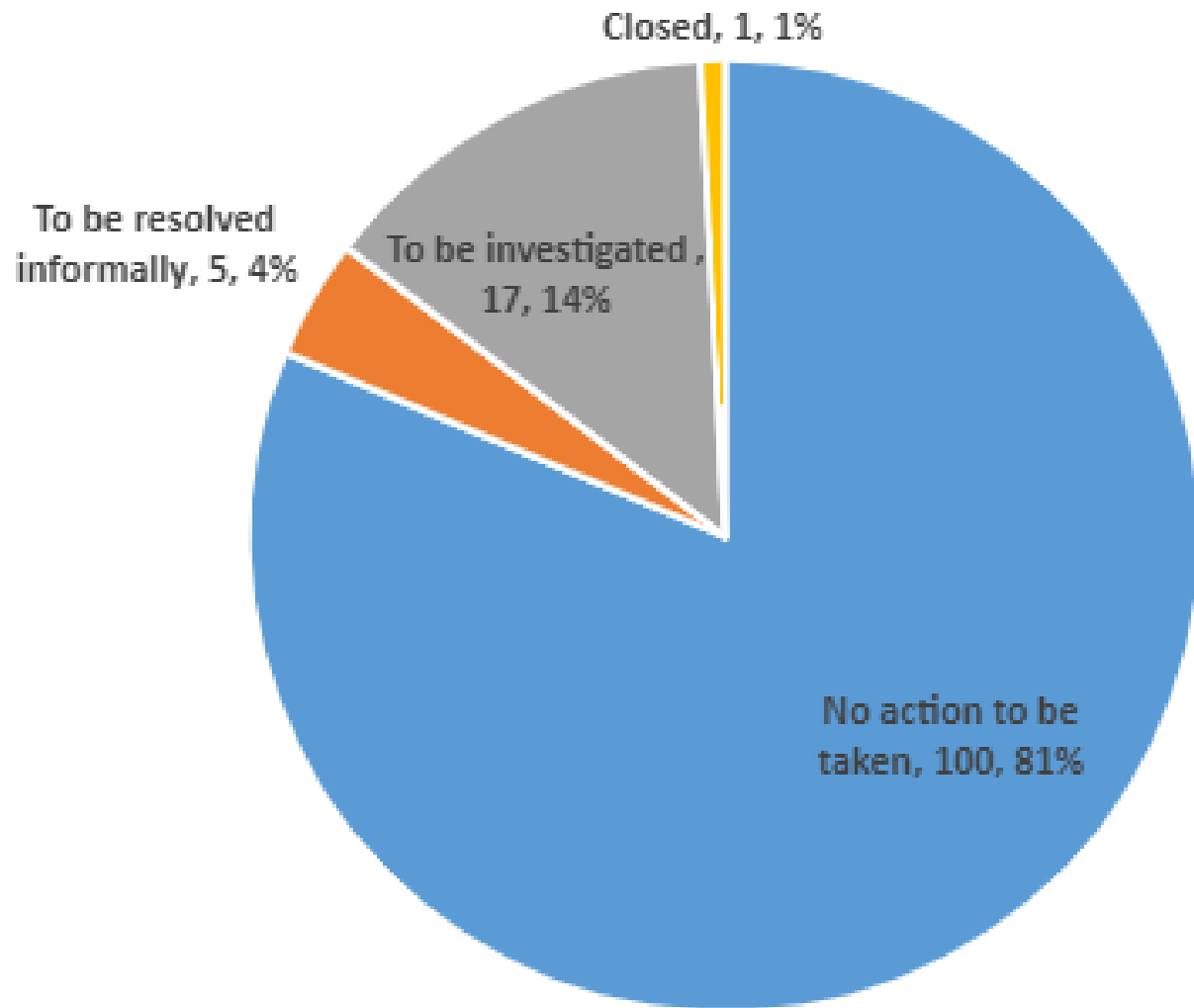


## % of complaints referencing these Code paragraphs

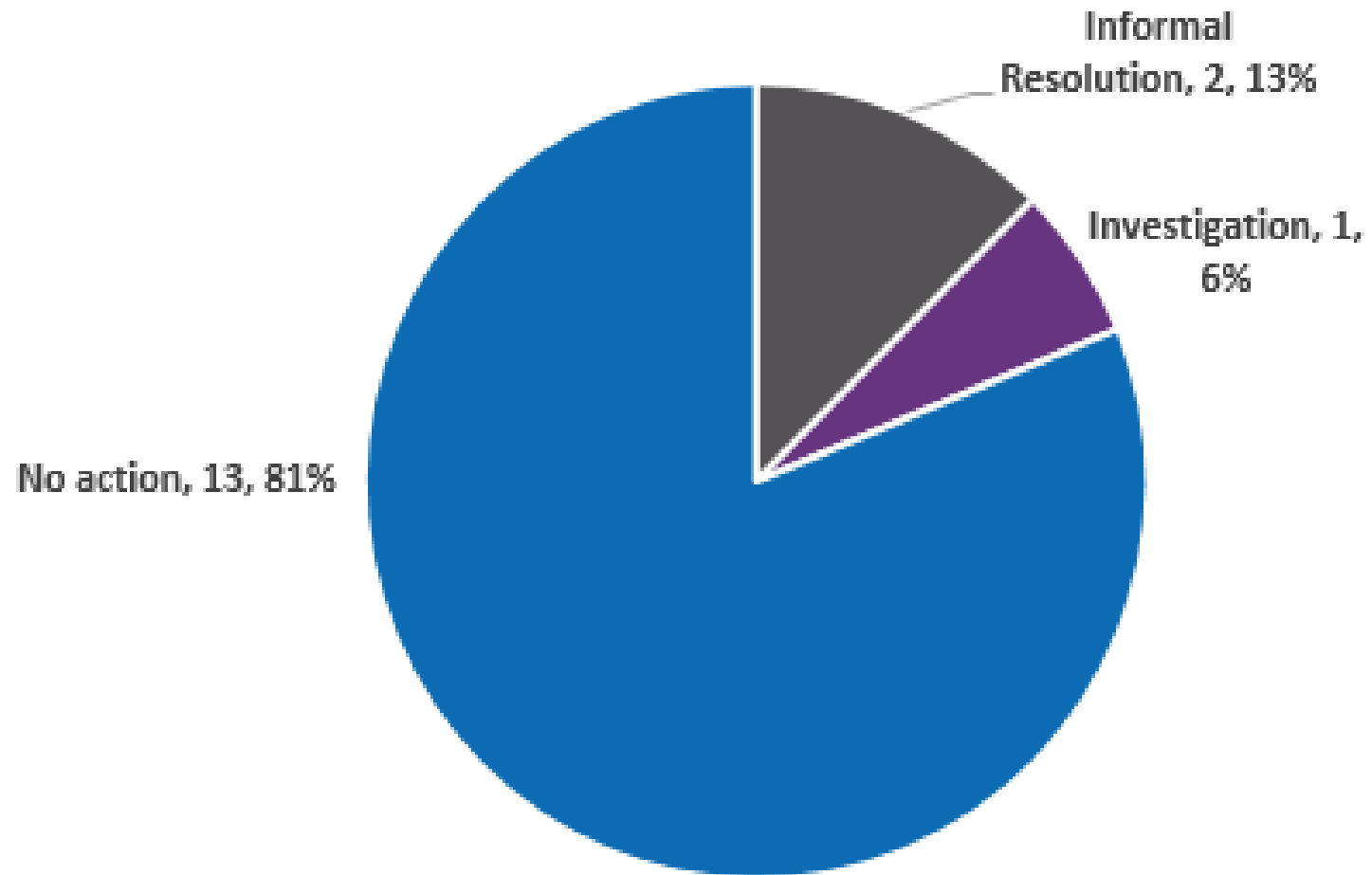




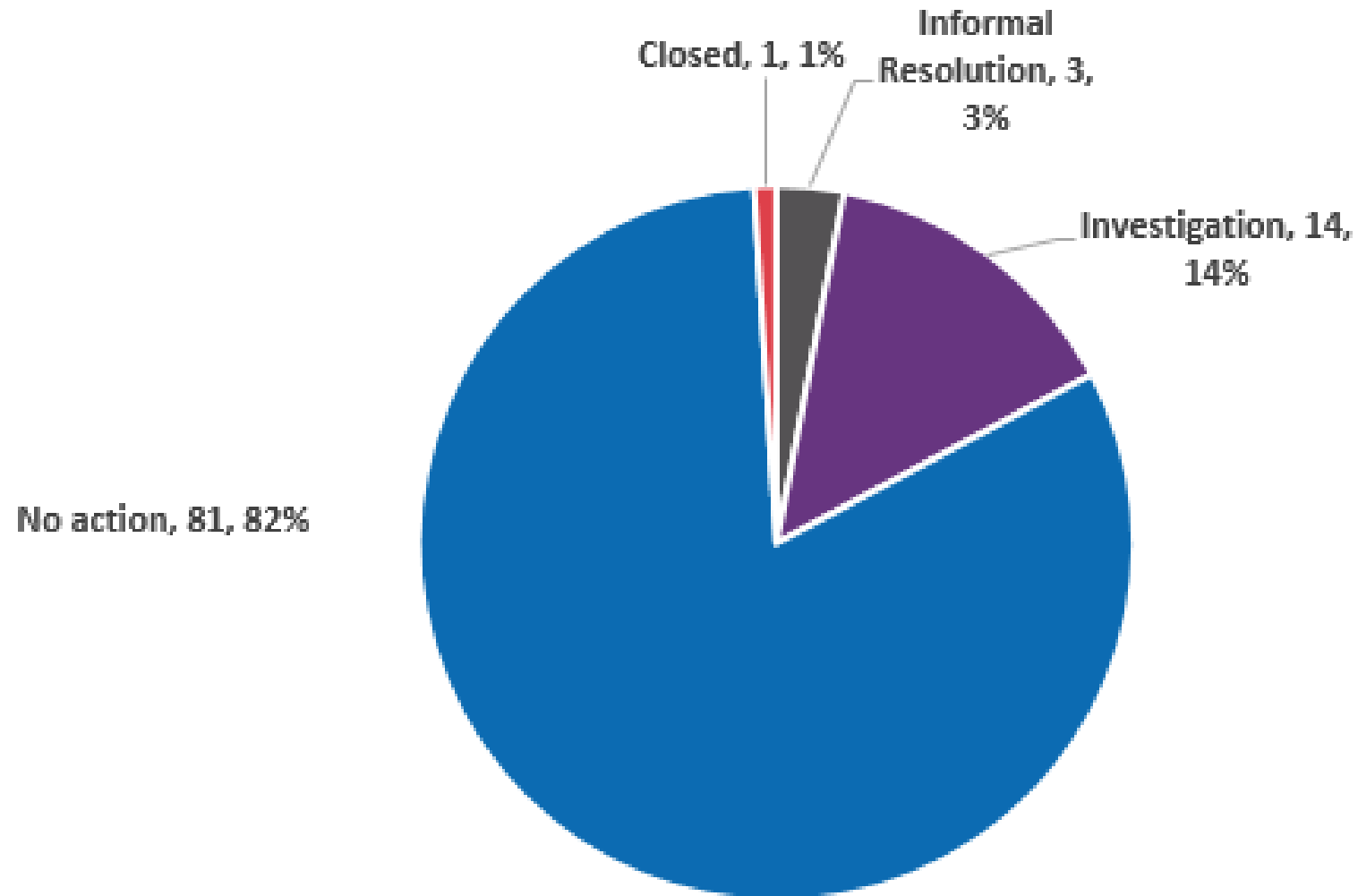
## Complaint Outcome- All Complaints



## Outcomes of Complaints against North Yorkshire Councillors



## Outcomes of Complaints against Town and Parish Councillors



## North Yorkshire Council

### Standards and Governance Committee

15 March 2024

#### Temporary Appointments to Kirby Grindalythe and Duggleby Parish Council

#### Report of the Assistant Chief Executive Legal and Democratic Services

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

- 1.1 To inform 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.

##### **2.0 BACKGROUND**

- 2.1 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.
- 2.2 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.

##### **3.0 REQUIREMENT TO APPOINT MEMBERS TO KIRBY GRINDALYTHE AND DUGGLEBY PARISH COUNCIL**

- 3.1 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.
- 3.2 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.
- 3.3 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. The parish councillors have not been following the legislation and should be disqualified for non-attendance.
- 3.4 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.
- 3.5 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.

- 3.6 As there is currently no proper officer for KGDP, the vacancies arising through non-attendance of the parish councillors must be declared at a council meeting.
- 3.7 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.
- 3.8 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.

#### **4.0 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 To conduct a Community Governance Review and consider options for merging the Parish Council with a neighbouring parish council. This Council covers an electorate of 253 and a Community Governance Review can take up to 12 months to complete.

#### **5.0 FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications.

#### **6.0 LEGAL IMPLICATIONS**

- 6.1 This report has been prepared with the benefit of legal advice as to the process for disqualifying members and appointing temporary members to a parish council.

#### **7.0 EQUALITIES IMPLICATIONS**

- 7.1 There are none.

#### **8.0 CLIMATE CHANGE IMPLICATIONS**

- 8.1 There are none.

#### **9.0 CONCLUSIONS**

- 9.1 By invoking Section 91 of the Local Government Act 1972, Kirby Grindalythe and Duggleby Parish Council can declare the seats vacant leading to notices of casual vacancies. There will then either be an election called or the appointees can co-opt the vacant seats and the appointees can resign from the Parish once the other seats are filled if they wish to do so.

#### **10.0 REASONS FOR RECOMMENDATIONS**

- 10.1 Kirby Grindalythe and Duggleby Parish Council comprises of 7 seats and requires a minimum of 3 seats to be filled to be considered quorate. Due to non-attendance at parish meetings for a period of 6 months, the 3 remaining parish councillors have ceased to be members. Provision needs to be made to enable the vacancies to be declared and also to enable the parish council to conduct business. By placing 3 division member appointees on the Parish Council, it will be quorate and can declare the vacancies and co-opt to the vacant seats so that business can continue.
- 10.2 Whilst legislation does not specify who may be appointed as temporary parish councillors, it is common practice for the elected member of the relevant division of the principal council

to fulfil this role. As more than one appointee is required, neighbouring division members were considered.

#### **11.0 RECOMMENDATIONS**

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 a further division member to be confirmed at the meeting 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.

#### **APPENDICES:**

Appendix A – Order

Barry Khan  
Assistant Chief Executive Legal and Democratic Services  
County Hall  
Northallerton  
*7 March 2024*

Report Author – Jennifer Norton, Assistant Director Legal

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

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Order Made Under Section 91 (1) Of The Local Government Act 1972

Kirby Grindalythe and Duggleby Parish Council (Temporary Appointment of Members) Order 2023

THIS ORDER is made on the fifteenth day of March two thousand and twenty four by

NORTH YORKSHIRE COUNCIL (“THE COUNCIL”).

1. WHEREAS following recent instances of non-attendance at parish meetings of Kirby Grindalythe Parish Council, three persons are required to give a minimum number required for a quorum.

2. Under Section 91 (1) of the Local Government Act 1972, where there are so many vacancies in the office of Parish Councillor that the Parish Council is no longer able to act, North Yorkshire Council may, by order, appoint persons to fill all or any of the vacancies until other Councillors are co-opted or elected to take office.

NOW in pursuance of the Power conferred upon it by Section 91 (1) of the Local Government Act 1972, the Council hereby appoints the following persons to act as Members of Kirby Grindalythe Parish Council until an election has been held or new Councillors have been co-opted to fill such vacancies as shall constitute and re-establish a quorum on the Parish Council whereupon such appointments and this Order shall cease:

- Councillor Nigel Knapton (Councillor for Easingwold Division)
- Councillor Janet Sanderson (Councillor for Thornton Dale and Wolds Division)
- Councillor XXX (Councillor for XXX Division)

The COMMON SEAL of North Yorkshire Council was hereunto affixed in the presence of:

.....

Authorised Signatory



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## North Yorkshire Council

### Standards and Governance Committee

15 March 2024

#### Community Governance Review of Dishforth Parish

#### Report of the Assistant Chief Executive Legal and Democratic Services

##### 1.0 PURPOSE OF REPORT

- 1.1 To update 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.

##### 2.0 THE REPORT

- 2.1 At its meeting held on 13 December 2024 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.
- 2.2 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.
- 2.3 Under the protocol authority was delegated to the Assistant Chief Executive Legal and Democratic Services in consultation with the Executive Member for Corporate Services to determine if requests for CGRs should be treated as urgent. Correspondence from the parish clerk to the ACE LDS explained that the parish council was finding it difficult to hold quorate meetings due to the personal circumstances of various parish councillors and requested an increase in the number of parish councillors to ensure that quoracy could be achieved. Consequently the ACE LDS and Executive Member had agreed that the request be treated as urgent. Treating the request as urgent means a CGR would take place straight away, rather than being held over until after the boundary review.
- 2.4 An extract from the minutes of the meeting of Dishforth Parish Council held on 25 July 2023 was included in the report to the Committee on 13 December:

**8.f To inform the members concerning the increase in parish councillors. The request is hoping to be considered at NYC's Standard and Governance meeting in September.**

Cllr Sturzaker requested an increase in parish councillors. Cllr Sturzaker highlighted the increase in parishioners due to the new developments and also with having only 5 councillors at present due to holidays, etc. there could be times when the council maybe inquorate. Cllr Sturzaker suggested an increase to either 7 or 8 councillors. Resolved -The council approved the request for Dishforth Parish Council to be increased to 8 councillors. The clerk to contact NYC to request the increase.

2.5 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.”

2.6 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.

2.7 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.

2.8 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.

2.9 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.

### **3.0 FINANCIAL IMPLICATIONS**

3.1 There is no budget within Legal and Democratic Services for carrying out Community Governance Reviews. Any expenses incurred are likely to be in relation to the consultation process.

3.2 Should a CGR be undertaken, and it conclude that there be changes to the electoral arrangements a by-election would need to take place for the parish council in May 2025. The by-election would cost approximately £3,200 and would be recharged to the parish council.

### **4.0 LEGAL IMPLICATIONS**

4.1 The Local Government and Public Involvement in Health Act 2007 gives principal councils the responsibility for carrying out Community Governance Reviews in their areas. The Act gives councils the powers in relation to the following:

- Creating, merging, altering or abolishing parishes;
- The naming of parishes;
- The electoral arrangement for parishes (including the ordinary year of election; council size; the number of councillors to be elected to the Council and parish warding);
- Grouping or de-grouping parishes

### **5.0 EQUALITIES IMPLICATIONS**

5.1 If a CGR was agreed the public consultation will be undertaken in such a way as to ensure that a broad range of responses are obtained and no groups are excluded. An Equality Impact Assessment screening form was included as an appendix to the 13 December 2024 report..

## **6.0 CLIMATE CHANGE IMPLICATIONS**

6.1 None

## **7.0 CONCLUSIONS**

7.1 Following the Committee's earlier decision to commence an urgent community governance review of Dishforth Parish Council two casual vacancies have arisen and the parish council is now in a position co-opt new parish councillors. This should resolve the earlier issues of inquorate meetings and means there is no longer the same urgency to undertake a CGR.

## **8.0 RECOMMENDATIONS**

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 that they consider whether any recommendations to full Council in this respect are still required.

### **APPENDICES:**

None

### **BACKGROUND DOCUMENTS:**

[Report - Decision on whether to proceed with a Community Governance Review of Dishforth Parish - Standards and Governance Committee - 13 December 2024](#)

*Barry Khan*  
Assistant Chief Executive Legal and Democratic Services  
County Hall  
Northallerton  
7 March 2024

Report Author – *Elizabeth Jackson, Principal Democratic Services Officer*

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

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NORTH YORKSHIRE COUNCIL  
STANDARDS AND GOVERNANCE COMMITTEE

15 March 2024

**Standards Bulletin**

**1.0 PURPOSE OF REPORT**

1.1 To present to the Committee, for consideration, a draft Standards Bulletin.

**2.0 BACKGROUND**

2.1 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.

2.2 The production of the Standards Bulletin helps to maintain the Council's statutory duty to promote and maintain high standards of conduct.

**3.0 THE STANDARDS BULLETIN**

3.1 The latest draft edition of the Bulletin is attached at **Appendix 1** to this report.

3.2 The Committee is requested to consider the Bulletin with a view to its subsequent circulation to Members and Officers and publication on the Council's website. The Bulletin is also circulated to certain other authorities at their request.

**4.0 FINANCIAL IMPLICATIONS**

4.1 There are no significant financial implications arising from this report.

**5.0 LEGAL IMPLICATIONS**

5.1 There are no significant legal implications arising from this report.

**6.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

6.1 There are no significant environmental/climate change implications arising from this report.

**7.0 EQUALITIES IMPLICATIONS**

7.1 There are no significant equalities implications arising from this report

**8.0 RECOMMENDATIONS**

8.1 That, subject to any comments Members may have, the Bulletin be updated as necessary following the outcome of the Committee's meeting and approved for circulation.

BARRY KHAN  
Assistant Chief Executive Legal and Democratic Services and Monitoring Officer

Background Documents: None

County Hall  
NORTHALLERTON

27 February 2024

## The Standards and Governance Committee

The Members of the Committee:

- **Councillor Nick Brown**
- **Councillor Sam Cross**
- **Councillor Melanie Davis**
- **Councillor David Ireton**
- **Councillor Nigel Knapton**
- **Councillor Clive Pearson**
- **Councillor Heather Phillips**
- **Councillor Monika Slater**
- **Councillor Andy Solloway**
- **Councillor Peter Wilkinson**

## Independent Persons for Standards

- **Ms Gill Baker**
- **Mrs Hilary Gilbertson MBE**
- **Mrs Louise Holroyd**
- **Mr Roy Martin**
- **Mr James Nelson**
- **Ms Richinda Taylor**

## Officers

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## Introduction

This edition of the Standards Bulletin for North Yorkshire Council sets out the latest developments in the national standards regime, particularly in relation to the work by the Committee on Standards in Public Life and the Local Government Association.

Members will continue be kept informed of all ethical framework developments.

Should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of his Team.

### Councillor Clive Pearson

Chair of the Standards and Governance Committee

## In this issue:

- Members' expenses
- Interests' regime
- Sensitive Interests
- Bias, Predetermination, Predisposition
- Members' Gifts and Hospitality
- Social media and the Members' Code of Conduct
- Online Safety Act 2023
- LGA: Handling online abuse and intimidation
- CSPL Lobbying Seminar, Summary Note
- CSPL – Local Government Standards
- Complaint statistics
- Cases



# STANDING GUIDANCE FOR MEMBERS

## Members' Expenses

Members are reminded to include sufficient details in their expense claims and to submit them in a timely manner to avoid submitting multiple claims at the same time where possible.

Members should have regard to the current **Scheme of Approved Duties** and the **Protocol on Members' Attendance at Conferences** published in Part 6 of the Constitution, published on the Council website at [Decision Making at the Council | North Yorkshire Council](#)

## Interests' Regime

Under the Council's Code of Conduct for Members ([Councillors' code of conduct | North Yorkshire Council](#)), the following interests' regime now applies.

### Registration of Interests

Members must register the following interests within 28 days of election/appointment:

- **Disclosable pecuniary interests** (DPIs) of the Member and their partner and
- **Other registrable interests** (ORIs) of the Member

and keep their interests under review, registering any changes within 28 days.

A pecuniary interest is a DPI if it is of a description specified in regulations ie

- **Employment, office, trade, profession or vocation (for profit or gain)**
- **Sponsorship**
- **Contracts**
- **Land**
- **Licenses**
- **Corporate tenancies**
- **Securities**

(please see the Code for the detailed descriptions)

**And either:**

(a) it is the Member's interest or

(b) an interest of—

- the Member's spouse or civil partner
- a person with whom the Member is living as husband and wife, or
- a person with whom the Member is living as if they were civil partners

**And** the Member is aware of the interest.

Other Registrable interests (ORIs) are:

### 1. Unpaid directorships

2. Any body of which you are a member or are in a position of general control or management **and** to which you are nominated or appointed by your authority

### 3. Any body:

- i. exercising functions of a public nature
- ii. directed to charitable purposes or
- iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union/professional association)

**of which you are a member or in a position of general control or management.**

The Register of Members' Interests is maintained by the Monitoring Officer and is generally available for public inspection during office hours at County Hall, Northallerton. It is published on the Council's website (as required by the Localism Act 2011) - [Your Councillors | North Yorkshire Council](#)

**Members must, within 28 days of becoming aware of a new interest or a change to an existing interest, register the necessary details electronically via the ModGov committee software system.**

### Participation re Interests

#### **Disclosable Pecuniary Interests (DPIs)**

A Member may not participate in the discussion of, or vote on, Council business *directly relating*

to a DPI and must declare the existence and nature of the interest and withdraw from the meeting room at the start of the item (unless a dispensation is granted).

### Other Registrable Interests (ORIs)

Where a matter arises at a meeting which *directly relates* to the financial interest or wellbeing of one of the Member's ORIs, then the Member must declare the existence and nature of the interest, can speak on the matter if the public can and then must withdraw from the meeting room (unless a dispensation is granted).

### Non-Registrable Interests (NRIs)

These are interests which are not required to be registered in the Register of Members' Interests (ie interests other than DPIs and ORIs):-

- (i) which *directly relate* to the Member's financial interest or well-being, or that of a relative or close associate (of which the Member could reasonably be expected to be aware); or
- (ii) which *affect* the Member's financial interest or well-being or that of a relative or close associate or of a body included under Other Registrable Interests (of which the Member could reasonably be expected to be aware).

For NRIs falling under category (i) above, the Member must declare the existence and nature of the interest, can speak on the matter if the public can and then must withdraw from the meeting room (unless a dispensation is granted).

For NRIs falling under category (ii) above, the Member must declare the existence and nature of the interest, and then consider the 'prejudicial interest' test to determine if and how they may participate:

- Where the matter affects the financial interest or wellbeing more than it affects that of the majority of inhabitants of the ward affected and a reasonable member of the public knowing all the facts would believe that it would affect the Member's view of the wider public interest, then the Member can speak if the public can, but must not take part in any

discussion/vote and must leave room (unless a dispensation is granted);

- Where the matter does not so affect the financial interest or wellbeing, then the Member may speak and vote in usual way.

If a **dispensation** is granted to a Member, the Member must still **declare** the existence and nature of the interest and the fact they are relying on a dispensation to the meeting.

### What is the difference between 'relates to' and 'affects'?

Something 'relates to' a Member's interest if it is directly about it, eg the matter being discussed is an application about a particular property in which the Member or somebody associated with them or an outside body they have registered has a financial interest.

'Affects' means the matter is not directly about that interest but nevertheless the matter has clear implications for the interest – for example, it is a planning application for a neighbouring property which will result in it overshadowing the Member's property. An interest can of course affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, an interest would need to be declared in both situations.

#### Please note:

A Member commits a **criminal offence** if, without reasonable excuse, they —

- fail to:
  - ❖ register disclosable pecuniary interests
  - ❖ disclose an interest to a meeting where required
  - ❖ notify the Monitoring Officer of an interest disclosed to a meeting
- participate in any discussion or vote where prohibited
- an individual Member decision taker takes any steps in relation to a matter where prohibited

A Member also commits a **criminal offence** if, in relation to the registration/disclosure of

disclosable pecuniary interests, they provide information that is false or misleading and —

- know that the information is false or misleading, or
- are reckless as to whether the information is true and not misleading.

A court may also disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

**Please therefore keep your interests form under review** to ensure it is up to date.

**Interests' issues are ultimately Members' responsibility.**

**NB: Even if something is not a Code issue, always bear in mind the rules relating to bias, predetermination and predisposition.**

If you are in any doubt as to your position, please contact the Monitoring Officer or any of his team.

## Sensitive Interests

You do not need to register or declare the details of an interest which you and the Monitoring Officer have agreed is sensitive.

A “sensitive interest” is any interest (whether or not a disclosable pecuniary interest) where **disclosure of the details could lead to you, or a person connected with you, being subject to violence or intimidation.**

The existence of an interest must still be registered/declared but not any detail in relation to it.

**Should you feel that any of your interests are sensitive given any prevailing circumstances, please contact the Monitoring Officer immediately to discuss.**

## Bias, Predetermination, Predisposition

Members involved in making a decision on particular business must always bear in mind

the rules relating to **bias and predetermination** and must not participate in, or seek to influence, Council business where their interests may prejudice, or appear to prejudice, their views.

**Predetermination** occurs *where a fair minded and well informed observer, looking objectively at all the circumstances, considers there is a real risk that a decision maker has refused to consider a relevant argument or would refuse.*

Possible examples of bias or predetermination are:

- connection with someone affected by a decision;
- improper involvement of someone with an interest in the outcome;
- prior involvement in a matter;
- commenting before a decision is made.

However, the Localism Act 2011 makes it clear that a Member is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because they had previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter; this would amount to **predisposition** to a view and is acceptable. This ensures that Members can freely discuss issues, including expressing a view and/or campaigning on an issue, and then later speak or vote on those issues.

**Unless there is positive evidence of a closed mind, prior observations or apparent favouring of a particular decision is unlikely to suffice as predetermination.**

**Members are entitled to have and express their own views, as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.**

## Members' Gifts and Hospitality

Members' gifts and hospitality are recorded with their Register of Interests, electronically via the ModGov committee software system.

Under the Council's Code of Conduct, you should not accept gifts/hospitality, of any value, which could create an impression of obligation upon you or the Council or substantive personal

gain or propensity to show favour. You should inform the Monitoring Officer of any such offers.

Otherwise, you should register any gifts/hospitality received or offered worth £25 or more.

Should you have any queries in relation to the registration of any gifts or hospitality received/offered, then please feel free to contact the Monitoring Officer or any of his team.

## **Social media and the Members' Code of Conduct**

Social media is an important means of communication and engagement, however the use of social media frequently features in many of the standards complaints received by the Monitoring Officer.

Aspects of the Members' Code of Conduct will apply to your online activity, as in other communications, if you are, or appear to be, acting in your capacity as a councillor, rather than a private individual. The same standards of conduct apply online as would be expected offline.

The key issue is whether you are acting in your official capacity as a councillor when using your social media platforms. Be clear as to the capacity in which you are posting, official or private.

Use of the title "Councillor" may give rise to an inference that you are acting in your official capacity, when the Code can be engaged.

If you publish information you can only access as a Member, you are likely to be viewed as acting in your official capacity.

"...These are ordinary descriptive English words. Their application is inevitably fact sensitive and so whether or not a person is so acting inevitably calls for informed judgment by reference to the facts of a given case. This also means that there is the potential for two decision makers, both taking the correct approach, to reach different decisions..."

You may wish to set up different social media accounts for your private life and councillor role to maintain professional boundaries.

You are personally responsible for the content you publish on social media, in the same way that you are responsible for letters or emails you send. It is less formal but is still a form of communication and posts can be capable of being misunderstood - the immediacy of social media can magnify this problem.

Being misunderstood is likely to lead to rapid and wide broadcasting (particularly with something perceived as being more controversial than was intended) almost instantly.

Be approachable, polite and respectful in your language and tone. Irony and sarcasm are very difficult to convey in writing and therefore should be avoided, as should profanity.

North Yorkshire Council has a Social Media Policy available on the Council's Intranet, which Members may find helpful.

Members should ensure that they are familiar with the provisions and that they do not put the Council's systems and information at risk, or be damaging to the reputation of the Council or the office of Member.

## **LATEST NEWS**

### **Online Safety Act 2023**

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 Online Safety Act 2023 ([Online Safety Act 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/2023/12)) received Royal Assent on 26 October 2023 and the majority of its provisions have been brought into force via three sets of Commencement Regulations.

The Act aims to address illegal and harmful content online and provides for a new regulatory framework which has the general purpose of making the use of internet services regulated by



the Act safer for individuals, particularly children, in the UK. The Act also introduces new criminal offences and creates Ofcom as the regulator for online safety, granting it new powers including those required to enforce the framework.

Ofcom has set out its plans for implementing the Act on its website - [Ofcom's approach to implementing the Online Safety Act - Ofcom](#).

The Department for Science, Innovation & Technology published an Online Circular regarding certain provisions of the Act, particularly new criminal offences. Details can be found here - [Online Safety Act: new criminal offences circular - GOV.UK \(www.gov.uk\)](#).

Further information can be found here - [UK children and adults to be safer online as world-leading bill becomes law - GOV.UK \(www.gov.uk\)](#).

## **LGA: Handling online abuse and intimidation**

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.

## **CSPL – Lobbying Seminar, Summary Note**

As part of its watching brief on such issues, the Committee on Standards in Public Life (CSPL) held a seminar on 21 September 2023 to look at lobbying and transparency and how the currently lobbying rules are working in practice. The CSPL has produced a note of the themes discussed at the seminar. Further information is available here:

[Committee on Standards in Public Life - Lobbying Seminar, Summary Note - GOV.UK \(www.gov.uk\)](#)

[2023-09-21 Lobbying Seminar Summary Note \(publishing.service.gov.uk\)](#)

## **CSPL – Local Government Standards**

In October 2023, the outgoing Chair of the Committee on Standards in Public Life, Lord Evans, at the end of his five year term, stated that there is "still a major problem" regarding local government standards and reiterated the CSPL's disappointment that the Government's response to their 2019 report on Local Government Standards had taken three years and rejected the CSPL's recommendations.

Lord Evans highlighted gaps in the standards regime and how he feels these need to be addressed going forwards, particularly in terms of compliance systems, development of an underpinning ethical culture within organisations and that there are appropriate consequences if standards are not met. He also recognised the serious problem of the abuse and intimidation of those in public life.

A transcript of the speech can be accessed here - [2023-10-17 Final IfG speech as delivered.docx \(publishing.service.gov.uk\)](#).

On 22 December 2023 the CSPL's newly appointed Chair, Doug Chalmers, published a statement on his appointment, in which he states that:

"The Nolan Principles are a well embedded cornerstone of public life in this country but they cannot be taken for granted. They take constant energy if they are to be meaningful. I look forward to working with all those who play a part in helping to maintain the high standards expected by the public of those that serve them.

As I start my five year term, I will endeavour to continue the Committee's reputation for carefully researched reports that make sound arguments to assist those in public life retain high ethical standards. We will be announcing the Committee's future work programme in the New Year."

He also reiterated that standards processes should be frequently reviewed. The full statement can be viewed here - [Introducing our new Chair, Doug Chalmers - Committee on Standards in Public Life \(blog.gov.uk\)](#).

## NYC STANDARDS COMPLAINT STATISTICS

The Standards and Governance Committee monitors complaints raised with the Monitoring Officer under the standards regime.

As well as considering complaints that a member of North Yorkshire Council may have breached the Members' Code of Conduct, 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 therefore also 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 council has or has not done something, or about particular parish council decisions

For the year 1 April 2023 to date, the Council has received **146 complaints** that members may have breached the relevant authority's code of conduct for members.

- 24 cases relate to NYC Members;
  - 5 are connected in relation to a particular parish council;
- 122 cases relate to members of town/parish councils;
  - 47 are connected complaints, brought by the same complainant in relation to a particular town council;
  - 14 are connected complaints, brought by the same complainant in relation to a particular town council;
- 123 cases have been assessed by the Monitoring Officer in consultation with the Independent Person for Standards and of those assessed cases:
  - 100 cases did not merit any further action;

- 5 cases were to be resolved informally;
- 1 case was not pursued;
- 17 cases are to be investigated:
  - ❖ 11 of those cases are connected and only one allegation within the complaints is to be investigated (no action on the other complaint allegations);
  - ❖ 2 further cases are connected;
  - ❖ 2 further cases are connected;
- the remainder of the complaints are in preparatory stages or awaiting assessment by the Monitoring Officer in consultation with the Independent Person for Standards.

Members will be kept informed of statistical information in relation to standards complaints received.

## NATIONAL CASES

The Local Government Lawyer website recently reported on the following cases:

- It was alleged that a councillor in Wales, who attended a council meeting and voted remotely whilst driving, had breached the Code by bringing his office/authority into disrepute. The Public Services Ombudsman for Wales considered that the councillor's behaviour had the potential to bring the council into disrepute but no action was needed: the councillor did not repeat his actions and appeared to have learned from the complaint. Further action would not be in the public interest given the lack of a criminal investigation.
- The First-Tier Tribunal General Regulatory Chamber (Information Rights) found that a councillor was able to withhold disclosure of his declarations of interests regarding land and property ownership under section 44 of the Freedom of Information Act 2000, as amended. The Council had initially refused disclosure under section 40(2) of the Act. The Tribunal was satisfied that as the councillor and Monitoring Officer had agreed the interests were sensitive interests under section 32 of the Localism Act 2011, and the discretion to not publish the information

in the register of interests had been exercised, this therefore engaged the exemption in section 44 of the Freedom of Information Act.

- Following a standards investigation regarding disclosure of personal information, a councillor, the mayor, was found to have breached the code's disrepute and civility provisions. The breach regarding civility related to the councillor's relationship with an ex-employee who was involved in the bullying culture allegations, which the investigator found the councillor must have known about and could lead to the conclusion that the councillor was potentially supportive of the behaviour. The councillor was also found to have brought the authority into disrepute through WhatsApp messages he had with an ex-employee regarding human resources matters, when he should have intervened to stop such inappropriate discussions. The investigator found that the failure to intervene showed a lack of respect and damaged the reputation of the office of mayor. The councillor apologised.

Other cases:

- Allegations have been made that three councillors made offensive comments about children with special educational needs at a meeting, such as that they were "just really badly behaved", questioning whether "there was something in the water" increasing special needs cases and parents

swapping diagnosis tips on social media. The councillors have apologised and the council is undertaking an investigation.

- The deputy leader of a council pleaded not guilty, and subsequently guilty, to two charges of failing without reasonable excuse to notify a DPI when he was re-elected in 2019 and 2021. It concerned a £70k loan he made to a friend, a fellow councillor (X) in 2018. X used the money to purchase a property and registered her legal ownership, however the deputy leader failed to register his interest as a beneficial interest. He was fined £2,400. The court noted that whilst the deputy leader had received no obvious benefit through non-disclosure of his interest, the offences were serious, although more serious instances of non-disclosure could occur if there was a benefit to the councillor.

#### **Resources**

Localism Act 2011 and subordinate legislation.

[www.gov.uk/government/organisations/the-committee-on-standards-in-public-life](http://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life)

Information published on [www.gov.uk](http://www.gov.uk)

Local Government Lawyer website

BBC news website

Local Government & Social Care Ombudsman website

## NORTH YORKSHIRE COUNCIL

### STANDARDS AND GOVERNANCE COMMITTEE

15 March 2024

#### **Standards and Governance Committee Work Programme**

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

1.1 To present to the Committee, for consideration, a draft forward Work Programme.

##### **2.0 BACKGROUND**

2.1 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.

2.2 The Programme could be a standing item on each scheduled ordinary meeting of the Committee and keep track of matters that the Committee wishes to consider/review.

2.3 The Committee has three scheduled ordinary meetings each year, but other meetings are convened as required given the Committee's expanded role in relation to other governance functions including:

- elections
- making temporary appointments to parish and town councils
- making recommendations to Council in respect of community governance reviews
- recommending to Council the conferring of the title of Honorary Alderman or Alderwoman
- recommending to Council the opposition or approval of local or personal Bills.

##### **3.0 WORK PROGRAMME**

3.1 A draft Work Programme to aid Members' consideration of whether they would wish to consider implementing such a measure, is attached at **Appendix 1** to this report.

3.2 Members are requested to consider the draft Work Programme and determine whether they would wish to implement a Programme and, if so, whether they would wish to make any changes or include any other items to the draft Programme.

##### **4.0 FINANCIAL IMPLICATIONS**

4.1 There are no financial implications arising from this report.

##### **5.0 LEGAL IMPLICATIONS**

5.1 There are no legal implications arising from this report.

##### **6.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**



6.1 There are no environmental/climate change implications arising from this report.

**7.0 EQUALITIES IMPLICATIONS**

7.1 There are no equalities implications arising from this report

**8.0 RECOMMENDATIONS**

8.1 That Members determine whether they would wish to implement the forward Work Programme for the Committee and, if so, whether they would wish to make any amendments to the draft Programme at **Appendix 1**.

BARRY KHAN

Assistant Chief Executive Legal and Democratic Services and Monitoring Officer

Background Documents:

Standards and Governance Committee minutes for 2023/24

County Hall  
NORTHALLERTON

1 March 2024

**WORK PROGRAMME FOR STANDARDS AND GOVERNANCE COMMITTEE – 2024/25**

\* standing items for each scheduled ordinary meeting of the Committee

MEETING	AGENDA ITEM	REPORT REQUIRED	PROGRESS
15 March 2024	* Local Ethical Framework Developments	Standing report by Monitoring Officer regarding latest developments in national ethical framework.	Report to be presented to meeting.
	* Complaints Update	Standing report by Monitoring Officer in relation to complaints received of a potential breach of the relevant Members' Code of Conduct by Members and voting co-opted Members of North Yorkshire Council and town and parish councils in North Yorkshire.	Report to be presented to meeting.
	Brief presentation to Committee re complaint handling by Deputy Monitoring Officer	Brief powerpoint presentation by Deputy Monitoring Officer to accompany the Complaints Update	Presentation to be made at meeting.
	* Standards Bulletin	Standing report by Monitoring Officer presenting draft Standards Bulletin for approval for circulation.	Report to be presented to meeting.
	Work Programme for 2024/25	Report by Monitoring Officer setting out suggested draft programme of work for 2024 for Members' consideration.  If approved, a standing report re review of Work Programme set will be considered at each meeting.	Report to be presented to meeting.
	Protocol re relationship between code of conduct complaints and local authority grievance procedures	Report by Deputy Monitoring Officer presenting a draft Protocol for Members' consideration.	Report to be presented to meeting.
	Review of standards complaints process	Report by Monitoring Officer regarding a review of the standards complaint handling process and whether any amendments are required.	Report to be presented to meeting.
	Annual Report of the Standards and Governance Committee	Report by Monitoring Officer presenting a draft Annual Report for Members' consideration and approval.	Report to be presented to meeting.

MEETING	AGENDA ITEM	REPORT REQUIRED	PROGRESS
		To be presented to meeting of Council on 15 May 2024.	
	Feedback from Independent Persons regarding external standards training attended in February and March 2024	Oral report back from the Independent Persons who attended the external training.	Oral report back to be made at the meeting.
<b>26 June 2024</b>			
	* Local Ethical Framework Developments	Standing report by Monitoring Officer regarding latest developments in national ethical framework.	Report to be presented to meeting.
	* Complaints Update	Standing report by Monitoring Officer in relation to complaints received of a potential breach of the relevant Members' Code of Conduct by Members and voting co-opted Members of North Yorkshire Council and town and parish councils in North Yorkshire.	Report to be presented to meeting.
	* Standards Bulletin	Standing report by Monitoring Officer presenting draft Standards Bulletin for approval for circulation.	Report to be presented to meeting.
	* Work Programme for 2024/25	If approved by the Committee on 15 March 2024, there will be a standing report by the Monitoring Officer to each scheduled ordinary meeting regarding the programme of work for 2024/25 for Members' review.	Report to be presented to meeting.
	Members' Attendance at Committees	Periodic report from Head of Democratic Services and Scrutiny.  The report should record the number of attendance of Councillors at meetings of the Council and its Committees for the period 1 April 2023 to 31 March 2024.	Report to be presented to meeting.
	Standards Training Plan 2024/25	Consider standards training required for Members.	Report to be presented to meeting.
<b>6 September 2024</b>			
	* Local Ethical Framework Developments	Standing report by Monitoring Officer regarding latest developments in national ethical framework.	Report to be presented to meeting.

MEETING	AGENDA ITEM	REPORT REQUIRED	PROGRESS
	* Complaints Update	Standing report by Monitoring Officer in relation to complaints received of a potential breach of the relevant Members' Code of Conduct by Members and voting co-opted Members of North Yorkshire Council and town and parish councils in North Yorkshire.	Report to be presented to meeting.
	* Standards Bulletin	Standing report by Monitoring Officer presenting draft Standards Bulletin for approval for circulation.	Report to be presented to meeting.
	* Work Programme for 2024/25	If approved by the Committee on 15 March 2024, there will be a standing report by the Monitoring Officer to each scheduled ordinary meeting regarding the programme of work for 2024/25 for Members' review.	Report to be presented to meeting.
	Review of standards documentation	Report by Monitoring Officer regarding whether any amendments are required to the standards documentation.	Report to be presented to meeting.
<b>14 March 2025</b>	* Local Ethical Framework Developments	Standing report by Monitoring Officer regarding latest developments in national ethical framework.	Report to be presented to meeting.
	* Complaints Update	Standing report by Monitoring Officer in relation to complaints received of a potential breach of the relevant Members' Code of Conduct by Members and voting co-opted Members of North Yorkshire Council and town and parish councils in North Yorkshire.	Report to be presented to meeting.
	* Standards Bulletin	Standing report by Monitoring Officer presenting draft Standards Bulletin for approval for circulation.	Report to be presented to meeting.
	* Work Programme for 2024/25	If approved by the Committee on 15 March 2024, there will be a standing report by the Monitoring Officer to each scheduled ordinary meeting regarding the programme of work for 2024/25 for Members' review.	Report to be presented to meeting.

MEETING	AGENDA ITEM	REPORT REQUIRED	PROGRESS
	Annual Report of the Standards and Governance Committee 2024/25	Report by Monitoring Officer presenting a draft Annual Report for Members' consideration and approval. To be presented to meeting of full Council in May 2025.	Report to be presented to meeting.

**Matters to note**

Page 106

- **Leader and Chief Executive Officer to periodically attend the Committee.**
- **Independent Persons' terms of office**
  - At its meeting on 19 July 2023, full Council agreed to extend, for four years, the terms of office of the predecessor authority NYCC's two Independent Persons for Standards, Hilary Gilbertson MBE and Louise Holroyd (whose terms of office automatically continued post Vesting Day); and further approved the appointments, for four years, of Gillian Baker, Roy Martin, James Nelson and Richinda Taylor as additional Independent Persons for Standards for North Yorkshire Council.
  - Full Council also delegated power to the Monitoring Officer to extend the Independent Persons' terms of office, in consultation with the Chair of the Standards and Governance Committee.
- **Protocol re Requests for Community Governance Reviews**
  - 15.9.23 – the Committee agreed the Protocol covering the period up to the scheduled May 2027 elections, setting out how the Council will respond to such requests. The Committee also granted authority to the Assistant Chief Executive Legal and Democratic Services, in consultation with the Executive Member for Corporate Services, to determine if requests for Community Governance Reviews should be treated as urgent and brought forward to the Standards and Governance Committee to recommend approval of terms of reference to the Council.
- **Schedule of Election Fees for Elections and By-elections in North Yorkshire**
  - 13.12.23 - The Committee agreed that the fee Schedule be amended in line with amendments made to the national indicative fee schedule in future years.