

## 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, may have failed to comply with 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 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 North Yorkshire Council has adopted a Code of Conduct for Members, which is 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 Code of Conduct. If you wish to inspect a parish or town council's Code of Conduct, 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 Code.

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

3.1 If you consider there has been a breach of the Code of Conduct by a Member and want to make a complaint, please 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

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complaint form will guide you through giving the information expected by the Monitoring Officer to enable a full consideration of your complaint.

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- 3.2 It is important to provide a name and contact 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.

- 3.3 Please note that the complaint form (with your contact details and any signature redacted) will be shared with the subject Member to enable them to respond to the allegations – if there is any information you would prefer to be withheld from the subject Member please let the Monitoring Officer know upon submitting your complaint.

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#### 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 three months of the complaint being referred for investigation, or within six months for more complex cases, or as soon as possible thereafter. Timescales can vary depending on the nature and circumstances of any particular case. 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. You will be kept informed and notified as to the outcome of your complaint.

#### 5.0 Assessment of the complaint

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

##### Pre-assessment consideration by Monitoring Officer

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- 5.2 The Monitoring Officer will consider all complaints received to ascertain that it is appropriate for them to progress to a formal assessment by the Monitoring Officer in consultation with the Independent Person for Standards.

- 5.2.1 The Member complained of ('the subject Member') will generally be informed of the receipt of the complaint (unless they have previously requested not to be informed or the Monitoring Officer otherwise believes it to be unnecessary or inappropriate in prevailing circumstances) but the complaint itself will not generally be sent to the subject Member for comments at that stage.

- 5.2.2 The Council's Jurisdiction and Assessment Criteria will be considered by the Monitoring Officer in the initial consideration of a standards complaint. A standards complaint will not progress to a formal assessment where:

- a) it is not made against a named Member;  
b) it is a blanket complaint made against all Members of an authority, without specifying the precise allegations against each individual Member;

- c) it is, in essence, a complaint against a decision of, or actions by, the authority rather than a complaint that individual Member behaviour has breached the relevant Code of Conduct;
- d) the Member the subject of the complaint was not in office at the relevant time;
- e) it is a complaint about officers;
- f) it relates to individual behaviour which was clearly undertaken in a Member's private capacity;
- g) the complaint, if proven to be true, would clearly not amount to a breach of the relevant Code of Conduct;
- h) it is, or is likely to be, the subject of a Police or other regulatory investigation: in such circumstances the Monitoring Officer may hold the complaint in abeyance pending the outcome of such investigation. 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;
- i) the complainant refuses or is unable to particularise or substantiate their complaint, such that on a formal assessment it would be unlikely to be referred for investigation or any other action on the basis that there is insufficient information submitted;
- j) it is a substantially similar complaint to one previously submitted by the complainant and no new material evidence has been submitted;
- k) it is part of a series of complaints by connected parties in relation to particular circumstances where the issues have been or are being considered and where the standards regime is not the appropriate mechanism for resolving the issues and the wider public interest would not favour further public resource being expended on the matter.

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The initial consideration by the Monitoring Officer will ensure that there is an appropriate, proportionate, balance between maintaining high ethical standards and protecting the public purse and Council resources in terms of officer, Member and Independent Person time spent in handling standards complaints.

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5.2.3 The subject Member and complainant will be notified of the outcome of the initial complaint consideration by the Monitoring Officer.

5.2.4 There is no right of appeal against the Monitoring Officer's decision as to whether or not to refer a complaint for assessment with the Independent Person for Standards.

~~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.~~

**Assessment by Monitoring Officer in consultation with Independent Person**

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5.3 Where a complaint is to be assessed by the Monitoring Officer in consultation with an Independent Person, the subject Member who is the subject of a complaint (the subject Member) will be advised of the complaint (if not already informed) and copied into any relevant correspondence or complaint form received from you as Complainant (with contact details redacted), to enable them to comment on the allegations made against them. The Monitoring Officer would expect to receive any comments on the complaint from the subject Member (either substantively or that they do not wish to comment) within 10 working days from receipt of the complaint (or as soon as possible thereafter), or as specifically agreed with the Monitoring

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Officer. 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 assess formal standards complaints (save as set out in paragraph 5.2 above and paragraph 5.9 below) in consultation with the Independent Person 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 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 and the reasons for it.
- 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 a conflict of interest or do 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 initial consideration and any subsequent assessment of the complaint ~~is~~ are not an investigation and makes no determination as to the truth or otherwise of the allegations. ~~It-They~~ 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 either party or the Council make a reasonable offer of local resolution but the 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 any further information they wish to submit in support of their allegation within 10 working days of request.
- 7.2 Any further information received will be sent to the subject Member, who would also be invited to submit 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. Should a subject Member experience particular stress or distress during the investigation process, they should contact the Monitoring Officer in order to discuss what support arrangements can be put in place to help. This may include allocation of a named contact officer or Independent Person for Standards to support them through the process and/or where available a referral, through the Monitoring Officer, to the Council's Occupational Health Scheme.
- 7.4 The Monitoring Officer may also appoint an officer 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 is 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 an independent~~ town or parish councillor representative will also be in attendance at the Hearing and will be consulted by the Panel. 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. The Independent Person and independent parish/town councillor representative are not part of the Panel itself.
- 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. Regard should also be had to the supplemental Standards Hearings Panel Procedure.
- 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 independent parish/town councillor representative where relevant) 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 subject Member is a parish or town council Member, in which case the Panel can only make recommendations regarding sanctions 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 independent parish/town council representative, where relevant) 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 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~~ a party 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 March 2024 6 January 2025

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