

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

11 February 2013

Standards Bulletin

1.0 PURPOSE OF REPORT

1.1 To present to the Committee, for consideration, a draft Standards Bulletin. .

2.0 BACKGROUND

2.1 The Standards Bulletin is produced periodically and circulated to Members of the Authority to keep them informed of key developments in the standards regime.

2.2 In adopting the new ethical framework under the Localism Act 2011, the Authority decided that the continued production of the Standards Bulletin would help to maintain the Authority's statutory duty to promote and maintain high standards of conduct.

3.0 THE STANDARDS BULLETIN

3.1 The latest draft edition of the Bulletin is attached at **Appendix 1** to this report.

3.2 The Committee is requested to consider the Bulletin with a view to its subsequent circulation.

4.0 RECOMMENDATIONS

4.1 That, subject to any comments Members may have, the Bulletin be updated as necessary following the outcome of the Committee's meeting and then circulated to Members of the Authority.

CAROLE DUNN
Monitoring Officer

Background Papers:

- The Localism Act 2011
- Committee on Standards in Public Life 14th report, "Standards matter - A review of best practice in promoting good behaviour in public life"

County Hall
NORTHALLERTON

31 January 2013



North

Yorkshire County Council

STANDARDS BULLETIN

INTRODUCTION

Work continues to embed the new ethical framework introduced under the Localism Act 2011.

Training on the new Code and standards regime will continue to be factored into future Member training however, as ever, should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of her Team.

CAROLINE PATMORE
Chair of the Standards Committee

THE STANDARDS COMMITTEE

The Members of the Standards Committee:

- **County Councillor David Jeffels**
- **County Councillor Brian Marshall**
- **County Councillor Caroline Patmore** (Chair)
- **County Councillor Peter Sowray**
- **County Councillor Geoffrey Webber** (Vice-Chair)

Also invited to meetings of the Committee are:

- **Mrs Hilary Gilbertson MBE**, Independent Person for standards
- **Ms Louise Holroyd**, Independent Person for standards

If in doubt, please seek advice from the following:

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NEW ETHICAL FRAMEWORK

The Localism Act 2011 abolished the previous standards regime (including the Members' Code of Conduct and Standards Committee arrangements) and made provision for a new ethical framework which was adopted by the Authority at its July meeting last year, on the recommendations of the former Standards Committee and after consultation with the Authority's Members' Working Group on the New Ethical Framework.

The Council's website has several webpages setting out details of the new ethical framework and publishing key standards documents which Members will find helpful:

<http://www.northyorks.gov.uk/index.aspx?articleid=2896>

The new Standards Committee

The new Standards Committee met for the first time on 29 October 2012, when it appointed Councillor Patmore as Chair of the Committee and Councillor Webber as Vice-Chair.

The full membership of the Committee is set out on the front page of this Bulletin.

The Independent Persons for standards are also invited to all meetings of the Committee and are consulted on all key standards matters.

Interests' Regime

Members are reminded of the application of the new interests' regime, as set out in the new Code.

Members must register and disclose 'disclosable pecuniary interests' as set out in the new regulations and detailed in the new Members' Code of Conduct, but no wider,

non-pecuniary, interests (eg membership of public and charitable bodies).

A pecuniary interest is a disclosable pecuniary interest ("DPI") if it is of a description specified in regulations ie

- Employment, office, trade, profession or vacation (for profit or gain)
- Sponsorship
- Contracts
- Land
- Licenses
- Corporate tenancies
- Securities

(please see the Code for the detailed descriptions)

AND either:

(a) it is the Member's interest or

(b) an interest of—

- the Member's spouse or civil partner
- a person with whom the Member is living as husband and wife, or
- a person with whom the Member is living as if they were civil partners

AND the Member is aware of the interest.

A Member with a DPI may not participate in the discussion of, or vote on, Authority business (unless a dispensation is granted) and must withdraw from the meeting room.

Register of Members' Interests

The Register of Members' Interests is maintained by the Monitoring Officer and is available for public inspection in Rm 11, County Hall.

Electronic copies of Members' interests forms (redacted to remove signatures) are also published on the Council's website (as required by the Localism Act) at:

<http://www.northyorks.gov.uk/index.aspx?articleid=8066>

Members must, within 28 days of becoming aware of a new interest or a change to an existing interest, register the necessary details by providing written notification to the Monitoring Officer.

Should you wish to amend your interests form, please contact Julie Robinson on ext 2953 to make the necessary arrangements or call in to Room 11 in County Hall, Northallerton.

Members' Gifts and Hospitality

Although gifts and hospitality offered and declined or received are no longer required to be registered in the Register of Members' Interests, Members do still need to register them with the Monitoring Officer, by completing the appropriate form and returning it to the Monitoring Officer.

Should you have any queries in relation to the registration of your interests or of any gifts or hospitality received/offered, then please feel free to contact the Monitoring Officer or any of her team.

Dispensations Issue

Members may have heard about an issue which has arisen nationally in relation to the requirements of the new ethical framework in terms of setting the Council budget and Council Tax, and the possible need for dispensations for members in relation to these issues.

One view is that Members may have a disclosable pecuniary interest ("DPI") in the budget/council tax setting (via their registered land ownerships in the Register of Members' Interests - disclosable pecuniary interests). If a member is present at a meeting and has a disclosable pecuniary interest in "any matter to be considered, or being considered, at the meeting", they must declare the interest,

leave the room and not participate in the debate or vote on the item.

Under the previous national model Code of Conduct, there was a statutory exemption for members against having a prejudicial interest in business relating to the Council functions of setting the council tax or precept; however, there are no equivalent provisions in the new standards framework, and the issue is purely whether or not Members have a disclosable pecuniary interest with no statutory discretion or de minimus provision.

There is, therefore, uncertainty as to whether Members' ownership of land or an interest in land which is registered in the Register of Members' Interests (and therefore a disclosable pecuniary interest) prevents them from taking part in the discussion and vote upon setting the Council budget and Council Tax.

CLG has given an 'informal' view that this situation would not give rise to a DPI because council tax affects all local residents irrespective of whether they are a councillor and that that was not the intended effect. However, commentators have written extensively that whilst that may not have been the intent, it is an unintended consequence of how the legislation has been drafted.

To date, NYCC has taken a pragmatic view that this is not a matter in respect of which a dispensation is required for Members, given that it is not their specific home address in particular (but council tax for properties generally within the North Yorkshire area), being considered at the Council meeting. However, this issue is gaining momentum nationally, with a divide of opinion as to whether or not dispensations are required.

The Monitoring Officer is considering the issue in consultation with others and the matter will be raised at the next meeting of the York and North Yorkshire Monitoring Officer Group.

Members will be kept informed of developments.

14th Report of the Committee on Standards in Public Life

The Committee on Standards in Public Life is an advisory Non-Departmental Public Body (NDPB) sponsored by the Cabinet Office. The Chair and members are appointed by the Prime Minister.

The Committee on Standards in Public Life has recently published its 14th report, "Standards matter - A review of best practice in promoting good behaviour in public life", which is 75 pages long and available to download from the Committee's website at:

http://www.public-standards.org.uk/OurWork/Latest_News.html

Key extracts from the report are set out below:

•The Committee felt that the time was right to undertake a review of the key lessons that have been learnt since the Nolan Committee's first report was published in 1995 about how to improve ethical standards in public life – to stand back and reflect on what has been achieved and what still needs to be done...

•This report sets out our key conclusions. We do not pretend to have all the answers. But we have drawn together the evidence from a growing body of experience and an expanding field of research. In doing so we have attempted to think through some of the theoretical issues around ethical standards and to make practical suggestions which we hope will be of assistance to those who find themselves having to grapple with these difficult issues on a daily basis. We have also identified a number of existing and emerging risks which we believe need to be addressed more energetically before we can be confident that high standards in UK public life are being consistently achieved.

•Our key message is this. Much of the basic infrastructure to support high standards is now in place. Most public services and public office-holders have adopted statements of high level principles and codes of practice and are subject to some form of external scrutiny. But it is self-evident, not least from recent events, that these mechanisms by themselves are not enough. Many of those whose integrity has been called into question in recent months and years seem to have behaved inappropriately not because they were unaware of what was expected but because they did not find it expedient. High standards of behaviour need to be understood as a matter of personal responsibility, embedded in organisational processes and actively and consistently demonstrated, especially by those in leadership positions. This report presents some ideas about how this may be achieved.

•A set of broadly expressed principles. These should be aspirational, rooted in the core purposes and values of an organisation or profession and easy to communicate and understand. The seven principles of public life fulfil that purpose. They have now been widely disseminated and in some cases adapted. We believe they remain broadly relevant. But we think it appropriate to revise some of the brief descriptions usually associated with each principle to bring them up to date and provide greater clarity, particularly in relation to honesty...

•... a significant number of important standards issues currently require attention ... Issues over which the Committee intends to keep a watching brief, and investigate if necessary include:

■ local government standards (concerns about the impact of the regime introduced by the Localism Act 2011);

•... The Localism Act 2011, abolished Standards for England, removed the ability of local authorities to suspend members as a sanction for poor behaviour and disbanded local standards committees. It introduced a new offence of failing to declare or register a pecuniary interest. Following amendments to

the original Bill during its passage through Parliament it also required local authorities to develop their own code of conduct based on the seven principles of public life and to appoint an Independent Person to be consulted during the investigation of any complaint. The new, slimmed down arrangements have yet to prove themselves sufficient for their purpose. We have considerable doubt that they will succeed in doing so and intend to monitor the situation closely...

•We have other concerns about the new arrangements which apply even in those authorities where strong leadership on standards does exist. The first is that under the previous arrangements local authorities had the power to suspend members for varying periods of time as a sanction against poor behaviour. The only sanctions now available, apart from through the use of party discipline, are censure or criminal prosecution for deliberately withholding or misrepresenting a financial interest. We do not think these are sufficient. The last few years have seen a number of examples of inappropriate behaviour which would not pass the strict tests required to warrant a criminal prosecution, but which deserves a sanction stronger than simple censure. Bullying of other members or officers is one category of offence which will be difficult to deal with adequately under the new arrangements.

•Our second concern is about the new and so far relatively untested arrangements for independent involvement in the disciplinary process. Under the previous arrangements allegations about poor behaviour were determined by standards committees independently chaired by individuals who were not themselves members of the local authority. Under the new arrangements every local authority must appoint at least one independent person whose views it will seek, and take into account, before making its decision on an allegation that it has decided to investigate. We doubt that this will be sufficient to provide assurance that justice is

being done and, equally important, that it is seen to be done.

Members will see from the above extracts that the Committee on Standards in Public Life has concerns regarding the new ethical framework under the Localism Act and intends to monitor developments.

Members will be kept informed.

Contributors:

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Resources

Localism Act 2011 and subordinate legislation.