



North

Yorkshire County Council

STANDARDS BULLETIN

INTRODUCTION

The Committee on Standards in Public Life has always maintained 'a watching brief' of the standards regimes in local government and the changes resulting from The Localism Act 2011. Its work programme promised a review of local government standards, upon which the CSPL is now consulting, with a view to making findings and publishing recommendations later in 2018.

The CSPL has also published its report re intimidation of Parliamentary candidates and the broader implications of this for other public office holders. Details 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 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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CSPL Review of Local Government Standards

The last Bulletin explained that the Committee on Standards in Public Life (CSPL) intended to consult in early 2018 on its review of local government standards, with a view to making findings and publishing recommendations later in 2018.

The CSPL has now commenced its review. As part of it, the CSPL is holding a public stakeholder consultation which opened on 29 January 2018 and closes at 17:00 on Friday 18 May 2018. A copy of the consultation document is published online:

<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The consultation is open to all to respond but is particularly aimed at certain stakeholders including local authorities and their standards committees. Submissions can relate to as

many or few of the consultation questions as stakeholders wish to address.

The Standards Committee will consider the consultation document to determine any response it may wish to make. Should you wish to respond direct to the consultation here are the contact details:

Email to: public@public-standards.gov.uk

Write to:

Local government ethical standards review
GC.07
1 Horse Guards Road
London
SW1A 2HQ

Members will be kept informed of developments.

CSPL Review of Intimidation of Parliamentary Candidates

The last Bulletin explained that the Government had asked the CSPL to conduct a short review of intimidation of Parliamentary candidates and the broader implications of this for other public office holders.

The CSPL's seventeenth report, 'Intimidation in public life: A Review by the Committee on Standards in Public Life', was published in December 2017:

<https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>

It has also published the notes from its meetings with social media companies:

<https://www.gov.uk/government/publications/intimidation-of-parliamentary-candidates-evidence-from-facebook-google-and-twitter>

The CSPL has made recommendations for action to the Government, social media companies, political parties, the police, broadcast and print media, and MPs and Parliamentary candidates themselves, calling for the Government to bring forward legislation

to 'shift the liability of illegal content online towards social media companies.'

Key findings from the report include:

- a) While intimidation in public life is nothing new, the scale and intensity of intimidation is now shaping public life in ways which are a serious issue.
- b) Those in public life must ... take steps to ensure that their behaviour does not open the door for intimidation and work to build public trust in public life. They should uphold high ethical standards, and should never themselves engage in, incite or encourage derogatory or dehumanising political debate,
- c) The widespread use of social media has been the most significant factor accelerating and enabling intimidatory behaviour in recent years. Although social media helps to promote widespread access to ideas and engagement in debate, it also creates an intensely hostile online environment.
- d) Government should bring forward legislation to shift the liability of illegal content online towards social media companies.
- e) Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.
- f) Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.
- g) Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.
- h) Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.
- i) The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.
- j) Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.
- k) The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.
- l) Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.
- m) Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.

In light of these recommendations from the CSPL, the Government issued a press release on 6 February 2018 announcing it will consult on plans to remove the requirement for candidates standing as councillors in local elections to have their addresses published on ballot papers, in time for local elections in May 2019; and on a new electoral law offence of intimidating parliamentary candidates and their campaigners (the current offence of electoral intimidation relates to undue influence on voters):

<https://www.gov.uk/government/news/new-electoral-laws-proposed-to-combat-intimidation-in-public-life>

Members will be kept informed of developments.

Consultation on Councillor Disqualification Reform

DCLG published a consultation document regarding proposals for updating the disqualification criteria for councillors and mayors, to strengthen the rules to prevent anyone found guilty of serious crimes from serving on local councils:

<https://www.gov.uk/government/consultations/disqualification-criteria-for-councillors-and-mayors>

the aim being to ensure those who represent their communities are held to the highest possible standards.

The current disqualification criteria are set out in section 80 of the Local Government Act 1972. One of the provisions prevents individuals standing, or holding office, as a local authority member, London Assembly member or directly-elected mayor if they have, within five years of the day of the election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and have received a sentence of imprisonment, suspended or not, for a period of not less than three months without the option of a fine.

The Government sought views on its proposals to update the disqualifying criteria, to reflect modern sentencing practices, so that individuals are disqualified if they are subject to:

- The notification requirements set out in the Sexual Offences Act 2003, commonly referred to as "being on the sex offenders register".
- A civil injunction granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (ABCPA 2014) (Anti Social Behaviour Injunction).

- A Criminal Behaviour Order made under section 22 of the ABCPA 2014.

The proposals in this consultation would not apply retrospectively.

The proposals would mean that anyone convicted of a serious crime, regardless of whether it carries a custodial sentence, would not be able to hold office as a councillor. The changes would also better reflect rules governing standards of MPs, where members face suspension from the House for anything that contravenes the parliamentary code of conduct.

The consultation closed on 8 December 2017. Members will be kept informed of developments.

Ministerial Code

In January 2018 the Cabinet Office issued a new Ministerial Code, setting out the standards of conduct expected of ministers, to sit alongside Ministers' overarching duty to comply with the law, protect the integrity of public life and comply with the Seven Principles of Public Life:

<https://www.gov.uk/government/publications/ministerial-code>

On comparing the Ministerial Code with the Council's Code of Conduct for Members, it can be seen that there are similar provisions covering areas such as:

- a) General conduct provisions eg maintaining high standards of behaviour and upholding the highest standards of propriety, being professional and treating others with respect, with no harassing, bullying or other inappropriate or discriminating behaviour;
- b) Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests.
- c) Ministers should not accept any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation.
- d) Ministers must not use government resources for Party political purposes.

- e) Ministers must uphold the political impartiality of the Civil Service.

Members will be kept informed of all developments in the national ethical framework.

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.

If a **dispensation** is granted to a Member with a DPI, the Member must still **declare** the interest and the fact they are relying on the dispensation to the meeting.

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 2017 to date, the Council has received one complaint that a Member may have breached the Members' Code of Conduct. The 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. The last Bulletin informed Members about a case whereby 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.

The standards investigation was stayed pending the outcome of the councillor's judicial review of the investigation process. The judicial review claim was dismissed and the stay on the standards investigation lifted.

The authority's standards sub-committee found that the councillor had breached the Code of Conduct 12 times, bringing his office and authority into disrepute, compromising officers' impartiality and giving an unfair advantage to friends and family.

A further hearing will be held to consider sanctions.

2. The Adjudication Panel for Wales has disqualified a former chair from being or becoming a member of any relevant authority for 18 months.

He breached the Code through insulting, offensive and humiliating conduct towards an officer (speculating on his/her mental health), insulting another officer (by alleging s/he had fabricated evidence re the councillor's allegation of them being found "in flagrante" with a third party), insulting a head teacher (by calling them a psychopath) and disclosing confidential medical information about the first officer.

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