

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

18 September 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. The ordering of the items has been amended in accordance with Members' comments at the last Committee meeting.
- 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

10 September 2020



Standards Bulletin

Introduction

High standards of conduct are more important than ever during the current Covid-19 pandemic. This edition of the Standards Bulletin sets out the latest developments in the national standards regime, including the publication of a draft new model code of conduct for Members for consultation.

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.

Caroline Patmore
Chair of the Standards Committee

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

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)

Moira Beighton

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

In this issue:

- Members' expenses
- Interests' regime
- Sensitive Interests
- Bias, Predetermination, Predisposition
- Members' Gifts and Hospitality
- New draft model Code of Conduct
- Committee on Standards in Public Life – Blogs during pandemic
- Committee on Standards in Public Life Review – Open Letter to Public Office Holders
- Complaint statistics

STANDING GUIDANCE FOR MEMBERS

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, published on the Council website at <https://democracy.northyorks.gov.uk/>

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)

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) [here](#).

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 during the Covid-19 pandemic, when Members are unable to physically attend the Council offices, please email the Monitoring Officer (barry.khan@northyorks.gov.uk) setting out the details of any required amendment(s) to your form. A note of the amendment(s) will be placed by the Monitoring Officer with your form in the online and physical Register of Members Interests pro tem until you can attend the office to personally amend your interests form.

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.

LATEST NEWS

New draft model Code of Conduct for Members

The Committee on Standards in Public Life (CSPL) published its Review of local government standards on 30 January 2019 [here](#).

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 reviewed the Code, ahead of the government's response to the Report recommendations, as part of a wider programme of work on civility in public life; and a new draft model code of conduct was published for consultation ([here](#)), with consultation closing on 17 August 2020.

After liaison with the Chair of the Standards Committee, a response to the consultation was sent on behalf of the authority.

Members will be kept informed of developments.

Committee on Standards in Public Life Review – Blogs during pandemic

The CSPL has published a series of blogs on its website, whilst "maintaining a close watch on standards issues arising as a result of the Covid-19 pandemic", relating to issues such as:

- Principles in Practice
- Exceptional times allow for exceptional measures
- Ethical standards in a time of crisis
- Building equality into our coronavirus recovery
- Leadership in times of crisis

The blogs can be accessed [here](#).

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

The CSPL wrote to local authorities in July 2020 to follow up the best practice recommendations it made in its 2019 report on local government ethical standards and which it would expect any local authority to implement.

The intention was expressed in the CSPL report to review the implementation of those best practice recommendations in 2020. Given “the unexpected and unprecedented pressures that local authorities are facing this year with COVID-19”, the CSPL is not yet asking for responses from authorities, but will be contacting authorities again in the autumn, seeking information from them about progress against the best practice recommendations.

The Monitoring Officer reported to the Standards Committee in March 2019 on the CSPL report and recommendations and considered how the County Council currently complies: it was noted at the time that the Council complies with the spirit of almost all the best practice recommendations and the Standards Committee will keep this under review.

The CSPL also wrote to the Secretary of State for Housing, Communities and Local Government in July 2020, to ask when it might receive a formal response from the Government to the CSPL’s 2019 local government report.

NYCC COMPLAINT STATISTICS

For the year 1 April 2019 to 31 March 2020, the Council received ten standards complaints, however four of the complaints were in relation to same subject Member and matter. None of the ten complaints was referred for investigation, however one complaint was 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

For the year 1 April 2020 to date, the Council has received one standards complaint which is currently under consideration by the Monitoring Officer and awaiting investigation.

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

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