

CITY OF YORK COUNCIL
CODE OF CONDUCT COMPLAINTS
INDEPENDENT PERSON ROLE DESCRIPTION AND PROTOCOL

Background

Under the Localism Act 2011, the Council must promote and maintain high standards of conduct by members and co-opted members of the authority.

To this end the Council has adopted a Member Code of Conduct and has agreed arrangements for dealing with any allegation that a member or co-opted member has breached the code.

In accordance with the requirements of the 2011 Act, these arrangements must include the appointment of one or more independent persons to support the Council in promoting and maintaining high standards.

The independent person (IP) will:

- Support the Council, and in particular the monitoring officer (MO) and Joint Standards Committee (JSC), in promoting and maintaining high standards
- Work with the MO and JSC to identify any areas of concern with regard to standards or wider governance issues and to identify any specific training needs which may arise
- Report to the Full Council periodically on the work of the IP and how the Council is promoting and maintaining high standards
- Give its views to the Council as required under the Council Constitution on complaints that the Code of Conduct may have been breached

This protocol sets out how the IP is to carry out their role and makes clear the relationships between the IP and the various parts of the Council involved in the process of handling standards complaints and wider promotion of standards. Its aim is to ensure that responsibility is clear at each stage of the process and set out the expectations and rights of the IP.

Considering written allegations

1. The MO, or the JSC Assessment Sub-Committee or deputy monitoring officer (DMO) as appropriate, will seek the views of the IP before reaching a decision on whether any further action should be taken on a written complaint. References to the MO below include references to the JSC or DMO as appropriate.
2. When issuing the decision letter, the MO will record that the IP has been consulted and that their views have been taken into account. Where the view of the MO and IP differ, the MO will record the reasons for following a

particular course. The letter will make clear that it is the MO and not the IP who is the decision-maker.

3. If the complainant has requested that their identity be kept confidential the MO will consult the IP before deciding whether to grant confidentiality.

Informal resolution

4. Where the MO has decided that a matter should be resolved through informal action, the IP must be consulted at the end of that process before the matter can be closed, referred for investigation or some other action proposed.

Matters under investigation

5. Where a matter is referred for investigation and cannot be completed within the agreed timescales, the MO must consult with the IP before granting an extension of time to the investigating officer.
6. A councillor who is the subject of a complaint (subject member) may seek the views of the IP. A councillor wishing to contact the IP should do so via the MO who will arrange for a meeting to take place. These arrangements will be communicated to the subject member by the MO in the decision notice.
7. Where the IP has given views to the subject member, those views shall be put in writing and made available to all relevant parties in the case.
8. The IP will need to agree in advance with the subject member rules of confidentiality but it will be up to the IP to decide whether matters should remain confidential and, even where there is confidential information disclosed to the IP, there should be a public statement that confidential matters were discussed.
9. The complainant may make a request to the MO to seek the views of the IP. Such a request will only be granted at the discretion of the IP in consultation with the MO. As with the subject member, contact should be arranged through the MO and any views expressed should be made public.
10. Where the subject member or complainant request an informal resolution during the course of an investigation the MO must consult with the IP before deciding whether to agree to such a request. If at the end of an investigation the MO believes that an informal resolution would be the most appropriate action they must consult with the IP and also consult them whether the outcome of any resolution has been satisfactory.
11. Where the MO believes that an investigation should be closed prior to completion they must consult with the IP.

12. The IP's views will be sought on a draft investigation report before it is finalised.
13. The MO may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.

Matters referred to a hearing

14. Where a matter has been referred to the JSC for determination, the JSC Hearings Panel must seek the views of the IP and those views must be made public before reaching its conclusions. The IP's views should be recorded in any decision notice and, where those views do not reflect the final outcome reasons must be given for any differences. However, it must be clear that it is the JSC and not the IP who is the decision-maker.

General provisions

15. The IP shall not make any comments to the media or on social media on any matter without prior agreement of the MO or council communications team. Any requests for comments shall be referred in the first instance to the MO who may refer these to the Chair of the JSC as appropriate.
16. The IP may be requested by the MO or the JSC to assist in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
17. The IP may be requested by the MO or the JSC to assist in any training on conduct issues as appropriate.
18. Where the IP is unable to act because of a conflict of interest or because they are otherwise unavailable their role will be carried out by another IP.

Relationship with the Joint Standards Committee

19. The IP shall receive agendas and minutes of all meetings of the JSC and shall be entitled to request for items to be added to the agenda with the agreement of the chair and to speak at the committee.
20. The IP is not a member of the JSC and therefore is not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the chair.

Other matters

21. The IP has the right to raise any concerns about standards issues or implementation of the process with the Council's chief operating officer and has the right to address a meeting of the full council about any concerns.

22. The Council, through its JSC and MO, is responsible for ensuring that the Council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.
23. The IP has the right of access to any confidential information required to carry out their role. Access to such information and its storage shall be agreed with the MO.
24. The IP has the right of access to Council buildings in order to carry out their role. Access should be agreed in advance with the MO.
25. The MO will meet at least quarterly with the IP to review relevant matters.
26. The IP will agree to sign a code of conduct, including completing a register of interests to be held by the MO and will disclose any relevant interests in relation to cases to the MO who will decide whether the interest conflicts them out of involvement in the matter.
27. The IP is to be considered an office-holder of the Council in accordance with the duty under s28(7) of the Localism Act 2011 and is therefore entitled to be covered by the Council's indemnity insurance provided they act reasonably and within the terms of this Protocol.