

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