

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

6 March 2020

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 and relevant Officers 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 to Members and Officers. The Bulletin is also now circulated to neighbouring authorities via the Monitoring Officer Group, parish councils and certain other authorities at their request.

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

26 February 2020



Introduction

Standards Bulletin

This edition of the Standards Bulletin sets out the latest developments in the national standards regime.

Members will be kept informed of all ethical framework developments.

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

The Standards Committee

The Members of the Standards Committee:

- County Councillor Andy Paraskos
- County Councillor Stuart Parsons
- County Councillor Caroline Patmore
- County Councillor Peter Sowray MBE
- 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

Caroline Patmore Chair of the Standards Committee

In this issue:

- New model Code of Conduct
- Committee on Standards in Public Life Review – Open Letter to Public Office Holders
- General Principles of Public Life
- Committee on Standards in Public Life - Intimidation in Public Life
- Councillors' Guide to Handling Intimidation
- Cabinet Office Code of Conduct for Board Members of Public Bodies
- CSPL Artificial Intelligence and Public Standards
- Members' expenses
- Members' attendance
- Interests' regime
- Sensitive Interests
- Bias, Predetermination, Predisposition
- Members' Gifts and Hospitality
- Complaint statistics
- Standards cases

If in doubt, please seek advice from the following:

Barry Khan

Assistant Chief Executive (Legal & Democratic Services) & Monitoring Officer
Tel: 01609 532173
(barry.khan@northyorks.gov.uk)

Stephen Loach

Principal Democratic Services Officer
Tel: 01609 532216
(stephen.loach@northyorks.gov.uk)

Maira Beighton

Senior Lawyer (Governance)
Tel: 01609 532458
(maira.beighton@northyorks.gov.uk)

New model Code of Conduct

The Committee on Standards in Public Life (CSPL) published its Review of local government standards on 30 January 2019:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

The CSPL, as part of the review, made a number of recommendations regarding a new national model code of conduct for members. It recommended that the Local Government Association (LGA) should create an updated national model code of conduct for local authorities (to adopt on a voluntary basis) to increase consistency and quality of local authority codes and avoid the potential for confusion amongst multi-hatted councillors. Local authorities should be able to adapt the model code to suit their local circumstances.

The LGA has now commenced reviewing the Code, ahead of the government's response to the Review recommendations, as part of a wider programme of work on civility in public life. Further information about this work is published on the LGA website:

<https://www.local.gov.uk/our-support/guidance-and-resources/civility-public-life-and-review-model-code-conduct>

<https://www.local.gov.uk/sites/default/files/documents/191003%20public%20document%20on%20civility%20in%20public%20life%20%28Autosaved%29.pdf>

including details of how the LGA is reviewing the code, who is being consulted and the likely timescale for producing a new model code of conduct.

The LGA anticipates the new draft model code of conduct being published for consultation during March 2020, with consultation closing towards the end of April. The LGA intends to launch the new model Code at its conference on 30 June 2020.

Members will be kept informed of developments.

Committee on Standards in Public Life Review – Open Letter to Public Office Holders

The CSPL has published an open letter to all public office holders on the importance of implementing the Nolan Principles and generally upholding public standards. More information can be found at:

https://www.gov.uk/government/news/open-letter-from-the-committee-on-standards-in-public-life-to-all-public-office-holders?gator_td=UKQiLDAQOOoqrfG8OI3npeIvR4u9cCRwqJA69hHc6m19s77Rdkv5YCRkGmKh%2bYni1ddMTniEJvUZuH32eDOaPV0JoPh%2fCSrDge%2bb%2bkLcnmScUqagekb4%2bJRSjst2qASYa3l26tRmVtKFAB4NtiGecRGU4kBTs7l5b1CX6OfhIJM7YjGO28WDB8xZ5XZLXMwLGnXangJm0i2tRY9j07JfCT75v4dzd2ynv86Sa2jmbag%3d

General Principles of Public Life

To mark its 25th anniversary, the CSPL has made some short films with its Committee members talking about the General Principles of Public Life and what they mean in practice:

<https://www.youtube.com/channel/UCL04xn0gFY8rx2an6GM112Q>

https://www.gov.uk/government/news/the-principles-of-public-life-25-years?gator_td=qPhmvQ75o%2fjrPhQS1HbX1vhlqmuJAWDrHmAABqx3jfsdmCTBgaKuvbA1lI8DkslhBK48RxdI0xlyWkocdQGzeqtsnthcT3jeiiyWrluGnoQSa%2bnliOWLsrT5ZmLZanNPXu0RBniA6GrP9fgOpU7H66evy7OHOM%2bhho62grCvtBdMWvgjplFJ1wc3Z9mmb8BX5oWq5ljlffzxdFLorsuo14WpMA9andCaHJRuHQChw%3d

The CSPL has emphasised on its website that the Nolan principles and the rules that flow from them are a matter of personal responsibility for all:

<https://cspl.blog.gov.uk/2019/12/18/the-nolan-principles-are-a-matter-of-personal-responsibility-for-mps/>

Committee on Standards in Public Life - Intimidation in Public Life

Members have previously been informed about the CSPL's report regarding Intimidation in Public Life, which is published at:

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

and which made a number of recommendations to government, social media companies, political parties, the police, broadcast and print media, MPs and Parliamentary candidates.

In the context of its work regarding intimidation in public life, the CSPL has recently undertaken a review of political parties' (holding seats in Parliament) codes of conduct. More information is available online at:

<https://www.gov.uk/government/publications/intimidation-in-public-life-review-of-political-parties-codes-of-conduct>

Councillors' Guide to Handling Intimidation

The LGA has published its "Councillors' guide to handling intimidation":

<https://www.local.gov.uk/councillors-guide-handling-intimidation>

defining, for the purposes of the Guide, public intimidation as "words and/or behaviour intended or likely to block or deter participation in public debate, which could lead to an individual wanting to withdraw from public life".

The Guide suggests some steps that councillors and authorities can undertake to protect councillors as people in a public position and how to respond should an incident occur.

The LGA states that it is planning further guidance for authorities on "supporting councillors and will continue to work with national government and other agencies to address the issue of public intimidation and its impact on local democracy."

Cabinet Office Code of Conduct for Board Members of Public Bodies

The Cabinet Office has published its Code of Conduct for Board Members of Public Bodies, which replaces the earlier version published in 2011. The latest Code and further information is published online:

https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies?gator_td=k09HKXl%2fTGwDLZl1xxlvXmBylCtavMZagplYqqBJVg95yc7J%2bFa9eV0y34ONw88fOCRRugp7oE0ku0w%2fAgidJNiZb%2fQkeMjRmDCFXR%2fLNOAD3Qh8UrPzDc8Mk7HBHIn7lq3O1GbGsLV3GX%2bn1uXW6UbeSX9TWaxRfvMITbr0ujqjGjp8AWtteFlkVMn31oDgYlkiRa2PLAnSq5XxIP08txljwp3%2fYfUakz35dHySsNc%3d

The Code sets out the personal and professional standards expected from those who serve on the boards of UK government departments, non-ministerial departments, executive agencies, non-departmental public bodies, and national public corporations.

The 2019 Code includes provisions regarding:

- bullying, harassment or other discriminatory behaviour;
- a requirement for the board member to notify the sponsor department of any bankruptcy, current police investigation, unspent criminal conviction or disqualification as a company director;
- the promotion of diversity and inclusivity within their organisation;
- the Principles of Public Life;
- Members' Interests;
- conflicts of interest;
- responsibilities as a Board Member;
- responsibilities towards employees;
- the use of social media;
- raising concerns.

CSPL Artificial Intelligence and Public Standards

The CSPL has published its report on artificial intelligence and its impact on public standards.

<https://www.gov.uk/government/news/artificial-intelligence-and-public-standards-committee-publishes-report>

to ensure that high standards of conduct are upheld as technologically assisted decision making is adopted more widely across the public sector.

The report highlights that clear standards of conduct and greater transparency will enable the public sector to reap the benefits of Artificial Intelligence (AI) and that government and regulators must establish a coherent regulatory framework that sets clear legal boundaries on how AI should be used in the public sector

Members' Expenses

Members are reminded to include sufficient details in their expense claims and to submit them in a timely manner to avoid submitting multiple claims at the same time where possible.

Members should have regard to the current **Scheme of Approved Duties** and the **Protocol on Members' Attendance at Conferences** published in Part 6 of the Constitution:

<https://democracy.northyorks.gov.uk/>

Members' Attendance

Members are reminded to sign the attendance sheet at meetings, as the sheets are used in compiling the statistics regarding Members' attendance at meetings, which are considered by the Standards Committee.

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.

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.

Sensitive Interests

You do not need to register or declare the details of an interest which you and the Monitoring Officer have agreed is sensitive.

A “sensitive interest” is any interest (whether or not a disclosable pecuniary interest) where **disclosure of the details could lead to you, or a person connected with you, being subject to violence or intimidation.**

The existence of an interest must still be registered/declared but not any detail in relation to it.

Should you feel that any of your interests are sensitive given any prevailing circumstances, please contact the Monitoring Officer immediately to discuss.

Bias, Predetermination, Predisposition

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 may prejudice, or appear to prejudice, their views.

Predetermination occurs *where a fair minded and well informed observer, looking objectively at all the circumstances, considers there is a real risk that a decision maker has refused to consider a relevant argument or would refuse.*

Possible examples of bias or predetermination are:

- connection with someone affected by a decision;
- improper involvement of someone with an interest in the outcome;
- prior involvement in a matter;
- commenting before a decision is made.

However, the Localism Act 2011 makes it clear that a Member is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because they had previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter; this would amount to **predisposition** to a view and is acceptable. This ensures that Members can freely discuss issues, including expressing a view and/or campaigning on an issue, and then later speak or vote on those issues.

Unless there is positive evidence of a closed mind, prior observations or apparent favouring of a particular decision is unlikely to suffice as predetermination

Members are entitled to have and express their own views, as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.

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, for filing in the Register of Gifts and Hospitality, by completing the appropriate form and returning it to the Monitoring Officer.

The current ethical framework does not stipulate a financial threshold over which gifts and hospitality should be registered (previously, under the old regime, the threshold was £25). The Standards Committee is currently considering guidance to Members in this respect.

Should you have any queries in relation to the registration 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 2019 to date, the Council has received seven formal standards complaints and two intimated complaints.

Four of the formal complaints were in relation to same subject Member and matter when it was concluded that the complaints should be dealt with by local settlement under informal resolution: namely that the subject Member should issue a formal apology, undergo suitable diversity training as directed by the Monitoring Officer and that the assessment record should be published on the Council website. No action was required to be taken in relation to the other formal complaints.

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

Cases

The Local Government Lawyer reported on the following cases:

- A councillor was removed from office for using a bogus signature on his nomination paper for election. The councillor was ordered to pay more than £3,500 in fines and costs and banned from public office for five years by local magistrates.
- A solicitor and former councillor was sentenced to 16 months' imprisonment after being found guilty of housing fraud, after making numerous applications for social housing and false declarations.
- A Welsh councillor was suspended for four months for code of conduct breaches arising out of a dispute over statements made by the councillor about the council's children's services. It was found that the councillor had failed to show respect, used bullying behaviour and had brought the authority into disrepute.
- A former leader of a Welsh council was suspended after helping his personal assistant at interview by providing her with the interview questions beforehand. He was found to have breached the code by using or attempting to use his position to improperly secure an advantage for a third party. He also breached the code by sending and/or encouraging his assistant to send

inappropriate messages, including of a sexual nature, during office hours. He was suspended for three months.

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