

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

19 September 2014

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 Council to keep them informed of key developments in the standards regime.
- 2.2 In adopting the ethical framework under the Localism Act 2011, the Council decided that the continued production of the Standards Bulletin would help to maintain the Council'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 Council.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

12 September 2014



North

Yorkshire County Council

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STANDARDS BULLETIN

INTRODUCTION

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

The Committee on Standards in Public Life has indicated that the effectiveness of the local government standards regime is one area it may choose to investigate as part of its future work programme. Members will be kept informed of developments.

Training on the 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 his Team.

THE STANDARDS COMMITTEE

The Members of the Standards Committee:

- **County Councillor Andrew Goss**
- **County Councillor Helen Grant**
- **County Councillor David Jeffels** (Vice-Chair)
- **County Councillor Caroline Patmore** (Chair)
- **County Councillor Peter Sowray**

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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CAROLINE PATMORE **Chair of the Standards Committee**

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- Committee on Standards in Public Life Reports
- Changes to Interests regime
- Members' Gifts and Hospitality
- Standards cases

Committee on Standards in Public Life Reports

In March 2014, the Committee on Standards in Public Life (“CSPL”) published its **report on “Public Perceptions of Standards in Public Life in the UK and Europe”**.

The Report Foreword from the Chair of the CSPL explains that in the Autumn of 2013, the CSPL published its final biennial survey of public attitudes towards conduct in public life. The survey contained data about public perceptions and expectations and confirmed that the seven principles of public life are supported by the public. It also demonstrated that over the lifetime of the survey there has been a continuous and substantial decline in public perceptions of standards in public life.

The research found that the UK’s long-term decline in public perceptions of standards in public life is part of a broader trend across Western democracies: British citizens’ assessments of standards in public life are not unusual and they are rarely the most cynical. Indeed British citizens’ perceptions and experiences of corruption are consistently lower than those in most other European countries.

In its strategic plan for 2012-15, the CSPL identified local government standards as one of the priority areas it may choose to investigate in future. The Committee referred specifically to local government, commenting that it was not satisfied that the sanctions now available against inappropriate behaviour, apart from the use of a political party’s internal discipline procedures, are now sufficient.

In its Work Programme for 2014/15, the CSPL stated that it intended to carry out further work to help promote high standards in public life.

On 17 June 2014, the CSPL published a **report on the ethical standards for the providers of public services**, along with the accompanying research conducted by Ipsos MORI.

Some of the key findings from the Report are as follows:

- that the Seven Principles of Public Life have application to all those delivering public services whether they are public sector

providers or third-party providers from the private or voluntary sector;

- the public want common ethical standards across all provider types regardless of sector, supported by a code of conduct;
- public and stakeholder views of what should constitute ethical standards are broadly in line with the Seven Principles of Public Life;
- commissioners expect providers to conform to ethical standards but rarely explicitly articulate this;
- commissioners want guidance on how to embed ethical standards in the commissioning and procurement process.

The CSPL has made various recommendations to the Cabinet Office, for example:

- adopt a strategic programme to reinforce:
 - the message that the Seven Principles of Public Life apply to any organisation delivering public services; and
 - the frameworks required to support ethical standards

The report and research documents are available to download from the CSPL website at:

<https://www.gov.uk/government/collections/ethical-standards-for-providers-of-public-services>

should Members wish to read in more detail.

In July this year, the CSPL published a **report “Ethics in Practice: Promoting Ethical Conduct in Public Life”**.

The key findings from the Report are as follows:

- When Lord Nolan published the First Report of the Committee on Standards in Public Life in 1995, along with the Seven Principles of Public Life he also advocated three ‘common threads’ for ensuring that those Principles were properly understood and followed – Codes of Conduct, Independent Scrutiny, and Guidance and Education, being clear that the necessary guidance and education on ethical standards should encompass training and in particular induction training;

- The report focusses on ethics in induction, both to emphasise that the Nolan Principles apply to the full range of organisations and individuals active in public life and to review provision of induction programmes to embed those Principles;
- Whilst every organisation should deliver an induction programme which suits it, as a basic minimum, the CSPL would expect to see induction cover the relevant code of conduct and the principles on which it is based, with an explanation of any compliance requirements that derive from that code, and reference to the channels for raising and dealing with ethical issues. The CSPL would also expect attendance at induction to be, if not compulsory, the norm rather than the exception;
- The CSPL will continue to monitor provision of Local Authority induction programmes and the profile of standards, conduct and ethical behaviour within those programmes;
- induction is essential to ensure that public office holders are aware of the standards expected of them, and therefore that ethical standards need to be included in the induction arrangements for all those in public life.

The Standards Committee is considering all the recent CSPL reports.

For more information about the work of the CSPL and its reports, please see the CSPL website www.public-standards.gov.uk

Changes to Interests' Regime

At the Council's meeting in November last year, Members agreed that the Members' Code of Conduct and proforma registration of interests form be amended to require Members to register trade union/professional association membership (as an 'interest other than a disclosable pecuniary interest'), as required under revised DCLG guidance. This has been done.

The Monitoring Officer subsequently contacted all Members asking them to register such interests if they had them.

Members must register and disclose 'disclosable pecuniary interests' as set out in regulations and

detailed in the Members' Code of Conduct, and membership of any trade unions or professional associations, 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, Council business (unless a dispensation is granted) and must withdraw from the meeting room.

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 2011) at:

<http://www.northyorks.gov.uk/article/23651/Councillors---declaration-of-interest>

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.

Please therefore keep your interests form under review and notify the Monitoring Officer promptly of any amendments required.

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.

Please do not hesitate to contact the Monitoring Officer or any of his team should you have any queries.

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 his team.

CASES

The following cases have been the subject of recent Local Government Lawyer case reports:

Carmarthenshire County Council

The Court of Appeal has refused a blogger (X) permission to appeal in her libel claim against the council and its chief executive.

X had sued the council and its chief executive over comments he made to another blog, regarding X's arrest following a council meeting at which she tried to film proceedings. However, relations between X and the authority had been difficult for a number of years.

The High Court rejected X's claim. She was also ordered to pay £25,000 in damages after a counter-claim brought by the chief executive was successful. The judge concluded that X had

engaged in an unlawful campaign of harassment, defamation and intimidation targeted against the chief executive and other officers.

X sought to take the case to the Court of Appeal but was refused permission on all grounds.

London Borough of Ealing

The High Court rejected a councillor's application for permission to apply for judicial review of a decision by a standards committee that he had breached the council's code of conduct.

The case concerned comments posted by the councillor about residents of a ward on a blog, referring to alleged local illegal immigrants. The comments had attracted wide press attention and a petition. The subject member was expelled from his party following the comments.

Another councillor made a written complaint to the standards committee which subsequently investigated the matter. The standards committee found that the tone of the comments had been "inappropriate and unnecessarily provocative". The subject member had therefore not treated others with respect and had brought the council and the office of councillor into disrepute. The Committee resolved that the subject Member should apologise and that a notice about its decision be published in the local newspaper and on the council's website.

The subject Member challenged the standards committee's decision stating that:

- The committee had failed to give adequate reasons for its conclusion; and
- The decision of the committee was unreasonable and irrational on the grounds that the comments posted on the blog did not justify a finding that the subject member had breached certain paragraphs in the code.

The subject member also argued that the committee's decision infringed his fundamental right to free speech at common law and under Article 10 of the European Convention on Human Rights.

The Court rejected the subject member's application, concluding that the decision, although engaging Article 10, was "plainly a proportionate

interference in the light of the other interests identified in the Convention". The Court found:

- It could not arguably be said that there was a failure to give adequate reasons to the claimant.
- The committee was plainly entitled to find that what the subject member had said about the residents had failed to treat others with respect and had brought the council and the office of councillor into disrepute.
- On the face of it the finding and the sanctions did constitute a breach of Article 10.
- The finding and the sanctions were justified under Article 10(2) since, as the report explained, the comments about the residents were contained in a separate section of the blog from those which raised legitimate topics of political debate. "They were not the expression of a political view, but an unjustified personal and generic attack on a section of the public. The subjects of the speech were not politicians but ordinary members of the public and, as such, the comments did not attract the higher level of protection applicable to political expressions and the comments would plainly have undermined confidence in local government, the preservation of which is a recognised aim of the code."
- The extent of the interference was "on any view very limited indeed". The subject member was requested, not required, to apologise and had not done so. Also, the committee's findings were neutrally reported in the press and on the council's website.

East Staffordshire Borough Council

A councillor has withdrawn his judicial review claim against the council over an adverse finding of its standards committee and has agreed to pay a "substantial contribution" towards the council's costs.

The standards committee had found that the subject member had breached the code of conduct by disclosing confidential information.

No sanction was imposed and the committee agreed not to publicise its conclusions in light of the particular circumstances of the subject member.

The subject Member claimed that:

- the information he disclosed was not confidential;
- the committee's decision interfered with his right to freedom of expression;
- the committee was not politically neutral and was not an independent and impartial tribunal, in breach of the Human Rights Act.

and requested a declaration from the court that this part of the Localism Act 2011 was incompatible with the European Convention on Human Rights.

Stockton-on-Tees Borough Council

The subject Member published on their blog, a confidential counsel's opinion.

The authority's standards panel noted:

- that the subject Member had knowingly disclosed legally privileged advice;
- the subject Member's "unwillingness or refusal to accept responsibility for the breach of the code, and his unwillingness or refusal to agreed to abide by the code in the future, in similar or the same circumstances.";
- that the subject Member had shown no remorse, "but rather to the contrary had indicated that he would do it again without hesitation", and had not attended the hearing;

The standards panel asked the subject Member to provide an assurance within two weeks that he would not make similar disclosures and that if he failed to do so would be barred from receiving any exempt, confidential, or legally privileged council information for the remainder of his term of office.

It further provided that the subject Member should be provided with appropriate advice and guidance and that the authority's confidential information protocol should be re-circulated to all members.

Flintshire County Council

A High Court judge has reduced a disqualification term imposed on a long-serving Flintshire councillor, finding that the original sanction was "excessive".

Wigan Council

The authority's entire corporate management team complained in 2009 to the Public Services Ombudsman for Wales about the conduct of a councillor. The case was referred to the Adjudication Panel for Wales.

The Panel found that the councillor had committed 14 breaches of the authority's 2001 and 2008 codes of conduct by failing to show respect and consideration for council officers, using bullying behaviour, attempting to compromise the impartiality of officers and conducting himself in a manner likely to bring his office or the council into disrepute.

It disqualified the subject Member from being a member of that authority or any other for two and a half years.

The subject Member appealed, arguing that the tribunal should have used the criminal rather than civil standard of proof, erred in its findings as to breaches of the codes of conduct, and imposed an unjustifiably severe penalty.

The Judge quashed three of the breaches but added: "The tribunal found that the appellant's conduct had 'seriously undermined [the standards in political life] and public confidence', such that 'the high threshold required for disqualification... has been crossed ... However, even when the three breaches I have quashed are taken out of account, after anxious consideration, I agree: no sanction short of disqualification would have been appropriate and, in view of the seriousness of the misconduct, disqualification is a proportionate response."

However, the High Court judge concluded that two and a half years was an excessive sanction and eighteen months was appropriate:

"The appellant has not been convicted or even charged with any criminal offence; and there is no suggestion that any of the relevant conduct is criminal, or corrupt, or sleaze, or motivated by or resulting in any personal financial gain by the appellant."

The Judge also held that the civil standard of proof had been the correct one to use.

When conducting a review of its mobile phone contract, the authority discovered that the subject Member had run up a bill of over £2000.

The Standards Panel found that the subject Member had broken the authority's ICT policy and the Code of Conduct by using his council mobile phone inappropriately to call premium rate chat lines and to send "inappropriate" text messages.

The sanctions imposed by the Panel included:

- the removal of the subject Member's IT equipment, including his mobile phone;
- removal of his internet access;
- to undergo equal opportunities training;

and in addition, female officers would be instructed not to speak to him.

This was the third standards complaint involving the subject Member during 2014. The earlier complaints related to:

- deliberately altering an email in an attempt to jeopardise a senior employee's job; and
- viewing pornographic material on his council laptop.

The subject Member had previously been disqualified and suspended twice by the Standards Board for England. He was also removed from his political party.

The subject Member stated that the authority had taken a small number of selected text messages out of context and that he had paid in full for all of his private phone calls.

Contributors:

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Resources

Localism Act 2011 and subordinate legislation.
CSPL website - www.public-standards.gov.uk
Local Government Lawyer case reports