

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

14 January 2008

New Register of Members' Interests

1.0 PURPOSE OF REPORT

- 1.1 To update Members on the progress made in securing registrations of interests under the new Code and publishing them on the County Council's website.

2.0 BACKGROUND

- 2.1 At its last meeting on 1 October 2007, the Committee considered a report regarding the process of re-registration of interests by Members in the Register of Members' Interests under the new Code of Conduct. Members had had until 13 June 2007 to do so, however by the date of that meeting, two forms were still outstanding. It was agreed that the Chairman of the Committee should write to the Members concerned.
- 2.2 On that date the Committee was also informed that work was ongoing in preparing the new interests forms for publication on the Council's website.

3.0 OUTSTANDING REGISTRATIONS

- 3.1 Following receipt of the Chairman's letter, as referred to in paragraph 2.1 above, both Members immediately completed and returned their registration of interests forms. In terms of elected Members, the Register is therefore now complete.

4.0 REGISTER ON WEBSITE

- 4.1 Following the receipt of all interests forms, simplified versions have now been published on the Council's website, and can be accessed via the links on the following web pages:

Homepage/Council and democracy/Councillors

Homepage/Council and democracy/Councillors/About Your Councillor

5.0 HISTORICAL FORMS

- 5.1 An issue arose recently regarding access by the Standards Board, during a complaint investigation, to historical registration of interests forms stored by the Council (which it is not required by law to keep) and whether this gave rise to any data protection/freedom of information act issues.
- 5.2 The second principle of the Data Protection Act 1998 states that "*Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes*".
- 5.3 The fifth principle of the Act also states that "*Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.*" The Legal Guidance supporting the Act further adds that such information

should therefore be reviewed regularly and information which is no longer required for their purposes should be deleted. The Guidance goes on to state:

*If personal data have been recorded because of a relationship between the data controller and the data subject, **the need to keep the information should be considered when the relationship ceases to exist.** For example, the data subject may be an employee who has left the employment of the data controller. The end of the relationship will not necessarily cause the data controller to delete all the personal data. **It may well be necessary to keep some of the information** so that the data controller will be able to confirm details of the data subject 's employment for, say, the provision of references in the future or to enable the employer to provide the relevant information in respect of the data subject's pension arrangements. **It may well be necessary in some cases to retain certain information to enable the data controller to defend legal claims,** which may be made in the future. Unless there is some other reason for keeping them, **the personal data should be deleted when the possibility of a claim arising no longer exists** i.e when the relevant statutory time limit has expired.*

- 5.4 Under the Code of Conduct for Members, the Council is required to keep *current* registration of interests forms in the Register of Members' Interests. There is nothing in the ethical framework legislation prescribing what should happen to those forms once they are replaced with new ones, nor are there any stipulated time limits for the retention of such historical documents. The Council currently retains indefinitely all historical interests forms submitted by Members and co-opted Members (and those of such Members/co-optees whose term of office has finished) which have been removed from the Register, in a separate file.
- 5.5 Under section 62 Local Government Act 2000, Ethical Standards Officers can require any person to give him/her such information as s/he thinks necessary for the purpose of conducting a complaint investigation and it can be a criminal offence to fail to comply without reasonable excuse. Although in this particular case, the request was for information the Council was not required to hold, as the Council was actually holding it, and there was no other reason for non-disclosure, the Council complied. It prompted officers to consider whether some sort of protocol should be established in relation to future retention of historical interests forms. In accordance with the above Data Protection Legal Guidance, Members may, therefore, wish to consider whether an appropriate retention period should be introduced for Members' interests forms once they have ceased to be a Member of the authority.
- 5.6 An enquiry has been made of another authority to ascertain their procedures in relation to the retention of historical forms: under the old standards regime, they used to keep the forms until 18 months after Members ceased to be councillors. After the implementation of the new Code, the authority had sought guidance from the Standards Board and were advised that under data protection laws, they could keep the forms as long as they thought it was necessary, however there was no limit on the length of time during which a person can make a complaint against a Member. The authority decided to continue to keep the forms until 18 months after end of office.
- 5.7 It is therefore for the Council to make its own decision as to the appropriate period for which historical interests forms should be retained. By way of example, County Council employees' personal information is retained on their HR record files for as long as they are employed until six years after their employment terminates.
- 5.8 Any period agreed should then be added to the Council's Retention Schedule, the consequence being that if a request for an old form was received after the retention

period had expired, the Council could legitimately respond that the information had been destroyed under its Retention Schedule.

- 5.9 Members are requested to consider whether a retention period for Members' and co-opted Members' interests' forms should be formally set and, if so, a suitable timescale. Member may feel that a suitable retention period would be three years: although a complaint against a Member may be raised at any time, the likelihood of a complaint being made after their term of office had ended will, generally, diminish over time and would generally be unlikely after a three year period.
- 5.10 Once the Committee's views are known, consultation will take place with the Council's Data Protection Officer to ensure that the proposed retention treatment of historical interests forms is consistent with the handling of similar data within the authority.
- 5.11 A further report will be brought to a future meeting of the Committee.

6.0 RECOMMENDATIONS

- 6.1 That Members note the contents of this report.
- 6.2 That Members consider whether a retention period for Members' and co-opted Members' interests' forms should be formally set and added to the Retention Schedule and, if so, that Members consider a suitable retention period.

CAROLE DUNN
Monitoring Officer

Author of report: Moira Beighton
Telephone: 01609 532458
Room 15

Background Documents:

Legal Guidance re Data Protection Act 1998

County Hall
NORTHALLERTON

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