

North Yorkshire County Council

Standards Committee

Minutes of the meeting held on Friday 10 March 2017 at 10.00 am at County Hall, Northallerton.

Present:-

County Councillors Caroline Patmore (Chairman), Helen Grant, Tony Randerson and Peter Sowray; together with Independent Person for Standards, Louise Holroyd.

Apologies for non-attendance were received from County Councillor David Jeffels and Independent Person for Standards, Hilary Gilbertson MBE.

Members asked for their best wishes to be sent to Hilary Gilbertson for a speedy recovery from her recent illness.

Copies of all documents considered are in the Minute Book

53. Minutes

Resolved –

That the Minutes of the meeting held on 23 September 2016, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

54. Declarations of Interest

There were no declarations of interest from Members at this stage of the meeting.

55. Public Questions or Statements

There were no questions or statements from members of the public.

56. Training

Senior Lawyer (Governance) Moira Beighton, provided the Committee with refresher training relating to Members' Code of Conduct and the Ethical Framework.

The training session highlighted the following:-

- ◆ The Governance Team.
- ◆ The Authority's Ethical Statement.
- ◆ Details of the Ethical Framework.
- ◆ The legal framework.
- ◆ North Yorkshire County Council's Ethical Framework - highlights.
- ◆ The Members' Code of Conduct.
- ◆ The Standards Committee.
- ◆ The Register of Members' Interests.
- ◆ Disclosable pecuniary interests.

- ◆ Other interests.
- ◆ General information on interests.
- ◆ Disclosure of interests.
- ◆ Sensitive interests.
- ◆ Complaint handling arrangements.
- ◆ Dispensations.
- ◆ Offences.
- ◆ Bias and pre-determination.

A discussion took place during the training session and the following issues and points were highlighted:-

- ◆ It was asked that copies of the Member and Officer Codes of Conduct be sent to Members of the Committee along with the slides provided by way of this training presentation.
- ◆ The need for Members to register any new interests within 28 days of them being aware of those interests was emphasised and it was noted that Members welcomed the annual reminder in relation to the registration of interests.
- ◆ The Monitoring Officer explained the role of Independent Persons to the Standards Committee, how they were chosen, and the criteria in relation to being an Independent Persons.
- ◆ It was noted that it was Members' responsibility to declare interests.
- ◆ The role of Standards Committee in determining vexatious complaints was outlined.
- ◆ Issues around declarable interests and being a member of a trade union were highlighted.
- ◆ Issues around sanctions in relation to breaches of the Code of Conduct were discussed.
- ◆ Issues relating to pre-determination were outlined.
- ◆ It was noted that each local authority was responsible for determining its own Code of Conduct under the most recent standards legislation.

57. Local Ethical Framework Developments

Considered -

The report of the Monitoring Officer updating Members on the development of the Ethical Framework under the Localism Act 2011.

The report provided details of the view of Ethics for Regulators by the Committee on Standards in Public Life (CSPL). A full copy of the report was provided and it was noted that the CSPL stated that it was reassured that, generally, regulators were committed to upholding the principles of public life, however, it noted there were instances where this was not the case and retrospective action was being taken to deal with issues as they emerged. The report provided key highlights and a number of best practice recommendations in relation to the following:-

- ◆ Governance.
- ◆ Code of Conduct.
- ◆ Revolving door.
- ◆ Independence.
- ◆ Transparency.
- ◆ External leadership.

Other issues detailed within the report included:-

- ◆ Councillor Commission report.
- ◆ Centre for Public Scrutiny.
- ◆ Regional meeting of Standard Committee Chairs, Vice-Chairs and Independent Persons on Monday 3 April 2017.

The Monitoring Officer highlighted an issue in relation to the involvement of Independent Persons from Standards Committees in the disciplinary process for the highest ranking officers in local authorities (Chief Executive, Section 151 Officer, Monitoring Officer, etc). He explained the process undertaken which could lead to the dismissal of one of those officers and the involvement of Independent Persons in the investigation stage within that disciplinary process. He stated that legislation was currently being developed as a loophole had been discovered in terms of retaining independent status when involved in a Disciplinary Committee of a Council. As a result, and to assist in a way forward for the process, consideration was being given to Standards Committee Independent Persons from other authorities undertaking this role on those specific Disciplinary Committees. This would also see the Independent Persons from this authority undertaking that duty for other Councils. It was suggested that further developments, in relation to these arrangements, be discussed both with neighbouring local authorities and at the forthcoming Regional Meeting of Standards Committee Chairs, Vice-Chairs and Independent Persons, to determine appropriate arrangements for this process.

Resolved -

- (i) That the contents of the report be noted.
- (ii) That the Committee be represented, at the next North East Regional Meeting of Standards Committee Chairs, Vice-Chairs and Independent Persons, taking place at North Tyneside Council on Monday 3 April 2017, by the Chairman of the Standards Committee, Louise Holroyd, Independent Person and appropriate officers.
- (iii) That further discussions be undertaken to determine appropriate arrangements in respect of the role of the Independent Persons on Standards Committees in the disciplinary processes for local authorities' most senior ranking officers.

58. Standards Complaints Procedure

Considered -

The report of the Monitoring Officer presenting, for consideration and recommendation to full Council for approval, proposed amendments to the Standards Complaints Procedure.

It was noted that the Committee had previously suggested that an additional part of the process should be added which involved contact between the Chairman and the Monitoring Officer when this was considered warranted, in respect of large numbers

of complaints against a particular Member, a specific complaint relating to one Member registered by more than one complainant and then unusually large number of complaints generally.

Details of the amendments were set out by way of tracked changes in the procedure appended to the report.

It was also stated that the Members' Code of Conduct no longer needed to be appended to the complaint procedure as it was not necessary and would future proof the procedure.

Resolved -

That the proposed amendments to the arrangements for the arrangements for dealing with allegations of breach of the Members' Code of Conduct, as set out in Appendix 1 to the report, be recommended to full Council for approval.

59. Review of the Protocol re Members' Gifts and Hospitality

Considered -

The report of the Monitoring Officer detailing a review of the Protocol re Members' Gifts and Hospitality.

The review resulted from agreement at the Standards Committee meeting held on 15 April 2016 with changes to be implemented after the elections in May 2017.

The proposed amendments to the Protocol would bring that up-to-date in terms of legislation and Ethical Framework requirements and were set out by way of tracked changes on an Appendix attached to the main report. Subject to comments by Members the draft amendments would then be circulated to the Chief Executive and Executive Members for their views with a further draft then brought back to the Committee.

Discussion of the report highlighted the following issues:-

- ◆ It was asked that officers ensure that the changes suggested made grammatical sense when they were implemented, as currently, some of these did not read correctly.
- ◆ A discussion was undertaken in relation to how gifts and hospitality were valued, what was considered to be of substantial value and how Members determine such a situation.

Resolved -

That the draft amendments to the Gifts and Hospitality Protocol for Councillors be checked to ensure that they read correctly and then be submitted for further consultation with the Chief Executive and Executive Members.

60. Complaints Update

Considered -

The report of the Monitoring Officer updating the Committee regarding Ethical Framework complaint activity since the Committee's last meeting on 23 September 2016.

The Committee highlighted that there had been no new formal complaints received since the last meeting of the Committee and provided updates on existing complaints.

Resolved -

That the current position on complaints received be noted.

61. Standards Bulletin

Highlights of the issues outlined in the bulletin included:-

- ◆ CSPL review of Ethics for Regulators.
- ◆ Councillor Commission report.
- ◆ Interests' regime.
- ◆ Members' gifts and hospitality.
- ◆ Complaint statistics.
- ◆ Cases - including North Norfolk District Council, Honiton Town Council and Rotherham Borough Council.

Discussion of the report highlighted the following issues:-

- ◆ The upholding of a request to disclose a draft Standards investigation report arising from a Councillor's alleged breach of the Code of Conduct by the ICO and subsequently the FTT, which was contrary to what had taken place previously.
- ◆ Details were outlined in relation to the number of Freedom of Information requests received generally and it was noted that very few of these were in relation to Standards issues.
- ◆ It was noted that a number of local authorities were seeking to replicate the Standards Bulletin produced by North Yorkshire County Council and it was acknowledged that the publication was seen as an example of best practice amongst other local authorities.

Resolved -

That the Standards Bulletin, as detailed, be circulated to Members of the Council.

The meeting concluded at 11.40 am.

SL/JR

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

15 September 2017

Local Ethical Framework Developments**1.0 PURPOSE OF REPORT**

- 1.1 To update Members on the development of the ethical framework under the Localism Act 2011.

2.0 BACKGROUND

- 2.1 Members receive a report at each Standards Committee meeting setting out any recent developments in the ethical framework.

3.0 EQUALITY AND HUMAN RIGHTS COMMISSION VOLUNTARY PRINCIPLES ON STANDARDS FOR POLITICAL DISCOURSE

- 3.1 The Equality and Human Rights Commission published a set of 'Voluntary principles on standards for political discourse' for political parties, candidates and campaigners in relation to the general election earlier this year, to support its belief that "...while political debates should be free and open, they should not create or worsen divisions in society..."

- 3.2 A copy of the principles is available to view on the Commission's website:

<https://www.equalityhumanrights.com/en/publication-download/voluntary-principles-standards-political-discourse>

- 3.3 It is suggested that the Authority maintains a strong ethical framework, shaped by its Code of Conduct and accompanying standards documents, underpinned by support from the Authority's leadership, which encapsulates the spirit of the Commission's Voluntary Principles.

4.0 CSPL ETHICAL STANDARDS FOR PROVIDERS OF PUBLIC SERVICES FOLLOW UP

- 4.1 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 regarding standards of conduct of public office holders. The CSPL terms of reference were amended in 2013 to cover all involved in delivering public services, not just those elected/appointed to public office.

- 4.2 The CSPL is currently undertaking a follow up review of its 2014 report 'Ethical standards for providers of public services' and 2015 guidance, to see if there have been any changes in how private/voluntary sector providers undertaking outsourced public services uphold the Nolan Principles and ethical standards. It will also assess how the CSPL guidance has been used and review how government has responded to its recommendations for transparent commissioning based on ethical expectations.

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

4.3 Members will be kept informed of developments.

5.0 CSPL REVIEW – MEMBERS’ OUTSIDE INTERESTS

5.1 In 2009, the CSPL recommended that “MPs should not be prohibited from paid employment such as journalism outside the House, providing any such activity remains in reasonable limits. But it should be transparent and information about it should be drawn to voters’ attention at election time.”

5.2 The CSPL is undertaking a short review of MPs’ outside interests, to inform its submission on “reasonable limits” for such interests to the ongoing inquiry by the Commons Committee on Standards into the MPs’ Code of Conduct:

<https://www.gov.uk/government/news/mps-outside-interests-committee-announces-short-review>

5.3 For those wishing to contribute to the review, further information is available on the CSPL website:

<https://www.gov.uk/government/consultations/mps-outside-interests-cspl-review>

5.4 The review is open until 5pm on 13 September 2017. Members will be kept informed of developments.

6.0 CSPL REVIEW OF INTIMIDATION OF PARLIAMENTARY CANDIDATES

6.1 The Government has asked the CSPL to conduct a short review of intimidation of Parliamentary candidates and the broader implications of this for other public office holders:

“As an independent Committee, we will consider this issue on a non-partisan basis. Members of Parliament and candidates from a range of political backgrounds have been subjected to intimidation. It is important to shed light on these experiences to inform efforts to better protect those affected and at the same time maintain healthy, robust debate and legitimate scrutiny from the public and the press.

“In particular, we will want to examine how social media tends to amplify, intensify, and escalate some of the long-standing issues which the Committee has been concerned about.

“How those in public life and candidates for public office are treated inevitably has implications for standards in public life more broadly, including how public office holders relate to members of the public.

“We will announce our methodology for this review later this month. We would welcome contributions from anybody interested in this issue. The Committee is keen to encourage further debate and consideration of these important issues. Further information on how to contribute will be on our website.”

<https://www.gov.uk/government/news/intimidation-of-parliamentary-candidates-committee-announces-short-review>

<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

6.2 Members will be kept informed of developments.

7.0 CSPL REVIEW OF LOCAL GOVERNMENT STANDARDS

7.1 The CSPL has published its Strategic Plan, Annual Report for 2016-17 and Forward Plan for 2017-18. Copies can be found:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626271/Setting_the_Standard_-_Strategic_Plan_Annual_Report_2016-17_Fwd_Plan_2017-18.pdf

7.2 The CSPL maintains a watching brief on the local government standards regime. In its 2013 report "Standards Matter" the CSPL outlined its concerns regarding possible issues re the local government standards framework under the Localism Act of 2011:

'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'.

7.3 The forward work programme includes a review of local government standards, upon which the CSPL intends to consult in early 2018 with a view to making findings and publishing recommendations later in 2018. Members will be kept informed of developments.

8.0 REGIONAL MEETING OF STANDARDS COMMITTEE CHAIRS, VICE-CHAIRS AND INDEPENDENT PERSONS

8.1 North Tyneside Council hosted a regional meeting of the Chairs, Vice-Chairs and Independent Persons of Standards Committee at 1pm on Monday 3 April 2017 at the Council offices. It was attended by Councillor Patmore, Louise Holroyd and Moira Beighton, on behalf of the County Council. An oral update will be given to the meeting.

9.0 RECOMMENDATIONS

9.1 That the Committee notes the contents of this report.

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

Background Papers:

None

County Hall
NORTHALLERTON

5 September 2017

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

15 September 2017

Annual Report of Standards Committee**1.0 PURPOSE OF REPORT**

- 1.1 To present Members with a draft Annual Report of the work of the Standards Committee for the period 1 April 2016 to 31 March 2017.

2.0 BACKGROUND

- 2.1 The Committee has previously agreed that it would be helpful to publish an Annual Report on its work to the Authority in order to raise the profile of the Committee and strengthen awareness of its work and ethical standards generally. An Annual Report also assists in discharging the Authority's statutory duty to promote and maintain high standards of conduct and also ensures that the Authority has an overview of work undertaken by the Committee in discharging the Authority's standards responsibilities.
- 2.2 The Committee previously resolved that each Annual Report should be 'light touch' and as brief as possible

3.0 DRAFT ANNUAL REPORT

- 3.1 A draft Annual Report of the Committee, for the period 1 April 2016 to 31 March 2017 is attached for Members' consideration and approval at **Appendix 1**. The Report, if approved by the Committee, will be presented to a future meeting of the Authority.
- 3.2 Members' views are welcomed.

4.0 RECOMMENDATIONS

- 4.1 Subject to any comments Members may have, the Committee is asked to approve the draft Annual Report for presentation to a future meeting of the Authority.

BARRY KHAN

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

Background Papers:

- The Localism Act 2011
- Minutes of NYCC Standards Committee meetings

County Hall
NORTHALLERTON

6 September 2017

NORTH YORKSHIRE COUNTY COUNCIL

\$ 2017

Annual Report of the Standards Committee**1.0 PURPOSE OF REPORT**

- 1.1 To provide the Authority with an Annual Report on the work of the Standards Committee from 1 April 2016 to 31 March 2017.

2.0 BACKGROUND

- 2.1 The Standards Committee was established in 2012 as part of the ethical framework for local government introduced by the Localism Act 2011.
- 2.2 The Committee has previously agreed that it would be helpful to publish an Annual Report on its work to the Authority in order to raise the profile of the Committee and strengthen awareness of its work and ethical standards generally. An Annual Report also assists in discharging the Authority's statutory duty to promote and maintain high standards of conduct and also ensures that the Authority has an overview of work undertaken by the Committee in discharging the Authority's standards responsibilities.

3.0 THE ETHICAL FRAMEWORK

- 3.1 The ethical framework introduced under the 2011 Act includes:
- (a) **The Standards Committee:** The Committee usually meets twice per annum. During the period in question, the Committee met on 15 April 2016 (rescheduled from 11 March 2016), 23 September 2016 and 10 March 2017. The Committee is responsible for standards and standards complaints handling issues, the granting of dispensations and also has a role in relation to issues raised by or in relation to persistent and/or vexatious complainants.
 - (b) **Independent Persons for Standards:** Each relevant authority must appoint at least one "Independent Person". In 2012, the Authority approved the appointments of Mrs Hilary Gilbertson MBE and Mrs Louise Holroyd as Independent Persons for the Authority. The Independent Persons are invited to all meetings of the Standards Committee and are consulted on all key standards matters.
 - (c) **A statutory duty to promote and maintain high standards of conduct**
 - (d) **Members' Code of Conduct**
 - (e) **Register of Members' Interests** (hard copy and online)
 - (f) **Complaint Handling**
 - (g) **Ethical Statements**
 - (h) **Standards Bulletin**
- 3.2 The **Monitoring Officer** supports the Committee in its work, including maintaining the Register of Members' Interests and dealing with any complaints made against Members under the local standards regime.

4.0 WORK UNDERTAKEN BY THE COMMITTEE

- 4.1 The work undertaken by the Standards Committee between the period 1 April 2016 to 31 March 2017 is set out below:

- (a) Review of ethical framework developments: the Committee has considered developments in the national standards regime and provided guidance to Members, for example in relation to:
- i. documents published by the Committee on Standards in Public Life, for example its guidance document “Ethical Standards for Providers of Public Services”, its report into policing accountability: Tone from the top - leadership, ethics and accountability in policing, its review of ethics for regulators and its Annual Report 2015- 2016 and Forward Plan 2016-2017;
 - ii. the Law Commission consultation on misconduct in public office;
 - iii. the National Audit Office report into the acceptance of gifts and hospitality by government officials;
 - iv. The House of Commons Library Briefing Paper, Number 05707, 27 June 2016, on Local Government Standards in England;
 - v. The Local Government Ombudsman report re its review of Local Government Complaints for 2015-16.
- (b) Standards Complaint Procedure: the Committee considered, and recommended to full Council on 17 May 2017 for approval, certain amendments to the arrangements for dealing with allegations of breach of the Members’ Code of Conduct.
- (c) Gifts and Hospitality Protocol for Councillors: the Committee considered draft amendments to the Protocol for further consultation.
- (d) Members’ attendance at Committees: the Committee considered and noted statistical information relating to Members’ attendance at meetings of the County Council and its Committees. It agreed that the matter of addressing attendance issues should be left in the hands of the relevant Group Leaders.
- (e) Training: The Committee ensures that Members receive appropriate training to maintain their awareness of ethical standards. Training during 2016/7 included an induction training session for a new Councillor in July 2016, and refresher standards training to the Standards Committee on 10 March 2017.
- (f) Register of Members’ Interests: The Register of Members’ Interests is also published on the Authority’s website. The Committee monitors the operation of the Register.
- (g) Standards Bulletin: The Committee has issued three Standards Bulletins during the period covered by this Report, aimed at keeping Members and Officers apprised of developments in the ethical regime. Copies of the Bulletin have also been requested by, and circulated to, other authorities.
- (h) Complaints: The Committee receives a Complaints Update report at each meeting. During the period covered by this Report, there were three complaints received that Members may have breached the Authority’s Members’ Code of Conduct. Of those three complaints, two are currently under Monitoring Officer consideration and the other was held to be out of jurisdiction and therefore no action was required.
- (i) Liaison with neighbouring authorities: The Monitoring Officer has continued to liaise with the neighbouring authority Heads of Legal/Monitoring Officers’ Group and a meeting of the Group and Chairs/Vice-Chairs of Standards Committees took place at the City of York Council offices on 21 July 2016.
- (j) Standards Committee Annual Report: an Annual Report of the Committee covering the period 1 April 2015 to 31 March 2016 was presented to full Council on 9 November 2016.

- 4.2 The Committee will continue its work in the promotion of high ethical standards and further involvement in training of officers and Members at an appropriate stage.

5.0 RECOMMENDATION

- 5.1 That the Authority receives and notes the Annual Report of the Standards Committee.

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Chair of NYCC Standards Committee

Background Papers:
Minutes of and reports to the Standards Committee

15 September 2017

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

15 September 2017

Dispensation Issues**1.0 PURPOSE OF REPORT**

- 1.1 To inform the Committee about a dispensation granted to a County Councillor by the Monitoring Officer under delegated powers.
- 1.2 To present to the Committee, for determination, a request from a County Councillor for a dispensation from the Standards Committee.

2.0 BACKGROUND

- 2.1 The Monitoring Officer was designated by the County Council as Proper Officer to receive written requests by Members/voting Co-opted Members for a dispensation under section 33 Localism Act 2011 relieving them from either or both of the restrictions on participating in the discussion and vote on a matter where they have a disclosable pecuniary interest (DPI).
- 2.2 The power to grant dispensations to Members and voting Co-opted Members under the new ethical framework was delegated by the Council to this Committee, after consultation with the Independent Persons.
- 2.3 Power was also delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Persons) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation.

3.0 DISPENSATION GRANTED BY MONITORING OFFICER

- 3.1 On 4 July 2017, a dispensation was granted by the Monitoring Officer, under delegated powers, to County Councillor David Chance to enable him to speak, vote and be included within the quorum at meetings of the Yorkshire Coast and Moors County Area Committee when it is considering business relating to the Whitby Park and Ride Scheme and parking zone arrangements for Whitby. The dispensation does not allow the Councillor to vote on the matter at the Executive as a decision making body.
- 3.2 The matter could not await the next scheduled meeting of the Standards Committee as an item regarding the consideration of seasonal operation for the Whitby Controlled Parking Zone was on the agenda for the meeting of the Yorkshire Coast and Moors Area Committee the following day, 5 July 2017.
- 3.3 Councillor Chance has a disclosable pecuniary interest in items relating to the Scheme and parking zone arising out of the employment of his partner at a business in Whitby. There is the potential for that business to be affected if it is included within a parking zone.

- 3.4 The dispensation was granted as it was in the interests of persons living in the Authority's area and it was appropriate to grant the dispensation in all the circumstances, as the Area Committee was not the decision taker. An almost identical dispensation was previously granted to Councillor Chance by the Standards Committee in 2013, which expired at the date of the local elections in May this year. The dispensation will last until the date of the local government elections in 2021.

4.0 DISPENSATION REQUEST TO THE COMMITTEE

- 4.1 County Councillor Patrick Mulligan's wife, Julia Mulligan, is the Police and Crime Commissioner for North Yorkshire. Interests issues arise as this office, being 'for gain', appears in Councillor Mulligan's Register of Interests as a disclosable pecuniary interest. He will therefore have a disclosable pecuniary interest in any matter to be considered or being considered at any meeting of the Council, Executive, Committee or Sub-Committee of the County Council affecting the Police or the office of Police and Crime Commissioner. The implication of this is that Councillor Mulligan would have to declare an interest and leave the meeting room: he may not, in the normal course of events, participate in any discussion of the item of business or participate in any vote at the meeting. This would mean that those he represents in his division would be without representation at the meeting.
- 4.2 On 11 February 2013, a dispensation was granted by the Standards Committee to County Councillor Mulligan to enable him to speak, vote and be included within the quorum at County Council, Executive, Committee and Sub-Committee meetings when the Council/Executive/Committee/Sub-Committee is considering business which may relate to the Police and/or the Police Commissioner where the impact of any decision by the Council/Executive/Committee/Sub-Committee on the item of business would not, in any event, bring any personal advantage or disadvantage to Councillor Mulligan or his wife. The dispensation was granted as the dispensation was in the interests of persons living in the authority's area and it was appropriate to grant the dispensation. The dispensation lapsed on the date of the local government elections in 2013.
- 4.3 On 10 June 2013, following re-election, Councillor Mulligan made a request for a similar dispensation. The next scheduled meeting of the Standards Committee at that time was not until 30 September 2013. In order to reach a timely decision on the dispensation application, the then Monitoring Officer considered the dispensation application under delegated powers and on 20 June 2013 granted a dispensation to Councillor Mulligan in identical terms as before. The dispensation was granted as the dispensation was in the interests of persons living in the authority's area and it was appropriate to grant the dispensation. The dispensation lapsed at the date of the local government elections earlier this year.
- 4.4 Following re-election in May this year, Councillor Mulligan sought a further dispensation in similar terms. Due to the timing of the next scheduled meeting of the Standards Committee, the Monitoring Officer considered Councillor Mulligan's application under delegated powers. On 7 June 2017, the Monitoring Officer emailed all Members of the Standards Committee and the Independent Persons for Standards regarding Councillor Mulligan's application to renew his dispensation.
- 4.5 Since the granting of the first dispensation to Councillor Mulligan, the Police and Crime Commissioner has consulted on her current business case for the Police and Crime Commissioner to assume responsibility for the governance of the North Yorkshire Fire and Rescue Authority. The Council's Corporate and Partnerships Overview and Scrutiny Committee and Executive have considered the Council's response to the proposals.

- 4.6 Not all available Standards Committee Members consulted by the Monitoring Officer agreed to the granting of the dispensation. In light of comments received from Members, Councillor Mulligan withdrew his application for a dispensation at that time.
- 4.7 Recently, Councillor Mulligan has indicated that he would wish to apply to the full Standards Committee for a new dispensation to allow him to participate in discussions regarding general policing issues. Applications must be in writing and Councillor Mulligan's written application will be circulated to Standards Committee Members once received.
- 4.8 Attached at **Appendix 1** to this report is an updated draft proforma dispensation application form, for Members' approval.

5.0 DISPENSATION PROCESS

- 5.1 Under the Localism Act 2011 and delegated power from the Council, the Standards Committee has power to grant a dispensation to a Member from non-participation in relation to a disclosable pecuniary interest where the Committee concludes, after having had regard to all relevant circumstances, that:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - (c) granting the dispensation is in the interests of persons living in the authority's area;
 - (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
 - (e) it is otherwise appropriate to grant a dispensation.
- 5.2 The Committee must decide whether the application fulfils any of the criteria set out in paragraph 5.1 and, if so, whether it is appropriate to grant the dispensation in the circumstances, after balancing the public interest in preventing a Member with a disclosable pecuniary interest from taking part in Council business, against the public interest in the relevant constituents not being disenfranchised and their views being able to be put forward on the business in question.
- 5.3 If the Standards Committee is minded to grant a dispensation, it must consider the duration of it. Dispensations may be granted for a maximum period of 4 years.
- 5.4 Any dispensation granted will be recorded in writing and kept with Councillor Mulligan's interests form in the Council's Register of Members' Interests.

6.0 CONCLUSION

- 6.1 That the Committee determines the application by Councillor Mulligan for a dispensation.

7.0 RECOMMENDATIONS

- 7.1 That the Committee notes the dispensation granted by the Monitoring Officer under delegated powers to County Councillor Chance on 4 July 2017.
- 7.2 That the Committee consider and determine the application for a dispensation by Councillor Mulligan.
- 7.3 That, should the Committee be minded to grant the dispensation requested, the Committee determine the duration of the dispensation.
- 7.4 That, subject to any comments Members may have, the Committee approves the updated proforma dispensation application form set out in **Appendix 1**.

BARRY KHAN
Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

7 September 2017

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Request for a Dispensation

Name of Member seeking dispensation:

In respect of which meeting(s)? *(Include dates, where possible)*

In respect of what business? *(If applicable, include full details of the agenda item or other matter)*

Name of the Relevant Officer: *(Please indicate the name of the officer who usually presents reports on the matter for which a dispensation is sought).*

Desired length of dispensation: *(Please note the maximum length of a dispensation is four years)*

Ground(s) for application: *(Please tick the relevant box)*

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area; or
- (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive;
- (e) it is otherwise appropriate to grant a dispensation.

Details of your disclosable pecuniary interest:

Please set out full details of your interest in the business concerned. Please continue on a separate sheet if necessary:

Reasons for seeking a dispensation:

Please set out full reasons why it is desirable for the Standards Sub-Committee to grant you a dispensation in respect of the above prejudicial interest. Please continue on a separate sheet if necessary:

PLEASE REMEMBER THAT WHEN ACTING UNDER A DISPENSATION, MEMBERS MUST AT ALL TIMES ACT, AND APPEAR TO ACT, IN THE AUTHORITY'S BEST INTERESTS.

Signed:

Dated:

TO: **BARRY KHAN**, Monitoring Officer, North Yorkshire County Council

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

15 September 2017

Complaints Update**1.0 PURPOSE OF REPORT**

- 1.1 To update the Committee regarding ethical framework complaint activity since the Committee's last meeting on 10 March 2017.

2.0 COMPLAINTS UPDATE**New complaints**

- 2.1 One new formal complaint has been received since the last meeting of the Committee.

NYCC/SC/60

The complaint arose out of communications between the complainant and the then County Councillor. The complainant alleged that certain information provided to him by the Councillor was inaccurate, that the Councillor failed to respond to his queries on certain occasions and that an email by the Councillor was disrespectful. The complaint was assessed by the Monitoring Officer in consultation with the Independent Person for Standards and found to be out of jurisdiction therefore no action was required.

Existing complaints

- 2.2 Existing, live complaints NYCC/SC/58 and NYCC/SC/59 are currently under consideration by the Monitoring Officer. Further details will be reported to the Committee at a future meeting.

Statistics

- 2.3 For the year 1 April 2016 – 31 March 2017, the Council has received the three complaints referred to above.
- 2.4 Members will be kept informed of developments.

3.0 RECOMMENDATIONS

- 3.1 That the Committee notes the current position on complaints received.

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

Background Documents:

None

County Hall
NORTHALLERTON

6 September 2017

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

15 September 2017

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 approved for circulation.

BARRY KHAN

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

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

7 September 2017



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 CSPL's forward work programme includes a review of local government standards, upon which the CSPL intends to consult in early 2018 with a view to making findings and publishing recommendations later in 2018.

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.

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Chair of the Standards Committee

THE STANDARDS COMMITTEE

The Members of the Standards Committee:

- **County Councillor John Blackie**
- **County Councillor Andy Paraskos**
- **County Councillor Caroline Patmore**
- **County Councillor Peter Sowray**
- **County Councillor Cliff Trotter**

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:

Barry Khan

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Voluntary Principles on Standards for Political Discourse

The Equality and Human Rights Commission published a set of 'Voluntary principles on standards for political discourse' for political parties, candidates and campaigners in relation to the general election earlier this year, to support its belief that "...while political debates should be free and open, they should not create or worsen divisions in society..."

A copy of the principles is available to view on the Commission's website:

<https://www.equalityhumanrights.com/en/publication-download/voluntary-principles-standards-political-discourse>

It is suggested that the Authority maintains a strong ethical framework, shaped by its Code of Conduct and accompanying standards documents, underpinned by support from the Authority's leadership, which encapsulates the spirit of the Commission's Voluntary Principles.

CSPL Ethical Standards For Providers Of Public Services

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 regarding standards of conduct of public office holders. The CSPL terms of reference were amended in 2013 to cover all involved in delivering public services, not just those elected/appointed to public office.

The CSPL is currently undertaking a follow up review of its 2014 report 'Ethical standards for providers of public services' and 2015 guidance, to see if there have been any changes in how private/voluntary

sector providers undertaking outsourced public services uphold the Nolan Principles and ethical standards. It will also assess how the CSPL guidance has been used and review how government has responded to its recommendations for transparent commissioning based on ethical expectations.

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

Members will be kept informed of developments.

CSPL Review – Members' Outside Interests

In 2009, the CSPL recommended that "MPs should not be prohibited from paid employment such as journalism outside the House, providing any such activity remains in reasonable limits. But it should be transparent and information about it should be drawn to voters' attention at election time."

The CSPL is undertaking a short review of MPs' outside interests, to inform its submission on "reasonable limits" for such interests to the ongoing inquiry by the Commons Committee on Standards into the MPs' Code of Conduct:

<https://www.gov.uk/government/news/mps-outside-interests-committee-announces-short-review>

For those wishing to contribute to the review, further information is available on the CSPL website:

<https://www.gov.uk/government/consultations/mps-outside-interests-cspl-review>

The review is open until 5pm on 13 September 2017. Members will be kept informed of developments.

CSPL Review of Intimidation of Parliamentary Candidates

The Government has asked the CSPL to conduct a short review of intimidation of Parliamentary candidates and the broader implications of this for other public office holders:

“As an independent Committee, we will consider this issue on a non-partisan basis. Members of Parliament and candidates from a range of political backgrounds have been subjected to intimidation. It is important to shed light on these experiences to inform efforts to better protect those affected and at the same time maintain healthy, robust debate and legitimate scrutiny from the public and the press.

“In particular, we will want to examine how social media tends to amplify, intensify, and escalate some of the long-standing issues which the Committee has been concerned about.

“How those in public life and candidates for public office are treated inevitably has implications for standards in public life more broadly, including how public office holders relate to members of the public.

“We will announce our methodology for this review later this month. We would welcome contributions from anybody interested in this issue. The Committee is keen to encourage further debate and consideration of these important issues. Further information on how to contribute will be on our website.”

<https://www.gov.uk/government/news/intimidation-of-parliamentary-candidates-committee-announces-short-review>

<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

CSPL Review of Local Government Standards

The CSPL has published its Strategic Plan, Annual Report for 2016-17 and Forward Plan for 2017-18. Copies can be found:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626271/Setting_the_Standard - Strategic Plan Annual Report 2016-17 Forward Plan 2017-18.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626271/Setting_the_Standard_-_Strategic_Plan_Annual_Report_2016-17_Forward_Plan_2017-18.pdf)

The CSPL maintains a watching brief on the local government standards regime. In its 2013 report “Standards Matter” the CSPL outlined its concerns regarding possible issues re the local government standards framework under the Localism Act of 2011: *‘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’*. The forward work programme includes a review of local government standards, upon which the CSPL intends to consult in early 2018 with a view to making findings and publishing recommendations later in 2018. Members will be kept informed of developments.

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:

- it is the Member's interest or
- 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://democracy.northyorks.gov.uk/Committees.aspx?councillors=1>

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.

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 31 March 2017, the Council has received three complaints that a Member may have breached the Members' Code of Conduct. Two complaints are currently under consideration by the Monitoring Officer. The other complaint was assessed by the Monitoring Officer in consultation with the Independent Person for Standards and found to be out of the Standards Committee's jurisdiction and consequently no action was required. Members will be kept informed of statistical information in relation to standards complaints received by the Authority.

CASES

The Local Government Lawyer publication recently published reports on the following cases:

1. Two County Councillors in Wales (where a different ethical framework applies) were suspended by their authority's standards committee for bringing the office of member/authority into disrepute after being prosecuted for breaches of Cattle Identification Regulations. During the suspension period, neighbouring councillors were asked to cover for the suspended councillors on behalf of residents of the relevant wards.
2. A member of the public conducted a long campaign of harassment against

councillors and officers, making repeated accusations of dishonesty, conspiracy, fraud, concealment, corruption and misconduct in public office and visiting councillors' homes and disrupting meetings.

Before the trial, the complainant gave an undertaking to cease the behaviour but he later repeatedly breached the undertaking by posting similar allegations on Facebook and making false allegations of theft to the Police. The authority began court proceedings for breach of the undertaking. The High Court ordered the complainant to apologise on social media, remove the postings in question and pay £100,000 towards the authority's legal costs.

3. A councillor was alleged to have been involved in transactions procuring the sale of council assets to family friends at substantial undervalue and have used his senior position within the authority to have parking tickets issued to his family withdrawn.

An investigation commenced after various subsequent allegations of serial and longstanding wrongdoing by councillors. The external investigator made a personal and derogatory observation about the councillor and his family to the chief executive.

The chief executive considered whether to continue using the investigator given the risk of bias. They continued, as the investigation was advanced, but sought Counsel's advice on the investigation report and evidence.

Counsel advised that there was a serious case to be met by the councillor and the investigation report should be published to address public criticism that the authority was suppressing wrongdoing. Counsel further advised

that a standards investigation be undertaken.

The investigation report and Counsel's Opinion were leaked during elections of a new Leader.

The councillor sought permission for judicial review and an order prohibiting publication of the documents. Permission was initially refused by the High Court but subsequently granted by the Court of Appeal. The authority's standards investigation was also stayed pending the outcome of the judicial review.

The councillor argued that the investigation was unlawful as it was tainted by bias and unreasonable and there was no power to investigate misconduct pre the Localism Act 2011. In addition, he argued that the publication of the report and Opinion was an irrational and politically motivated act, tainted by bias, unlawful under data protection legislation and violated his human rights.

The Court dismissed the councillor's judicial review claim. There was a serious case against the councillor which should be investigated under Localism Act 2011 standards arrangements.

The Court held that the authority had "ample" powers to conduct investigations into impropriety, that the publication of the report and Opinion were justified, in the public interest and not prohibited by data protection or human rights legislation. Even if this analysis was wrong and the authority had acted unlawfully, none of those breaches would be material or have any real impact on the fairness of the future investigation.

The Court order the stay on the investigation to be lifted, stating that the councillor would have a full opportunity

to present his case in the future investigation process.

The councillor was ordered to pay £55,000 costs.

4. An authority appointed an external investigator to investigate how a confidential report was leaked to a newspaper. An opposition councillor had already admitted to leaking the report after being given it by the group leader.

The investigator concluded that the group leader had given the report to the councillor and knew there was a possibility s/he would leak it to the press. The investigator stated that the fact the councillor went straight to the press and did not discuss any concerns with the council or any external agency suggested that their motivation was more political or personal rather than in the public interest.

The investigator recommended that the authority ensures it has a robust information governance framework and provide mandatory data protection training for members and officers.

Contributors:

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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