

## NORTH YORKSHIRE COUNTY COUNCIL

## STANDARDS COMMITTEE

20 March 2015

**Complaints Update****1.0 PURPOSE OF REPORT**

- 1.1 To present to the Committee for consideration, amendments to the standards complaint form.
- 1.2 To update the Committee regarding ethical framework complaint activity since the Committee's last meeting in September 2014.

**2.0 COMPLAINT FORM**

- 2.1 The Committee has previously agreed a complaint form for sending to potential complainants to assist them in making a complaint that a Member may have breached the Members' Code of Conduct.
- 2.2 The complaint form subsequently required an administrative amendment to update the Monitoring Officer details in the opening section and also to include the more recent version of the Code of Conduct in the Appendix. These amendments have been undertaken by the Monitoring Officer and a revised copy of the complaint form is attached at **Appendix 1** to this report for endorsement by the Committee.

**3.0 COMPLAINTS UPDATE**

- 3.1 Two new complaints have been received since the last meeting of the Committee:
  - a) In one of the complaints, the complainant alleged that the subject Member had used certain Council information in an inappropriate manner. The complaint was assessed by the Monitoring Officer in consultation with the Independent Person for Standards, when it was agreed that no action should be taken in relation to the complaint.
  - b) The other complaint concerns certain alleged comments about Council officers alleged to have been made by the subject member at a public meeting. At the time of writing this report, the complaint is being scheduled for assessment.
- 3.2 Overall, for the year 1 April 2014 – 11 March 2015 (the date of writing this report), the Council has received three complaints that Members may have breached the Members' Code of Conduct. Of those three complaints:
  - one is currently being scheduled for assessment (see paragraph 3.1(b) above);
  - no action was required in relation to the other two complaints;
  - all were made by different complainants against different subject Members.
- 3.3 Members will be kept informed of developments.

**4.0 RECOMMENDATIONS**

4.1 That the Committee notes the current position on complaints received.

4.2 That, subject to any comments Members may have, the revised standards complaint form attached at **Appendix 1** be approved.

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

Background Documents:

None

County Hall  
NORTHALLERTON

11 March 2015

## NORTH YORKSHIRE COUNTY COUNCIL

## ETHICAL FRAMEWORK

**COMPLAINT FORM – Members’ Code of Conduct**

If you consider that there has been a breach of the Members’ Code of Conduct by a County Councillor or voting co-opted member (“Members”) on one of the County Council’s committees, and you wish to make a complaint, please complete this form and then send or email it to:

Barry Khan  
Monitoring Officer  
North Yorkshire County Council  
County Hall  
NORTHALLERTON  
North Yorkshire  
DL7 8AD

email: [barry.khan@northyorks.gov.uk](mailto:barry.khan@northyorks.gov.uk)

Please note that the Standards Committee can only consider complaints about the behaviour of individual Members and has no jurisdiction to consider complaints about the Council as a whole or Council employees. If you wish to make a complaint about the Council as a whole, or one of its services, please send your complaint to the Chief Executive Officer at the above address.

**Your Details**

1. Please provide us with your name and contact details:

<b>Title:</b>	
<b>First Name:</b>	
<b>Last Name:</b>	
<b>Address:</b>	
<b>Contact telephone number:</b>	
<b>Email address:</b>	

It is important to provide a name and contact address. Please note that the Council will not take any action in relation to anonymous complaints unless there is a significant public interest in doing so.

The Member(s) who is/are the subject of your complaint ('the subject Member(s)') will be advised of the complaint and copied into any relevant correspondence (including this completed complaint form) received from you.

2. Please confirm the status in which you are making this complaint:

- Member of the public;
- An elected or co-opted Member of the Authority;
- Member of Parliament;
- Local Authority Monitoring Officer;
- Other Council Officer or Authority employee; or
- Other (please specify)

3. Please provide us with the name(s) of the Member(s) you believe to have breached the Members' Code of Conduct:

<b>Title</b>	<b>First name</b>	<b>Last name</b>

4. A copy of the Code is attached for reference. Please indicate which paragraphs of the Code of Conduct you believe the Member(s) to have breached:

<b>Councillor</b>	<b>Code paragraph alleged to have been breached</b>

5. Please explain in this section (or on a separate sheet) **what the Member has done** which you believe breaches the Code of Conduct.

If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code.

It is important that you provide all the information you wish the Monitoring Officer to take into account when deciding, in consultation with the Authority's Independent Person for standards, whether to take any action in respect of your complaint.

**Please provide us with the details of your complaint. Continue on a separate sheet if necessary.**

Signed:.....Date:.....

## **CODE OF CONDUCT FOR MEMBERS OF NORTH YORKSHIRE COUNTY COUNCIL**

This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of North Yorkshire County Council. This Code also applies to any person appointed as a co-opted member with voting rights on any Committee of the County Council and references in this Code should be construed accordingly.

You must sign an Undertaking to comply with this Code of Conduct before acting as a Councillor or voting co-opted Member (“Members”).

The Code has been adopted by the County Council and also requires compliance with the general principles of public life set out at the end of the document. The Council has established a Standards Committee, consisting of members of the Council, to deal with any allegations of breaches of the Code.

1. You must not treat others with disrespect.
2. You must not do anything which may cause the County Council to breach any equality enactment.
3. You must not bully or intimidate any person, or attempt to bully or intimidate them.
4. You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Council, or do anything that is likely to compromise their impartiality.
5. You must not disclose information which is given to you in confidence or which you believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless:
  - You have the permission of a person authorised to give it; or
  - You are required by law to disclose the information; or
  - You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality.

Before disclosing any information under this paragraph, you must consult the Monitoring Officer and/or the Chief Executive Officer.

6. You must not prevent another person gaining access to information which that person is entitled to by law.

7. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Member into disrepute.
8. You must not use your position as a Member improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.
9. You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking any scrutiny process.
10. You must not accept any gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a Member. If you do accept any gift or hospitality which might be attributable to your membership of the Council (other than the refreshments which might usually be expected at a Council meeting or civic function) you must disclose this, or any offer of such gift or hospitality, to the Monitoring Officer.
11. You must act in accordance with the Council's guidance or requirements when using the resources of the Council (such as officer time, IT and copying equipment, or physical materials), or when authorising others to use them, and must ensure that those resources are not used improperly for political or other purposes.
12. You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions, in accordance with any requirements imposed by statute or the Council.
13. You must comply with the following sections of this Code, which relate to registering and declaring in meetings certain interests you may have. This includes complying with any procedure rule adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a disclosable pecuniary interest is being discussed.

## **INTERESTS**

### ***Disclosable Pecuniary Interests***

14. (1) A pecuniary interest is a "disclosable pecuniary interest" in relation to you if it is of a description specified in regulations (and listed in Appendix 1) and either:
  - (a) it is your interest; or
  - (b) it is an interest of:
    - (i) your spouse or civil partner;
    - (ii) a person with whom you are living as husband and wife;  
or
    - (iii) a person with whom you are living as if you are civil partners;

and you are aware that that other person has the interest.

***Disclosure of pecuniary interests on taking office***

15. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given.
- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards disclosable pecuniary interests not entered in the Council's register when the notification is given.
- (3) Where you give a notification for the purposes of sub-paragraph (1), the Monitoring Officer is to cause the interests notified to be entered in the Council's Register of Members' Interests ("the Register") (whether or not they are disclosable pecuniary interests).
- (4) Subject to paragraph 17 (regarding sensitive interests), you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.

***Pecuniary interests in matters considered at meetings***

16. (1) Sub-paragraphs (2) to (4) apply if you:
  - (a) are present at a meeting of the Council or Executive, or of any committee, sub-committee, joint committee or joint sub-committee of the Council or Executive;
  - (b) have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
  - (c) are aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the Council's Register, you must disclose the interest to the meeting, but this is subject to this Code's provisions on sensitive interests.
- (3) If the interest is not entered in the Council's Register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) You may not:
  - (a) participate, or participate further, in any discussion of the matter at the meeting; or



- (b) participate in any vote, or further vote, taken on the matter at the meeting;

but this is subject to this Code's provisions on dispensations.

### ***Pecuniary interests in matters considered by a single member***

- (5) Sub-paragraphs (6) and (7) apply if:
  - (a) a function of a relevant authority may be discharged by a member of the authority acting alone;
  - (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
  - (c) the member is aware that the condition in paragraph (b) is met.
- (6) If the interest is not entered in the Council's Register and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in sub-paragraph (5)(b) is met in relation to the matter.
- (7) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (8) Where you give a notification for the purposes of sub-paragraph (3) or (6), the Monitoring Officer is to cause the interest notified to be entered in the Register (whether or not it is a disclosable pecuniary interest).
- (9) The Council's Constitution provides for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of sub-paragraph (4), the member or co-opted member may not participate.
- (10) An interest is "subject to a pending notification" if:
  - (a) the interest has been notified to the Monitoring Officer, but
  - (b) has not been entered in the Register in consequence of that notification.

### **Other Interests**

- 16A. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the Monitoring Officer of any interests other than disclosable pecuniary interests of a type set out in Appendix 2 which you have at the time when the notification is given. This relates only to your *own* interests.

- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards interests other than disclosable pecuniary interests of a type set out in Appendix 2 not entered in the Council's register when the notification is given.
- (3) Subject to paragraph 17 (regarding sensitive interests), you must, within 28 days of becoming aware of any new interests other than disclosable pecuniary interests of a type set out in Appendix 2 or change to any such interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.
- (4) Members involved in making a decision on particular business must always bear in mind the rules relating to bias and predetermination and must not participate in, or seek to influence, Council business where their interests (including those other than disclosable pecuniary interests of a type set out in Appendix 2) may prejudice, or appear to prejudice, their views.

### ***Sensitive interests***

- 17.(1) Sub-paragraphs (2) and (3) apply where:
  - (a) you have an interest (whether or not a disclosable pecuniary interest); and
  - (b) the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.
- (2) If the interest is entered in the Register, copies of the Register that are made available for inspection, and any published version of the Register, must not include details of the interest (but may state that you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011).
- (3) If paragraph 16(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

### **DISPENSATIONS FROM NON-PARTICIPATION**

18. (1) The Council may, on a written request made to the Monitoring Officer by you, grant a dispensation (in accordance with the relevant statutory provisions) relieving you from either or both of the restrictions in paragraph 16(4) in cases described in the dispensation.
- (2) Paragraph 16(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

## OFFENCES

19. (1) You commit a criminal offence if, without reasonable excuse, you:-
- (a) fail to comply with an obligation imposed on you by paragraph 15(1) or 16(2), (3) or (6);
  - (b) participate in any discussion or vote in contravention of paragraph 16(4); or
  - (c) take any steps in contravention of paragraph 16(7).
- (2) You commit an offence if under paragraph 15(1) or 16(2), (3) or (6) you provide information that is false or misleading and you:
- (a) know that the information is false or misleading; or
  - (b) are reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
20. **If you are in any doubt as to your position under the Code of Conduct, please consult the Monitoring Officer.**

**DISCLOSABLE PECUNIARY INTERESTS**

The pecuniary interests which are specified in regulations as disclosable pecuniary interests are the interests specified in the second column of the Schedule below:

## SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's

knowledge)—

(a) the landlord is the relevant authority; and

(b) the tenant is a body in which the relevant person has a beneficial interest.

## Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For these purposes:-

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member (entitled to vote);

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case

may be, of the Act (the corresponding provisions in this Code are paragraphs 15(1) and 16(6));

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (corresponding provision in this Code is paragraph 14(1)(b)), namely:

- M’s spouse or civil partner;
- a person with whom M is living as husband and wife; or
- a person with whom M is living as if they were civil partners;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**INTERESTS OTHER THAN DISCLOSABLE PECUNIARY INTERESTS**

The interests other than pecuniary interests which are required by the Council to be registered in the Register of Members' Interests are set out below:

**1. Membership of Trade Unions/Professional Associations**

In accordance with DCLG Guidance, Members are required to register, in the Register of Members' Interests, their membership of any trade union or professional association.

## **GENERAL PRINCIPLES OF PUBLIC LIFE**

<b>Principle</b>	<b>Revised description</b>
<i>Preamble</i>	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly



support the principles and be willing to challenge poor behaviour wherever it occurs.