

North Yorkshire Council

Standards and Governance Committee

Minutes of the meeting held on Wednesday, 26th June, 2024 commencing at 3.00 pm.

Councillor Clive Pearson in the Chair, plus Councillors Heather Phillips, David Ireton, Nigel Knapton, George Jabbour and Dan Sladden.

Attending remotely; Councillors Sam Cross, Melanie Davis and Andy Solloway .

Officers present: Barry Khan, Assistant Chief Executive, Legal and Democratic Services and Monitoring Officer, Moira Beighton, Senior Lawyer (Governance) and Christine Phillipson, Principal Democratic Services Officer.

Other Attendees: Roy Martin and Hilary Gilbertson MBE, Independent Persons for Standards.

Apologies: Councillors Nick Brown and Monika Slater.
Independent Persons Gillian Baker and Louise Holroyd.

Copies of all documents considered are in the Minute Book

55 Welcome and Introductions

56 Minutes of the Last Meetings on 15th March and 9th April 2024

The minutes of the meetings held on 15th March and 9th April 2024 respectively were agreed and signed as accurate records.

57 Apologies for Absence

Apologies were received from Councillor Monika Slater with Councillor Dan Sladden attending as substitute, and Councillor Nick Brown with Councillor George Jabbour substituting.

Apologies were also received from Independent Persons Gillian Baker and Louise Holroyd.

58 Declarations of Interest

There were none.

59 Public Participation

There were no public questions.

60 Local Ethical Framework Developments

Considered –

The report of the Assistant Chief Executive, Legal and Democratic Services and Monitoring Officer updating Members on recent developments in the national ethical framework under the Localism Act 2011.

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

Discussion following the report arose around sensitive interests and while Councillors' addresses were published as a matter of course there was the option to have an interest declared as sensitive under the provisions in section 32 of the Localism Act 2011. Any such interests should be discussed with and agreed as sensitive by the Monitoring Officer.

The Monitoring Officer confirmed that there was a cross party group looking at Member security as there were concerns that changes to the way the public behave at meetings was in some cases becoming a potential threat. Views from the group would be shared with the Committee, however it was important to note that the issue is caused by a minority.

Resolved –

That the Committee note the report.

61 Standards Hearings Panel Procedure

Considered –

The Standards and Governance Committee Hearings Panel Procedures approved by the Monitoring Officer under his delegated powers.

It was noted that some of the complaints referred for investigation were now ready to go to a panel hearing, with one having been heard earlier in the month. The pre-hearing review process aimed to identify any areas of dispute in advance of the hearing to allow the hearing procedure to operate as efficiently and proportionately as possible.

A member commented that the training previously delivered to all members of the Standards and Governance Committee was extremely helpful and served to support them in the hearing process.

The Chair of the hearing panel agreed and noted that all of the information required by the panel was present and available and they were very satisfied with the procedure and handling of the whole situation. It was noted to thank officers for their work on this. A further member of the panel agreed and noted that the hearing was very well organised, managed and chaired.

It was suggested that a group of members from the Committee be specifically identified to undertake future hearing panels as there would be further hearings coming up in the future, with perhaps some more specific training to support them in this. The Monitoring Officer invited Members to inform him after the meeting if they are interested in participating in hearings panels.

Resolved –

That the Standards and Governance Committee Hearings Panel Procedure and Pre-Hearing Review process agreed by the Monitoring Officer under delegated powers be adopted by the Committee.

This was agreed unanimously.

62 Complaints Update

Considered –

The report of the Assistant Chief Executive Legal and Democratic Services and Monitoring Officer presenting to the Committee, for information and consideration, statistical information regarding standards complaints received.

During the period 1 April 2023 to 31 March 2024, the Council received 174 complaints that members may have breached the relevant authority's Code of Conduct for Members.

During the period 1 April 2024 to 6 June 2024, a further 49 complaints have been received.

Since Vesting Day on 1 April 2023 to 6 June 2024, a total of 223 standards complaints have therefore been received.

The Committee noted from the Complaints Update report that;

- In total, 179 assessments have been completed by the Monitoring Officer and Deputy Monitoring Officer in consultation with the Independent Persons for Standards.
- A high proportion of these complaints were connected complaints in respect of Members of three Town/Parish Councils.
- Of the 179 complaints which have so far been assessed, 145 complaints did not merit any further action, 5 complaints were recommended for informal resolution, 28 complaints were referred for investigation and 1 complaint was closed as the subject Member was no longer a Councillor.

The Committee further noted that:

- One of the investigations (covering 11 connected complaints) has been completed and the complaint determined. The Investigation Report was referred to, and considered by, the Standards and Governance Committee Hearings Panel, in consultation with the Independent Person and an independent parish council representative, on 11 June 2024, when the Panel determined the complaint in private, given the sensitive personal data involved. The Panel concluded that the subject Members had not breached the relevant authority's Code of Conduct for Members. It made some recommendations back to the relevant authority. At the end of the hearing, the Panel again considered the issue of the privacy of the documentation and concluded that the exempt nature of the documentation should be maintained and that there should be no publicity regarding the outcome of the complaints.
- After the Panel had completed its determination of the complaints, the Deputy Monitoring Officer consulted the Panel under the Standards and Governance Committee's Protocol for dealing with Unreasonably Persistent/Vexatious Complainants. The Panel agreed that the allegations by the complainant had been investigated and determined and that any further complaints by the complainant on essentially the same issues as have already been assessed by the Monitoring Officer and/or then investigated and determined by the Panel do not need to be considered by the Monitoring Officer through the assessment process in the usual way.

Thanks were noted to the Independent Persons for their involvement and time in the

assessment, consideration and determination of standards complaints.

A discussion followed with the following to note;

A Member asked if a complainant is allowed to share the details of a case. It was confirmed that standards complaints are treated as strictly confidential unless and until a Hearings Panel orders otherwise. If a complainant wished to waive their own confidentiality then that was a matter for them however they would need to be careful to not share any third party personal information.

It was noted that changing culture and the increased media coverage that is in place today would suggest that the number of future complaints would perhaps not be likely to reduce and this, in turn, would give rise to the continued increased workload that this is currently creating for the Council.

The Monitoring Officer agreed and quoted the following national figures to the Committee:

- 86.6 % of Councils had less than 100 Parish and Town Councils
- 97.5 % had less than 200 Parish and Town Councils
- The next highest figure is Somerset Council with 327 and
- North Yorkshire Council has 664.

It was acknowledged that resource needs to match the number of complaints accordingly. It was asked how these figures compared to previously recorded numbers from the District and Borough Councils. The Monitoring Officer confirmed that figures were higher than previously and at an exceptional level.

The time taken to assess and handle all the complaints was substantial.

It was asked what the cost to the Council, in terms of hours, of this work would be and could it be reported back to the Committee, along with complaint rates and figures comparisons from other authorities.

It was noted that the cost would differentiate for each case and the stage of the process it reached, but the spend in hours on officer time would provide a meaningful comparator.

Resolved –

That the report be noted, and some potential comparator complaint figures and costings be brought to the next Committee meeting for information.

63 Feedback from Independent Persons re External Training Attended

Some external training for Independent Persons for Standards had been attended by some of the Independent Persons. One Independent Person found the training to have been quite complex. It was noted that any training needs to be tailored to specific needs.

64 Standards Training Plan 2024/2025

Considered –

The report of the Assistant Chief Executive Legal and Democratic Services and Monitoring Officer presenting for approval a draft Standards Training Plan for Members for 2024/25.

At the Committee's meeting on 15 March 2024 the Standards and Governance Committee agreed its Work Programme for 2024/2025, which provided for a report to be brought to the Committee's June meeting regarding a Standards Training Plan for Members for

2024/2025.

This Training Plan is attached at Appendix 1 of the main agenda.

Resolved –

That the Standards Training Plan for Members for 2024/25 be approved. This was agreed unanimously.

65 Committee Attendance

Considered –

The report of the Assistant Chief Executive, Legal and Democratic Services reporting the attendance of Members of the Council at meetings of the Council and its Committees for the period 1 April 2023 until 30 March 2024.

Attendance figures are highlighted in Appendix 1 of the main agenda.

It was noted that not giving apologies for not attendance at meetings is an issue and Members should look to rectify this.

Resolved -

That the report be noted, and a copy distributed to Group Leaders.

66 Parish and Town Council Support

Considered –

The report of the Assistant Chief Executive Legal and Democratic Services providing Members with an update on the arrangements in place in Democratic Services to support Parish and Town Councils.

Following the creation of the Unitary Authority in April 2023 North Yorkshire Council (NYC) now has a number of responsibilities in relation to Parish and Town Councils in the North Yorkshire area.

Parish and Town Councils are separate legal entities to North Yorkshire Council and as such are responsible for their own general governance.

A summary of the work underway was given identifying the following key points.

- There are currently 731 Parishes within North Yorkshire of differing and varying sizes and make up
- The responsibilities of North Yorkshire Council in relation to Parish and Town Councils, are to maintain Parish Council details (such as details of the clerk and Members of the council), publish Councillors' registers of interests on the website, make temporary appointments to the council, make recommendations to North Yorkshire Council regarding community governance reviews and to consider and handle any complaints in relation to a breach of the relevant Code of Conduct for Members
- North Yorkshire Council has no jurisdiction to consider other complaints about a Parish Council
- Where concerns are raised regarding the day-to-day management of the Parish Council these should be referred to Chair of the Parish Council or the Clerk

- A recent restructure in Democratic Services has created three Democratic Services Area Teams based on the Area Constituency Committee (ACC) Boundaries across the County
 1. The East Team covers Scarborough and Whitby and Thirsk and Malton ACC areas
 2. The West Team covers Skipton and Ripon and Richmond ACC areas
 3. The Central Team covers Harrogate and Knaresborough and Selby and Ainsty ACC areas
- The Local Area Support Team will also support Parish and Town Councils with democratic support
- There is also support for Parish and Town Councils within the wider North Yorkshire Council structure with the Localities Team having a Parish Liaison and Local Devolution Manager and Officers.

There then followed a discussion raising the following points;

Working together with Parish and Town Councils could only be beneficial and identify opportunities for them through devolution and working with the YLCA, parish liaison and some of the networks already created, i.e., Forest and Dale Community Partnership.

Trying to avoid situations where Parish Councils had no clerk, temporary clerks or temporary appointments was key and supporting Councils where this situation arose was important.

It was noted that some parishes seemed to have recurring issues with recruiting and retaining Councillors and look to the divisional Member for support. Clerks were able to clerk and support more than one Parish Council.

The YLCA has a locum clerk list for reference; existing clerks can add themselves to this list should they wish to do so.

It was asked if any type of Service Level Agreement was in place. There is no SLA but there is a Parish Charter and a Parish Portal in place to support Parish and Town Councils and signposting clerks to the YLCA is useful for them. The work taking place between Democratic Services and the Localities teams will also support and strengthen the relationship.

Resolved –

That the Committee notes the report.

67 Temporary Appointments Process

Considered-

The Report of the Assistant Chief Executive Legal and Democratic Services providing Members with the detail of the temporary appointment process for Parish and Town Councils.

In order for a Parish or Town Council to operate, they need to be quorate. There are occasions, where due to resignations, or lack of nominations for vacancies at elections, a Town or Parish Council is not able to operate for this reason.

Section 91 (1) of the Local Government Act 1972 provides that the principal authority (North Yorkshire Council) can make an order to appoint to a Town or Parish Council until such time

as the vacancies on the Parish Council have been filled by either election or co-option.

Following the presentation of the report the Monitoring Officer confirmed that the alternative option is a Community Governance Review (CGR) which can potentially take 12 months to complete.

The Local Government Boundary Review Commission for England (LGBCE) has indicated that a review of divisions will commence in 2024. It is anticipated that this review will finish in 2025, for implementation in the next NYC elections in 2027. North Yorkshire Council will therefore only consider urgent requests within this period. Following the conclusion of the review, expected in 2025, a whole area CGR will be undertaken.

Resolved-

That the report be noted.

68 Temporary Appointment to Hellifield Parish Council

Considered-

The report of the Assistant Chief Executive Legal and Democratic Services to inform the Committee of the situation of Hellifield Parish Council and to seek approval to invoke the power to temporarily appoint a named person to sit on the Parish Council.

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

Hellifield Parish Council comprises of 7 seats and requires a minimum of 3 seats to be filled to be considered quorate. Following Councillor Hills resignation on 17 April 2024, the casual vacancy procedures were followed which recognise that when a casual vacancy occurs at a parish council, a request for an election must be made within 14 working days of the publication of a notice of vacancy by 10 electors from within the parish area. No request for an election was made by 10 electors within the required timeframe. The Parish Council can proceed to fill the vacant seats via co-option but as there are only 2 remaining councillors the Parish Council 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 Council will be quorate, and the vacant seats can be filled via co-option.

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

Resolved-

- i) That the Council appoints the division member for Mid Craven, Councillor Simon Myers under Section 91 (1) of the Local Government Act 1972 to Hellifield Parish Council in order to make it quorate, unless or until either sufficient vacancies on Hellifield Parish Council have been filled by way of co-option or election so that the Parish Council is able to act lawfully, or the Order made under Section 91 (1) is revoked.
- ii) That the Assistant Chief Executive Legal and Democratic Services be

authorised to make the required Order as attached at Appendix A.

This was approved unanimously.

69 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 seeking approval to invoke the power to temporarily appoint a named person to sit on the Parish Council.

In order for a town and parish council to operate, they need to be quorate. There are occasions where, due to resignations or a lack of nominations for vacancies at elections, a town or parish council is not able to operate for this reason.

Section 91 (1) of the Local Government Act 1972 provides that the principal authority (North Yorkshire Council) can make an order to appoint to a town or parish council until such time as the vacancies on the Parish Council have been filled by either election or co-option.

Irton Parish Council comprises of 5 seats and requires a minimum of 3 seats to be filled to be considered quorate. Following Councillor Elbourne's resignation on 16 May 2024, the casual vacancy procedures were followed which recognise that when a casual vacancy occurs at a parish council, a request for an election must be made within 14 working days of the publication of a notice of vacancy by 10 electors from within the parish area. No request for an election was made by 10 electors within the required timeframe. The Parish Council can proceed to fill the vacant seats via co-option but as there are only 2 remaining councillors the Parish Council 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 Council will be quorate, and the vacant seats can be filled via co-option.

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

Resolved-

- i) That the Council appoints the division member for Derwent valley and Moor, Councillor David Jeffels 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.

This was approved unanimously.

The Chair agreed to take item 18, urgent business, next as it related to a further temporary appointment.

Item 18 Urgent Business – 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 delegate the authority to the Assistant Chief Executive Legal and Democratic Services to invoke the power to temporarily appoint 2 persons to sit on the Parish Council.

In order for a town and parish council to operate, they need to be quorate. There are occasions where, due to resignations or a lack of nominations for vacancies at elections, a town or parish council is not able to operate for this reason.

Section 91 (1) of the Local Government Act 1972 provides that the principal authority (North Yorkshire Council) can make an order to appoint to a town or parish council until such time as the vacancies on the Parish Council have been filled by either election or co-option.

Welburn Parish Council comprises of 6 seats and requires a minimum of 3 seats to be filled to be considered quorate. The Standards and Governance Committee received a report at its meeting on 17 January 2024 explaining that at that time there was only one Member on the Parish Council and it therefore could not meet as it was inquorate.

The Committee therefore appointed the division member for Sheriff Hutton and Derwent, Councillor Goodrick, and a member of the public under Section 91 (1) of the Local Government Act 1972 to Welburn Parish Council in order to make it quorate, until either sufficient vacancies on Welburn Parish Council had been filled by way of co-option or election so that the Parish Council was able to act lawfully.

Since the January meeting Parish Councillor Carey has resigned and the member of the public has not taken up office. There was no request for an election following the notice of vacancy being issued in March this year. The position therefore remains that the Parish Council is not quorate, the council cannot meet or conduct any business with now only one councillor being in place, being Cllr Goodrick following the Committee's decision in January this year.

As a smaller authority the Parish Council must submit an Annual Governance and Accountability Return (AGAR) form by the end of June each year. The Parish Council has however been unable to meet and approve the submission of its AGAR. Parish Councils are required to return a copy to the external auditor no later than 30 June 2024 and publish on the authority website/webpage a copy of the required declaration and Certificate of Exemption before 1 July 2024. This is a requirement required by the Accounts and Audit Regulations 2015 and the Transparency Code for Smaller Authorities.

The remaining Parish Councillor contacted the Parish Council's auditor in May this year and explained that the Parish Council was inquorate. The Parish Council's auditors explained that they would in normal circumstances be required to issue a statutory recommendation to the Parish Council as a smaller authority that it has failed to meet statutory requirements by approving, publishing and submitting an AGAR (or certificate of exemption where appropriate). However, the auditors explained that with an authority that is inquorate and unable to function it does not issue a report as there is no functioning council to action such a recommendation. In this instance, the auditor explained that it would put the process "on hold" until the Parish resumes functioning.

Furthermore, the auditor agreed to extend the submission deadline to the latest date its system allows being 31 July 2024. The Committee is therefore asked to take the opportunity to reaffirm the temporary appointment of Councillor Goodrick and to delegate authority to the Assistant Chief Executive Legal and Democratic Services to appoint two North Yorkshire Councillors onto the Parish Council as soon as possible to enable it to be

quorate, convene a meeting and approve, submit and publish its AGAR. Once appointed, the Parish Council will be quorate, and the vacant seats can be filled via co-option. Once the vacant seats have been filled, any appointee can then resign from the Parish Council if they wish to do so.

The Monitoring Officer also noted the need to amend the reference to “North Yorkshire Council” to “The North Yorkshire Council” in the Order attached at Appendix A.

Resolved-

- i) That the Council reaffirms the temporary appointment of Councillor Goodrick to Welburn Parish Council and delegates authority to the Assistant Chief Executive Legal and Democratic Services to appoint 2 Members 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, after amending the reference to “North Yorkshire Council” to “The North Yorkshire Council” in the Order.

This was approved unanimously.

There was Committee support for the power to make temporary appointments to Parish and Town Councils to be permanently delegated to the Monitoring Officer in order to speed the process up, with reports back to each ordinary meeting of the Standards and Governance Committee on the number of temporary appointments made and to which parish/town councils; the Monitoring Officer could choose not to exercise his delegation in a particular case and refer the matter to the Committee. A report to the Standards and Governance Committee and the Constitution Working Group to endorse that recommendation would be required. The Committee requested that a report be brought to the next ordinary meeting of the Committee setting out the options in this regard.

70 Standards Bulletin

Considered-

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

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

Resolved –

The Bulletin be approved for circulation and forwarded to Parish and Town Councils.

71 Work Programme

Considered –

The Assistant Chief Executive Legal and Democratic Services and Monitoring Officer’s

report on the Committee's forward Work Programme.

Members were reviewed the Work Programme and asked for regular updates on complaint statistics and standards issues.

The Committee also wished to express its gratitude to the Independent Persons, particularly for their work in relation to the substantial number of assessments completed so far.

Resolved –

That the report be noted. This was agreed unanimously.

72 Urgent Business

There was 1 item of urgent business which was taken immediately following items 14 and 15.

73 Date of the Next Meeting

An additional meeting has been called for Monday 15th July 2024 at 10am in Meeting Room 2 at County Hall, Northallerton. The next meeting is then Friday 6th September 2024 at 2pm in the Brierley Room.

The meeting concluded at 4.20 pm.