

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

23 September 2016

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

15 September 2016



North

Yorkshire County Council

STANDARDS BULLETIN

INTRODUCTION

The Committee on Standards in Public Life is continuing to maintain 'a watching brief' of the standards regimes in local government and the changes resulting from The Localism Act 2011. The Committee has published further information on key issues, details of which are set out in the Bulletin.

Members will be kept informed of developments.

Should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of his Team.

CAROLINE PATMORE **Chair of the Standards Committee**

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
- **Mrs Louise Holroyd**, Independent Person for Standards

If in doubt, please seek advice from the following:

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IN THIS ISSUE:

- House of Commons Briefing Paper on Local Government Standards in England
- Disqualification of councillors
- Local Government Ombudsman - Review of Local Government Complaints 2015-16
- Committee on Standards in Public Life
- CSPL Review of Ethics for Regulators
- Law Commission – further consultation on Misfeasance in Public Office
- CSPL – Annual Report 2015-2016 and Forward Plan 2016-2017
- Interests' regime
- Members' Gifts and Hospitality
- Complaint statistics
- Standards cases

House of Commons Briefing Paper on Local Government Standards in England

The House of Commons Library has published a Briefing Paper, Number 05707, 27 June 2016, on Local Government Standards in England.

The Paper looks at the following areas:

1. Councillors' conduct and interests
2. Codes of conduct
3. Complaints about breaches of codes of conduct
4. The standards regimes in devolved areas

and is a brief summary of the current ethical framework.

The Paper is available on the Library's website at:

<http://researchbriefings.files.parliament.uk/documents/SN05707/SN05707.pdf>

Disqualification of councillors

In response to written question 28793 on the Parliament website:

<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-02-29/28793/>

the Government has indicated its intention to review the legislation surrounding the disqualification of Members and will also consider this in the context of the Localism Act 2011 (which sets out the ethical framework).

Members will be kept updated as to developments.

Local Government Ombudsman - Review of Local Government Complaints 2015-16

The Local Government Ombudsman (LGO) has published a report re its review of Local Government Complaints for 2015-16. Key findings from the report are:

- a) 19,702 complaints and enquiries received
- b) 51% investigations upheld
- c) 3,529 recommendations to put things right and remedy injustice
- d) the area most complained about is education and children's services
- e) Significant changes on previous year (complaints and enquiries received):
 - i. up 13% for education and children's services
 - ii. down 7% for housing
- f) 99.9% of LGO recommendations were complied with across all local authorities

The full report is available from the LGO website at <http://www.lgo.org.uk/information-centre/news/2016/jul/ombudsman-upholding-more-complaints-about-local-government>

Committee on Standards in Public Life (CSPL)

The Committee on Standards in Public Life ("CSPL") is an advisory Non-Departmental Public Body (NDPB) sponsored by the Cabinet Office. The Chair and members are appointed by the Prime Minister. It advises the Prime Minister on national ethical standards issues.

The Prime Minister has recently made two new appointments to the CSPL, Jane Ramsey and Dr Jane Martin, following an open competition.

Full details are published on the CSPL website at <https://www.gov.uk/government/news/new-members-appointed-to-committee>

CSPL Review of Ethics for Regulators

The CSPL has announced that it has finished its review of ethics for regulators which will be published imminently.

Members will be kept informed of developments

Law Commission second consultation on Misfeasance in Public Office

The Commission has very recently published its second, detailed consultation document on options for law reform in this area.

The 200+ page consultation document is available on the Law Commission website at: <http://www.lawcom.gov.uk/project/misconduct-in-public-office/>

The website states that the reform objectives are “to decide whether the existing offence of misconduct in public office should be abolished, retained, restated or amended and to pursue whatever scheme of reform is decided upon.”

In terms of law reform options, the Law Commission states on its website:

The problems identified in the existing law clearly show that it would be undesirable either to retain the existing offence or to attempt to codify it in statute. All the options in the Consultation Paper therefore assume that the common law offence of misconduct in public office is to be abolished.

The consultation closes on 28 November 2016. The final report will be published in 2017.

Given the detail of the consultation, the Monitoring Officer will consider the consultation paper and consult Members of the Standards Committee on any response he ultimately considers necessary/appropriate.

Members will be kept informed of developments.

CSPL Annual Report 2015-2016 and Forward Plan 2016-2017

The Committee on Standards in Public Life has published its Annual Report 2015-2016 and Forward Plan 2016-2017. A copy of the Report is available at:

<https://www.gov.uk/government/publications/committee-on-standards-in-public-life-annual-report-2015-2016>

The report provides an overview of the CSPL’s activities over the year in question and sets out its forward work programme for the coming year.

In terms of monitoring standards issues, the CSPL intends to:

- *Maintain a watching brief to identify emerging or persistent standards issues and respond promptly to them.*
- *Undertake independent quantitative and qualitative research into public perceptions of ethical standards.*
- *Respond to consultations and key policy announcements and legislation where these impact on ethical standards and we have an informed contribution to make.*

and, in addition to monitoring standards issues, the CSPL will “take steps to ensure our voice is heard promoting high ethical standards”.

The Report also sets out the CSPL’s views on the Law Commission consultation on Misfeasance in Public Office, referred to earlier in this Bulletin.

Paragraphs 78 to 82 of the Report set out the CSPL’s commitment to maintaining a watching brief over the standards regime.

The CSPL notes that the role of the independent person is “generally well received” and that vexatious complaints are falling; however, the effectiveness of the sanctions regime is still a concern.

The CSPL invites councils to consider whether their own local standards frameworks are sufficient to address standards breaches and build public trust. The Standards Committee will continue to monitor the Council’s standards arrangements.

Interests’ Regime

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 (as ‘interests other than a disclosable pecuniary interests’), but generally no wider, non-pecuniary, interests (eg membership

of public and charitable bodies) unless a Member holds a position/office within the body for profit or gain.

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 <http://www.northyorks.gov.uk/article/23630/Councillors-code-of-conduct>)

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 NOTE: a Member commits a **criminal offence** if, without reasonable excuse, s/he —

- fails to:
 - ❖ register disclosable pecuniary interests
 - ❖ disclose an interest to a meeting where required
 - ❖ notify the Monitoring Officer of an interest disclosed to a meeting
- participates in any discussion or vote where prohibited
- an individual Member decision taker takes any steps in relation to a matter where prohibited

A Member also commits a **criminal offence** if, in relation to the registration/disclosure of interests, s/he provides information that is false or misleading and —

- knows that the information is false or misleading, or
- is reckless as to whether the information is true and not misleading.

A court may also disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

Please therefore keep your interests form under review to ensure it is up to date. 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.

Interests’ issues are ultimately Members’ responsibility. If you are in any doubt as to your position, please contact the Monitoring Officer or any of his team in order to discuss the situation.

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.

Complaint Statistics

For the year 1 April 2016 to date, the Council has received two complaints that a Member may have breached the Members' Code of Conduct.

One complaint is currently under consideration by the Monitoring Officer.

The other complaint is currently being scheduled for assessment by the Monitoring Officer in consultation with the Independent Person for Standards.

Further details will be reported in due course.

Members will be kept informed of statistical information in relation to standards complaints received by the Authority.

CASES

Misfeasance in public office claim

The Local Government Lawyer publication recently published a report on the following case:

The High Court has dismissed a misfeasance in public office claim brought in a private capacity by the Official Solicitor and his partner against two councils following the refusal of planning permission for a new house.

In April 2013 planning permission was refused by the district council, which had consulted another authority as highway authority.

Planning permission was granted on appeal and the site was sold with the benefit of the planning permission, however the misfeasance claim was continued.

The claimants alleged that the councils' actions were "bent" and that they had been "stitched up".

The claim was ultimately dismissed and the judge made an indemnity costs order in favour of the two local authorities.

Supply of false information

The Local Government Lawyer publication recently published a report on the following case:

An ex-councillor has been jailed for two months after pleading guilty to supplying false information to an electoral registration officer.

According to a report on the BBC website, he had claimed on a form submitted to the electoral registration officer that he lived at a certain address, when he actually lived in another, outside the city boundaries. He resigned ten days after he was elected.

He subsequently pleaded guilty to a charge of 'Supplying False Information to the Electoral Registration officer' under s13D Representation of the People Act.

Contributors:

MOIRA BEIGHTON

North Yorkshire Legal & Democratic Services

Resources

Localism Act 2011 and subordinate legislation.

www.gov.uk/government/organisations/the-committee-on-standards-in-public-life

Information published on www.gov.uk
Local Government Lawyer case reports