

NORTH YORKSHIRE COUNCIL
STANDARDS AND GOVERNANCE COMMITTEE

6 January 2025

Review of standards complaints process

1.0 PURPOSE OF REPORT

1.1 To present to the Committee, for consideration and review, this report re the review of current standards arrangements for the handling of complaints of a breach of the Members' Code of Conduct, deferred from the Committee's meeting on 6 September 2024 and further suggested amendments to the complaints process to streamline arrangements.

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 ([Parish councils contact details | North Yorkshire Council](#)).

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 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.

- 2.5 The Committee last reviewed the standards arrangements on 15 March 2024.
- 2.6 Since that time, the Standards and Governance Committee Hearings Panel has met five times to consider investigation reports and determine complaints. The separate Complaints Update report to the Committee's meeting today provides further information regarding the Panel and the Hearings. This is therefore an opportune time for the Committee to reflect on the handling of complaints so far and determine whether any revisions are required to its standards complaints handling arrangements.
- 2.7 At the Committee's meeting on 6 September 2024, the Committee considered a report from the Assistant Director Legal and Deputy Monitoring Officer regarding proposed amendments to the current standards arrangements and documentation for the handling of complaints of a breach of the Code of Conduct. The report was deferred to the next ordinary meeting of the Committee in March 2025 to enable Members to have sufficient time to review the suggested amendments.
- 2.8 As Members are aware from the Complaints Update reports brought to the Committee, there has been an unprecedented level of standards complaints made since Vesting Day and this trend is continuing. The Monitoring Officer feels that the standards process should be reviewed on an urgent basis, before March 2025, to streamline processes as far as possible to ensure that complaints are handled in a fair and proportionate way and as efficiently as possible to minimise the resource burden currently impacting Standards and Governance Committee Members, Independent Persons and the Monitoring Officer team and protect the public purse. Since the report was initially considered by Members, some further suggested amendments are now proposed, tracked on the documents and referenced below.

3.0 CURRENT 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 currently consulted, where possible on a rota basis, at all stages of complaint handling.
- 3.2 Under the complaints process, the Monitoring Officer/Deputy 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 (unless exempted under the Committee's Protocol for dealing with unreasonably persistent/vexatious complainants, attached at **Appendix 3**). 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. The Committee has agreed a Hearings Panel Procedure, attached at **Appendix 4**, which supplements the standards arrangements. 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. The Ombudsman will not look at the merits of the decision, only whether the authority has followed its procedures in dealing with the matter.
- 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; and where a complaint is referred for investigation, the aim is 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.

4.0 REVIEW OF CURRENT ARRANGEMENTS

- 4.1 The unprecedented high volume of complaints, complaint correspondence and associated Freedom of Information Act and Subject Access Requests, particularly by connected complainants against specific authorities 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.
- 4.2 The Monitoring Officer therefore feels it is an appropriate time to further review the standards complaint arrangements to ensure there is an appropriate, proportionate, balance between maintaining high ethical standards and protecting the public purse and Council resources in terms of officer time.

Practical arrangements for assessments

- 4.3 The Monitoring Officer has recently revised the practical arrangements for assessing complaints with the Independent Person for Standards, in order to streamline the

process and minimise the impact on officer and Independent Person time. The Independent Persons have now been issued with a standing reference pack containing all key standards documents, which was discussed at the recent annual Independent Person catch up meeting. Individual covering assessment reports and packs for each complaint at assessment stage are no longer prepared, but the key complaint information and subject Member response are uploaded to the secure electronic drive.

- 4.4 Proposed changes to the standards documentation are discussed in more detail below and consist of measures aimed at reducing the volume of work and expediting the standards process in a proportionate manner.

5.0 PROPOSED AMENDMENTS TO DOCUMENTS

- 5.1 Proposed amendments to the standards documentation are set out by way of tracked changes in the relevant Appendices as referred to earlier.

- 5.2 The nature of the proposed amendments relate to:

Standards arrangements

- 5.2.1 The Monitoring Officer recently attended a Working Group on Member Safety, when it was mentioned that it would be helpful if the Council's standards process could reference the following:

- a) A person to whom an individual subject Member can speak about the process and contact for support;
- b) Reference that help is available for NYC Councillors from Health Assured via the Monitoring Officer if a subject Member has concerns about the stress they are under whilst the standards complaint is being investigated and determined, as there was some concern expressed at the Working Group about investigations that are taking a number of months to come to standards hearing and the impact it can have on the subject Member.

- 5.2.2 Proposed amendments to reflect the above and reference support arrangements for subject Members are set out by way of tracked changes on the standards arrangements attached at **Appendix 1**. Other amendments are suggested in order to:

- a) Reflect that timescales for handling complaints can vary depending on the nature and circumstances of any particular case;
- b) provide for **a pre-assessment consideration** by the Monitoring Officer, to enable complaints which clearly fall out of the standards' regime jurisdiction to be disposed of by the Monitoring Officer without having to go through the usual full assessment process with the Independent Person or informing a subject Member where this would cause distress, for example:
 - i. the complaint is not made against a named Member;
 - ii. it is a blanket complaint made against all Members of an authority, without specifying the allegations against each individual;
 - iii. it is, in essence, a complaint against a decision of, or actions by, the authority rather than a complaint that individual behaviour has breached the relevant Code of Conduct;
 - iv. the Member the subject of the complaint was not in office at the relevant time;
 - v. it is a complaint about officers;
 - vi. it relates to individual behaviour which was clearly undertaken in a councillor's private capacity;

- vii. the complaint, if proven to be true, would clearly not amount to a breach of the relevant Code of Conduct;
- viii. 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;
- ix. 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;
- x. it is a substantially similar complaint to one previously submitted by the complainant and no new material evidence has been submitted;
- xi. 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.

Paragraphs 5.2 and 5.4 of the procedure have been expanded to cover this;

- c) highlight that a complaint form is usually shared with a subject Member and that if the Complainant objects to any information being shared to let the Monitoring Officer know immediately. A new paragraph 3.3 of the procedure is proposed to this effect;
- d) Include a 10 working day (or as soon as possible thereafter or as specifically agreed with the Monitoring Officer) timescale for the receipt of comments by a subject Member on the complaint;
- e) Clarify that the Independent Person and independent parish/town councillor representative are not part of the Panel itself;
- f) Further reference the independent parish/town councillor representative as well as the Independent Person;
- g) Reference the supplemental Standards and Governance Committee Hearings Panel Procedure previously agreed by the Committee;
- h) Remove repetition (eg the repetitive reference to the Independent Person attending the Panel meeting in paragraph 10.4 of the Arrangements);
- i) Clarify that after finding a breach by a parish/town councillor of their Code, the Panel can only make *recommendations* regarding sanctions to the relevant town/parish council;
- j) Clarify that either party to the complaint (not just the complainant) may make a complaint to the Local Government and Social Care Ombudsman if they feel the Council has failed to follow its processes in dealing with the complaint.

Jurisdiction and Assessment Criteria

- 5.2.3 The Monitoring Officer has reviewed the Jurisdiction and Assessment Criteria and is recommending the proposed consequential amendments as set out by way of tracked changes in **Appendix 2**, to reflect the proposed changes above regarding the

introduction of a pre-assessment consideration of the complaint by the Monitoring Officer.

Standards and Governance Committee Protocol for dealing with unreasonably persistent/vexatious complainants

5.2.4 Amendments are proposed to the Committee's Protocol for dealing with unreasonably persistent/vexatious complainants (**Appendix 3**) to reflect:

- a) the Council's approach in labelling the complaints, communications and behaviour themselves as unreasonable/vexatious rather than the person making them;
- b) the emotional impact of such complainant behaviour on officers and Members involved, as well as the financial and administrative impact on the Council.

Standards and Governance Committee Hearings Panel Procedure

5.2.5 Amendments are proposed to the Committee's Hearings Panel Procedure (**Appendix 4**) to:

- a) Clarify that after finding a breach by a parish/town councillor of their Code, the Panel can only make *recommendations* regarding sanctions to the relevant town/parish council;
- b) Further reference the independent parish/town councillor representative as well as the Independent Person;
- c) Remove the reference in current paragraph 6.1 to the Monitoring Officer preparing, where possible, a short written summary of the Panel's decision on the day of the Hearing. In practice, a fairly detailed initial notice has been prepared and circulated to the parties and then a fuller decision notice circulated later. The Monitoring Officer would recommend that this is essentially duplication and there is no need to refer to two notices in the Hearings Panel Procedure, as a written notice on the day of the Hearing is not required in the main standards complaints procedure attached at **Appendix 1** to this report.

Complaint Form

5.2.6 Amendments are proposed to the standards complaint form (attached at **Appendix 5**) to:

- a) Highlight that different codes of conduct will apply depending on whether the complaint is brought against a Member of North Yorkshire Council or of a parish/town council in the North Yorkshire area;
- b) Further emphasise what the Monitoring Officer can and cannot look at under the standards regime to try to deter out of jurisdiction complaints;
- c) Further emphasise that a subject Member will usually be informed who has made the complaint against them and that if a complainant wishes their identity to be withheld they must make this clear to the Monitoring Officer;
- d) highlight that a complaint form is usually shared with a subject Member and that if the Complainant objects to any information being shared to let the Monitoring Officer know immediately.

- e) Aim to make it clearer that complainants should reference the relevant authority's Code of Conduct for Members (not North Yorkshire Council's Code where the complaint is against a parish/town councillor);
- f) Specifically ask the complainant at the outset, in the complaint form, what they are seeking as an outcome.

It is hoped that such amendments will further head off likely areas of protracted correspondence prior to assessment stage.

- 5.3 Subject to any comments Members may have, the above proposed amendments are recommended to the Committee for approval.

6.0 OTHER WORK TO SUPPORT THE STANDARDS REGIME

- 6.1 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 has arranged three further online training sessions for parish and town councils in September 2024 in the east, west and central areas of North Yorkshire.
- 6.2 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.
- 6.3 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 March 2024 | North Yorkshire Council](#). The Committee's Bulletin is also sent to the YLCA for information.
- 6.4 The Monitoring Officer has also reviewed the standards information on the Council's website to provide further information and ensure clarity around the standards arrangements.
- 6.5 Subject to any comments Members may have, it is recommended that the proposed amendments to the standards documentation be approved.

7.0 FINANCIAL IMPLICATIONS

- 7.1 There are no significant financial implications arising from 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, subject to any comments Members may have, the Committee approves the proposed amendments to the standards documentation as set out in this report and its Appendices.

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

18 December 2024