



Standards Bulletin

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:

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Introduction

This edition of the Standards Bulletin sets out the latest developments in the national standards regime, particularly in relation to a revised Code of Conduct for NYCC in light of the new Model Code and supporting Guidance issued by the Local Government Association.

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

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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 [Decision Making at the Council | North Yorkshire County Council](#)

Interests' Regime

Under the Council's current Code of Conduct for Members, 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 generally available for public inspection during office hours at County Hall, Northallerton (subject to any necessary Covid-19 restrictions). It is published on the Council's website (as required by the Localism Act 2011) - [Your Councillors | North Yorkshire County Council](#)

Members must, within 28 days of becoming aware of a new interest or a change to an existing interest, register the necessary details electronically via the ModGov committee software system.

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 disclosable pecuniary 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.

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, Members do **still need to register** them with the Monitoring Officer.

From 1 November 2021, Members' gifts and hospitality are now recorded with their Register of Interests, electronically via the ModGov committee software system.

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, in light of the proposed changes to the Code of Conduct arising from the new Model Code. This is discussed later in the Bulletin.

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

Changes to NYCC Code of Conduct for Members from 5 May 2022

The last Standards Bulletin informed Members about the new Local Government Association (LGA) Model Code of Conduct for Members and supporting guidance. The Bulletin explained that the Standards Committee had considered the Model Code and reviewed the Council's Code of Conduct for Members in light of it and determined that recommendations should be made to full Council to amend the Council's current Code, particularly in relation to the registration and declaration of interests.

These proposed changes relate to matters such as:

- including in the Council's Code, relevant guidance extracts from the Model Code, to

aid understanding of the Code's requirements;

- including in the Council's Code, further general conduct obligations eg obligations to comply with the Council's standards regime, and to refrain from making trivial, vexatious, malicious, politically motivated or tit-for-tat standards complaints against other Members;
- expanding, clarifying and including a £25 threshold in relation to the gifts and hospitality provisions;
- the expansion of the registration and declaration of interests regime, akin to the previous personal/prejudicial interests process, including:
 - the inclusion of a specific requirement for a Member with a Disclosable Pecuniary Interest ("DPI") to declare the existence and nature of the interest before leaving the meeting (to reflect current practice);
 - the inclusion of a specific requirement (to reflect current practice) for a Member with a DPI to leave the meeting room after declaring the interest (subject to the dispensation provisions);
 - the expansion of the range of interests other than DPIs ("Other Registrable Interests") ("ORIs") required to be registered, to cover not only membership of trade unions and professional associations but also:
 1. Unpaid directorships;
 2. Any body of which the Member is a member or is in a position of general control or management and to which they are nominated or appointed by the authority;
 3. Any body:
 - i. exercising functions of a public nature
 - ii. directed to charitable purposes or
 - iii. one of whose principal purposes includes the

influence of public opinion or policy (including any political party or trade union/professional association)

of which the Member is a member and in a position of general control or management

➤ making specific provision for the declaration of those Other Registrable Interests in matters considered at meetings and participation in relation to them, ie:

- where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of the Other Registrable Interests, the Member must disclose the interest to the meeting, may speak on the matter if the public can, but otherwise must not take part in any discussion or vote and must leave the room (subject to the provisions on sensitive interests);

➤ making specific provision for the declaration of other Non-Registrable Interests (NRIs) (ie those other than DPIs and ORIs) in matters considered at meetings and participation in relation to them, ie:

- where a matter arises at a meeting which **directly relates** to the Member's financial interest or wellbeing, or that of a relative or close associate (of which the Member could reasonably be expected to be aware), the Member must disclose the interest to the meeting, may speak on the matter if the public can, otherwise they must not take part in any discussion or vote on the matter and must not remain in the room;
- where a matter arises at a meeting which **affects** the Member's financial interest or well-being or that of a relative or close associate or of a body included under Other Registrable Interests (of which the Member could reasonably be expected to be aware), the Member must disclose the interest to the

meeting BUT may be able to remain in the meeting after considering the prejudicial interest test:

❖ where the matter affects the financial interest or wellbeing:

- to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision and;
- a reasonable member of the public knowing all the facts would believe that it would affect the Member's view of the wider public interest

then the Member may speak on the matter if the public can, but must not take part in any discussion or vote on the matter and must not remain in the room;

❖ where the matter does not so affect the financial interest or wellbeing, then the Member may speak and vote on the matter in the usual way.

➤ making similar provision for Other Registrable and Non-Registrable Interests, as for DPIs, in matters considered by a single member.

The final proposed amendments were agreed by full Council at its meeting on 16 February 2022 for Members' consideration and approval ([Agenda for County Council on Wednesday, 16th February, 2022, 10.30 am | North Yorkshire County Council](#)). Given the forthcoming elections on 5 May 2022, it was agreed that the changes to the Code should come into effect on that date so that all Members can receive training on the new Code of Conduct. Tailored guidance, specific to the Council's Members' Code of Conduct, will be circulated to the new elected Members in May 2022.

Until the elections, the current Code of Conduct for Members will continue to have effect.

The new unitary authority will adopt its own Code of Conduct for Members at the relevant time.

Committee on Standards in Public Life – Report on Local Government Ethical Standards

The Committee on Standards in Public Life (CSPL) published its extensive Report on Local Government Ethical Standards on 30 January 2019. The Report makes a number of recommendations (26), which are not legally binding, to the Government regarding the ethical framework, which would require changes to legislation and the regulatory framework if accepted. It also makes various best practice recommendations which local authorities could choose to implement immediately should they so wish.

The Report has been considered by the Standards Committee and a response from Government long-awaited.

The Minister for Levelling Up Communities is reported to have said that she is actively considering the recommendations set out in the CSPL report on local government ethical standards and will respond “shortly”.

Members will be kept informed of developments.

Online Safety Bill

The Department for Digital, Culture, Media and Sport has announced that the Government will add two new duties to the Online Safety Bill to strengthen the law against anonymous online abuse: the first to force the largest and most popular social media sites to provide an option to block unverified accounts and the second duty to require platforms to provide opt out options re algorithms and harmful content. This is based on recommendations from the LGA and the aim is to give social media users more control over who can contact them and their online interactions.

LGA call for evidence - civility in public life: abuse and intimidation of councillors

As part of its work on Civility in Public Life, the LGA has been developing a call for evidence re abuse and intimidation of elected councillors to capture councillors’ “experiences and emerging trends around abuse and intimidation from the public” in their elected role. The LGA hopes that “Evidence collected in this way will help the LGA to develop a body of evidence to support our calls for legislative and systemic change and develop support for elected members.”

It is an ongoing call for evidence so there currently no closing date. If Members wish to know more and/or respond to the call for evidence, more information can be found via the following hyperlinks:

[Civility in public life | Local Government Association](#)

[Civility in public life call for evidence: Abuse and intimidation of councillors \(local.gov.uk\)](#)

CSPL report on the regulation of election finance

The last Bulletin explained that the CSPL had published its 22nd report, on the regulation of election finance. The report is detailed, spanning 167 pages and is available on the website: [Regulating Election Finance: report - GOV.UK \(www.gov.uk\)](#)

The Government has now published its response to the CSPL’s review - [Government response to 'Regulating Election Finance' - GOV.UK \(www.gov.uk\)](#). The Government states that it “intends to look at all the recommendations in the committee’s report, alongside other recommendations set out in similar reports including the forthcoming Report of the Public Administration and Constitutional Affairs Committee into the work of the Electoral Commission, as part of further work looking at the regulatory framework for elections, beyond the Elections Bill.”

The CSPL has welcomed the Government's initial response ([Lord Evans' statement on the Government's response to the Committee's Regulating Election Finance report - GOV.UK \(www.gov.uk\)](#)) and looks forward to the Government's further analysis of its recommendations.

CSPL Report - Upholding Standards in Public Life"

The CSPL has published its final report "Upholding Standards in Public Life" arising from its 'Standards Matter 2' review. The report looks at the institutions, processes and structures in place to support high standards of conduct in Government.

The CSPL launched its Standards Matter 2 review ([Standards Matter 2 - GOV.UK \(www.gov.uk\)](#)) last autumn "to evaluate the strengths and weaknesses of the institutions, processes and structures in place to support high standards of conduct in public life.... In light of sustained public scrutiny on standards in public life and a number of ongoing parliamentary and government inquiries into standards issues, the Committee is publishing findings from the review. The Committee's final report and recommendations to the Prime Minister will follow later this year".

The findings covered the following broad areas:

- four areas of standards regulation require significant reform: the Ministerial Code and the Independent Adviser on Ministers' Interests, the business appointment rules and the Advisory Committee on Business Appointments (ACOPA), transparency around lobbying, and the regulation of public appointments;
- immediate issues with the current operation of the standards regulatory regime, and point in the direction of necessary reforms.

The CSPL has now published its final report and recommendations of the Standards Matter 2 review. It is a lengthy report, spanning over 100 pages, and is published on the CSPL website:

[Upholding Standards in Public Life - Published Report - GOV.UK \(www.gov.uk\)](#)

The Report contains details of the CSPL earlier findings mentioned above and translates them into recommendations to Government, alongside several new recommendations – 34 recommendations to the Prime Minister in total. These are set out at pages 13 to 17 of the Report.

The CSPL believes its recommendations outline "a necessary programme of reform to restore public confidence in the regulation of ethical standards in government".

NYCC COMPLAINT STATISTICS

For the year 1 April 2021 to date, the Council has received two formal standards complaints which were assessed by the Monitoring Officer in consultation with the Independent Person for Standards. Neither was referred for investigation.

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:

- Police attended a district council meeting after a councillor refused to stop saying "point of order" and used a megaphone at times, during the consideration of a report which found him to be in breach of the code. The councillor was banned from all committees, working groups and outside bodies for 18 months. No arrests were made.
- A councillor was jailed for six weeks after pleading guilty to sending a threatening email to his local MP and the council's chief executive.
- Ashford Borough Council v Wilson [2021] EWHC 2542 (QB): A deputy high court judge has granted a council

a final anti-harassment injunction against a landlord who engaged in a 10 year campaign of “repetitive, frequent, oppressive and offensive correspondence” (repeatedly telling councillors to "kill themselves"), which was found to be harassment in breach of section 1 of the Protection From Harassment Act 1997. The permanent injunction prevents the person contacting the council except through a named legal advisor.

- The High Court has quashed a council’s finding that a parish councillor had breached the Code as it was an unjustified breach of Article 10 of the European Convention on Human Rights (ECHR), which provides the right of freedom of expression. The Court considered that the finding was an interference with the councillor's right to freedom of expression under Article 10(1) and the interference was not justified for various reasons eg it was an elected representative discussing a highly controversial topic and the statements were expression of opinion which had a reasonable factual basis.

The case is therefore a reminder that councillors have "enhanced protection" under Article 10 in public statements that engage their elected functions.

- A councillor was found to have breached the Code by acting anonymously through a Twitter account to comment on developments and challenge others commenting. He resigned his cabinet role, apologised at full council and referred himself to the Monitoring Officer. No further action was required to be taken.

Contributors:

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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 website