

North Yorkshire Council

Standards and Governance Committee

Minutes of the meeting held on 15th September 2023 commencing at 2.00 pm.

Councillor Clive Pearson (Chair), Councillors Nick Brown, Sam Cross, George Jabbour (as substitute for Nigel Knapton), Heather Phillips, Monika Slater and Peter Wilkinson; together with Gillian Baker, Louise Holroyd, James (Jamie) Nelson and Richinda Taylor (Independent Persons for Standards).

Attending remotely – Councillors Sam Cross and Andy Solloway; together with Roy Martin (Independent Persons for Standards).

Officers present: Steve Loach (Democratic Services); Elizabeth Jackson (Democratic Services Manager); Barry Khan, (Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer); Jennifer Norton, (Assistant Director Legal) and Moira Beighton (Governance Lawyer).

Apologies: Councillors Melanie Davis and David Ireton; together with Hilary Gilbertson (Independent Person for Standards)

Copies of all documents considered are in the Minute Book

14. Minutes of the Meeting held on 5th July 2023

Resolved -

The minutes of the meeting held on 5th July 2023 were confirmed and signed as an accurate record.

15. Declarations of Interest

Councillor Nick Brown declared a registered interest in relation to him being a member of the Grand Lodge of England, in relation to an issue to be considered later in the meeting.

16. Public Questions or Statements

There were no public questions or statements.

17. Appointment of further Independent Persons for North Yorkshire Council

Considered –

The report of the Monitoring Officer updating the Committee regarding the appointment of further Independent Persons for Standards for North Yorkshire Council.

The term of office of the two Independent Persons for the predecessor authority North Yorkshire County Council continued post Vesting Day as a continuing authority model of local government re-organisation. The Committee previously agreed that the Monitoring Officer should look to recruit further Independent Persons to assist North Yorkshire Council

in promoting and maintaining the high standards of conduct amongst its elected and co-opted members as well as members of the town and parish councils in the area for which North Yorkshire Council assumed responsibility from Vesting Day.

As a result of the Committee's decision a recruitment process was undertaken for additional Independent Persons, shortlisting of applicants was undertaken by the Monitoring Officer and the Chair of the Committee and interviews with the shortlisted applicants were undertaken by a panel of Members from the Committee.

The following were identified as the preferred Independent Persons, following that process:-

- Gillian Baker – Gillian was an independent person for standards for Ryedale District Council from 2007 to 2023.
- Roy Martin – Roy was an independent person for standards for Hambleton District Council from 2019 to 2023.
- James Nelson – James was an independent person for standards for Hambleton District Council's Standards Hearing Panel from 2019 to 2023.
- Richinda Taylor – Richinda was an independent person for standards for Scarborough Borough Council since 2013.

These Independent Persons were recommended to Full Council to join the existing Independent Persons, Louise Holroyd and Hilary Gilbertson, on the Standards and Governance Committee. Full Council approved the appointments in July 2023.

Resolved –

That the report be noted.

18. Dispensation Request - Councillor Stephanie Duckett

Considered –

A report of the Monitoring Officer concerning a dispensation request from Councillor Stephanie Duckett. This request was for the four years until the end of his term and would allow for her to speak and vote at meetings regarding council housing. A copy of Councillor Duckett's application was attached to the report. She believed the application would satisfy the appropriate criteria, namely that the granting of the dispensation would be in the interests of persons living in the authority's area.

Councillor Duckett was a tenant of predecessor council Selby District Council for 47 years and is now a tenant of North Yorkshire Council. She was seeking a dispensation from the Committee to enable her to participate in meetings involving council housing tenants' rights and rents. She informed the Monitoring Officer that she has previously received dispensations from her former authority in relation to this matter.

Members discussed the request, and the following issues were raised:

- It was clarified that Members were required to declare at meetings that they had been given a dispensation when an issue arose relating to that matter.
- Members welcomed the early submission of the dispensation request.
- Following discussions at an earlier meeting it was stated that it was appropriate for the dispensation to be granted for the full term of the Councillors period of office, as this avoided the possibility of Members forgetting to renew their dispensation and breaching the Code.

Resolved-

That the dispensation request for Councillor Stephanie Duckett be approved, as set out in the report.

Voting Record

Unanimous

19. Dispensation Request - Councillor Cliff Lunn

Considered –

A report of the Monitoring Officer concerning dispensation request from Councillor Cliff Lunn. Councillor Lunn emailed the Monitoring Officer on 29 August 2023 to request a dispensation from the Standards and Governance Committee, to enable him to speak and vote on a planning application

The circumstances of the request related to an application for proposed residential development on land at Leeds Road for 140 houses. Councillor Lunn lives within 250 yards of the proposed development. He informed the Monitoring Officer that he had attended meetings set up by the developer for the people of the village and was aware of the unpopular nature of the development but had not put in any objection nor made any negative comments about the development. He had given advice to his neighbours as to planning considerations and what was a valid objection. He did not feel he had done anything which would indicate pre-determination.

It was noted that dispensation request related only to this specific planning application and, if granted, would allow him to take part, fully, in the meeting and vote on the application.

Members discussed the request, and the following issues were raised:

- Members referred to his statement relating to him having an open mind on the application.
- It was considered that local Planning ACCs may lead to a large number of such dispensation requests as the Members on the Committee were local to that area and were likely to be involved with applications within their electoral division and near to their properties.
- It was felt important that Members had an opportunity to represent local residents on Planning issues, but it was unclear as to whether the Member should be fully involved if their own property was considered to be affected by the application, and that other local residents could put pressure on the Member to vote in a certain way, particularly if they the neighbours of the Councillor. In relation to this it was stated that a public perception test would need to be undertaken to determine whether there was predetermination or bias on the part of the Member. This was done on a case by case basis and it was for the Member to show that they had not shown or declared any prejudice in respect of the issue concerned.
- Members were unsure as to whether this specific request should warrant a dispensation as they considered it was for the Member to determine whether they had an interest or not. If predetermination was found, through the public perception test, then the Member would not be able to consider the application whether or not a dispensation was in place. In terms of declarable interests these were determined by public law and had different criteria to those relating to predetermination.
- Members noted that Councillor Lunn's property was not immediately adjacent to the application site and suggested it was for him to determine whether he considered he had a declarable interest or not when the item was discussed at the meeting. There

was also some concern regarding the number of applications for dispensations that may arise in respect of local Planning Committees, should this be granted.

Resolved –

That the application for a dispensation submitted by Councillor Cliff Lunn be refused.

Voting Record

Unanimous

20. Local Ethical Framework Developments

Considered –

The Report of the Monitoring Officer updating Members on the development of the national ethical framework under the Localism Act 2011. The following issues were highlighted:-

- LGA Local Leadership Framework for Councillors
- Online Safety Bill
- LGA: “Debate not Hate – Ending abuse in public life for Councillors”
- CSPL Annual Report 2022/23
- CSPL – Upholding standards in public life recommendation tracker
- LGA survey re Model Code of Conduct for Members

Links to the details on each item were provided in the report.

Resolved –

That the report be noted.

21. Declarations of Interest

Considered –

Report of the Monitoring Officer in response to a question raised by the Standards and Governance Committee as to whether membership of a masonic lodge would need to be registered under the Code of Conduct and declared at meetings.

Under the Council’s Code of Conduct, councillors are required to register membership of a Masonic Lodge if it is a body that has “charitable purposes.” Details pertaining to why that is necessary and included in the Code were outlined in the report. It was noted that simply being a Member of a Masonic Lodge was not a declarable interest unless the charitable concerns were the subject of a report to a Committee. Guidance from the Standards Board for England provided further details and were included within the report, alongside case-law on this matter.

It was noted that Freemasons were not precluded from taking part in discussions at a meeting to discuss a specific but should declare an interest if they are a member of that Lodge. The public test for predetermination would be undertaken to consider whether they had an open mind on a decision to be taken in such a case.

Resolved –

That the Committee notes the guidance relating to registration and declaration of interests.

22. Protocol re Unreasonably Persistent/Vexatious Complainants

Considered –

The report of the Monitoring Officer for Members to consider an updated Protocol for the Committee re Unreasonably Persistent/Vexatious Complainants.

An opportunity had been taken to update the Protocol following Vesting Day on 1 April 2023 and an updated Protocol was attached at Appendix 1 to the report for Members' comments.

Should Members be minded to agree the draft Protocol, then consequential amendments would be required to the standards complaints procedure. Draft consequential amendments were set out in Appendix 2 for Members' comments.

Members discussed the draft protocol and the following issues were highlighted:-

- If a local elected Member was the subject of unreasonably persistent/vexatious complaints, appropriate updates would be provided directly to the Member. The Committee emphasised that it was not just local Members involved and the protocol should be altered to refer to the affected Councillor.
- Clarification was provided as to how unreasonably persistent/vexatious complaints were determined, with this being based on the complaint, rather than the complainant. In a number of cases the same complaint is submitted into different parts of the authority with a scattergun approach. The protocol aims to prevent that from leading to a large amount of resources being devoted to the same issue. When a complaint is determined as being unreasonably persistent/vexatious then a single point of contact is given to the complainant who handles any issues arising from the complainant, subsequently. That position is reviewed every 6 months. Should the complainant disagree with the Council's position on this they are advised to refer the matter to the Ombudsman.

Resolved –

- (i) That, subject to changing the reference to affected Members from local Members, the updated Protocol re Unreasonably Persistent/Vexatious Standards Complainants at Appendix 1 be approved.
- (ii) That, following the amendment highlighted in (i) above, the draft consequential amendments to the standards complaint procedure at Appendix 2 be approved.

23. Complaints Update

Considered –

The report of the Monitoring Officer regarding complaint activity under the ethical framework that would be brought to scheduled meetings of the Standards and Governance Committee.

Since 1 April 2023, to the date of the report, the Council had received eighty-six complaints that members may have breached the relevant authority's code of conduct for members:

Nine of those complaints were complaints about Members of North Yorkshire Council, five of which were connected complaints against the same Councillor raised by connected complainants.

Seventy-seven complaints related to complaints about members of parish and town councils in the North Yorkshire area. Of those four were connected complaints against parish councillors raised by connected complainants and forty-seven were connected complaints, brought by the same complainant.

Twenty-five of the eighty-six cases had been assessed by the Monitoring Officer in consultation with the Independent Person for Standards resulting in:-

Twelve cases not meriting any further action;

One case been resolved informally;

Twelve cases to be investigated -eleven of those cases were connected with only one allegation within the complaints is to be investigated

The remainder of the complaints were in preparatory stages or awaiting assessment by the Monitoring Officer in consultation with the Independent Person for Standards and a further update would be given to the Committee by the Monitoring Officer subsequently.

A more detailed breakdown of the complaints was attached as an appendix to the report.

Members discussed the update and the following issues were highlighted:-

- A Member suggested that it was difficult to comment on the complaints as there was little detail provided. In response it was stated that the subject matter could not be provided in a public forum, however, Members would be provided with full details outside of the meeting.
- It was stated that the new Code of Conduct was a large document that could create difficulties for some Parish Councils in terms of their meeting its requirements in full and it was suggested that working alongside them, to fully understand what was required may be beneficial in terms of reducing the number of complaints. It was stated that officers had met with the YLCA to discuss the development of training on the Code of Conduct, as many of the issues for local Councils are monitored by them, and it was suggested that a number of workshops would be developed with them, providing helpful examples. An executive summary would also be developed to assist with understanding the Code. A Member suggested that it would be useful for executive summaries to be produced for each section, eg Planning.
- It was suggested that for Members to be able to determine developing trends in complaints it may be appropriate for the documents to be provided as confidential items, eliminating them from the public view. A Member agreed with this as it was important that the Committee were able to have full details to provide assistance with complaints.
- It was emphasised that documents such as the Code of Conduct should be produced in an understandable format, avoiding abbreviations and jargon, to assist other bodies that were expected to abide by them, thereby promoting the sentiments of the Parish Charter. It was suggested that Parish and Town Councils required resources to assist them with their understanding of the process involved.

Resolved –

That the Committee notes the current position on complaints received.

24. Registration of Officers' Interests

Considered –

The report of the Monitoring Officer updating Members on the review of the process for the registration of officers' interests.

Members had previously requested an update be brought to the Committee regarding the process for the registration of officers' interests in respect of the process for this.

Following the Vesting Day of North Yorkshire Council, as a continuing authority form of local government reorganisation, the current paper-based process continued but was under

review, with an electronic system being considered. The initial focus was on budget managers (600) in phase 1, with the aim, in the longer term, to extend to all staff in phase 2.

Details of the proposed system were outlined in the report.

The officers scheme differed from that of the Members scheme, despite having similar categories, in that there was no requirement for the officers interests to be published on a publicly accessible platform.

Resolved -

That the Committee notes the contents of the report.

25. Requests for Community Governance Reviews

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) seeking the Committee's approval to adopt a protocol setting out how the council will respond to requests for Community Governance Reviews (CGRs).

The report detailed the legislation in relation to CGRs, the opportunity for North Yorkshire Council to review and make changes to community governance within those areas, the process involved in undertaking a CGR and how the Council's constitution devolved the function to this Committee of making recommendations to Council in relation to CGRs.

A draft protocol setting out how the council would respond to requests for CGRs was appended to the report detailing what CGRs could be used for, how they could be initiated and outlined the process for carrying out a review. The protocol covered the period up to the scheduled May 2027 elections and set out the current context in which requests for CGRs would be considered.

Issues relating to the Local Government Boundary Commission for England's (LGBCE) and its impact on reviews were outlined in the protocol as was how the requirement for an urgent review was determined.

Members discussed the report and the following issues were highlighted:-

- It was asked whether the timetable for a total review could be met given that the LGBCE would need to be in place before this could be undertaken. In response it was stated that it was expected that the review could be implemented in the time between the LGBCE and the Council election in 2027.
- It was clarified that the need for GCRs was relatively infrequent.
- A Member suggested that local Members should be informed of GCRs taking place for Parish Councils in their respective Electoral Division. It was stated that this would be added into the protocol.

Resolved –

- (i) That the Standards and Governance Committee adopt the Community Governance Reviews – protocol for consideration of requests, attached as an appendix to the report.
- (ii) That authority be delegated 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.

26. Broadcasting and recording of public committee meetings

Considered –

The report of the Monitoring Officer advising Members on the broadcasting and recording of public committee meetings.

Currently North Yorkshire Council broadcasts and records meetings of Full Council, the Executive, the Police Fire and Crime Panel, Planning Committees and some Area Constituency Committee meetings. In addition, a number of meetings are recorded/broadcast where there is significant public interest.

A report would shortly be taken to Management Board and then Cabinet regarding the provision of the necessary technology at key sites in the county to enable some or all of the Council's public committee meetings to be recorded, broadcast and have hybrid access. The report would propose a range of costed options from carrying on as now to recording/broadcasting all public committee meetings of the Council.

Further details would be provided to the Committee as this progressed.

Resolved –

That the Committee notes the contents of the report.

27. Standards Bulletin

Considered -

The report of the Monitoring Officer presenting for the Committee's consideration, a draft of the latest Standards Bulletin, a copy of which was appended to the report.

It was asked to whom the Bulletin was circulated. In response it was stated that it was sent to all Councillors, some officers and some Parish Councils. It was suggested that all Parish Councils would benefit from receipt of the Bulletin as it would assist with their engagement with the Standards process.

Resolved –

That the Bulletin be approved for circulation and that Parish Councils be included in the circulation.

28. Other Urgent Business

Request for CGR – Dishforth Parish Council

It was stated that the Clerk of Dishforth Parish Council had asked that their request for a Community Governance Review be dealt with by the Committee were dealt with as a matter of urgency.

The circumstances relating to the request were outlined and information provided as to what could be undertaken by the Parish Council in view of the details provided.

Members were requested to determine whether this matter should be dealt with by the Committee as an urgent item at this meeting.

A Member noted that the Parish Council was in his Electoral District and was in danger of becoming inquorate. It was stated that although this was the case, the current quorate Parish Council could co-opt to prevent this from happening.

Members agreed that the matter should not be taken as an urgent item at this meeting and should be referred to the Assistant Director (Legal and Democratic Services) in conjunction with the relevant Executive Member to follow this issue up and decide how it should be dealt with.

There being no further business, the meeting ended at 4:05pm.

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