

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