



Standards Bulletin

The Standards Committee

The Members of the Standards Committee:

- **County Councillor Nick Brown**
- **County Councillor Sam Cross**
- **County Councillor Melanie Davis**
- **County Councillor Clive Pearson**
- **County Councillor Heather Phillips**
- **County Councillor Monica Slater**

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 the revised Code of Conduct for NYCC in light of the new Model Code and supporting Guidance issued by the Local Government Association; and also work by the LGA regarding 'Civility in Public Life: Abuse and Intimidation of Councillors'.

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.

Clive Pearson
Chair of the Standards Committee

In this issue:

- Members' expenses
- New Interests' regime
- Sensitive Interests
- Bias, Predetermination, Predisposition
- Members' Gifts and Hospitality
- CSPL Report on Local Government Ethical Standards
- CSPL Review of Embedding of Nolan Principles
- LGA Councillors' Guide to handling harassment, abuse and intimidation
- Previous CSPL reports and reviews
- Complaint statistics
- Cases

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, revised by full Council in February 2022 (in light of the new national Model Code) to apply following the elections on 5 May 2022, the following interests' regime now applies.

Registration of Interests

Members must register the following interests within 28 days of election/appointment:

- **Disclosable pecuniary interests** (DPs) of the Member and their partner and
- **Other registrable interests** (ORIs) of the Member

and keep their interests under review, registering any changes within 28 days.

A pecuniary interest is a DPI if it is of a description specified in regulations ie

- **Employment, office, trade, profession or vocation (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.

Other Registrable interests (ORIs) are:

1. Unpaid directorships

2. Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your 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 you are a member or in a position of general control or management.

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.

Participation re Interests

Disclosable Pecuniary Interests

A Member may not participate in the discussion of, or vote on, Council business *directly relating* to a DPI and must declare the existence and nature of the interest and withdraw from the meeting room at the start of the item (unless a dispensation is granted).

Other Registrable Interests

Where a matter arises at a meeting which *directly relates* to the financial interest or wellbeing of one of the Member's ORIs, then the Member must declare the existence and nature of the interest, can speak on the matter if the public can and then must withdraw from the meeting room (unless a dispensation is granted).

Non-Registrable Interests (NRIs)

These are interests which are not required to be registered in the Register of Members' Interests (ie interests other than DPIs and ORIs):-

- (i) which *directly relate* to the Member's financial interest or well-being, or that of a relative or close associate (of which the Member could reasonably be expected to be aware); or
- (ii) which *affect* 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).

For NRIs falling under category (i) above, the Member must declare the existence and nature of the interest, can speak on the matter if the public can and then must withdraw from the meeting room (unless a dispensation is granted).

For NRIs falling under category (ii) above, the Member must declare the existence and nature of the interest, and then consider the 'prejudicial interest' test to determine if and how they may participate:

- Where the matter affects the financial interest or wellbeing more than it affects that of the majority of inhabitants of the ward affected 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 can speak if the public can, but must not take part in any discussion/vote and must leave room (unless a dispensation is granted);
- Where the matter does not so affect the financial interest or wellbeing, then the Member may speak and vote in usual way.

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

What is the difference between 'relates to' and 'affects'?

Something 'relates to' a Member's interest if it is directly about it, eg the matter being discussed is an application about a particular property in which the Member or somebody associated with them or an outside body they have registered has a financial interest.

'Affects' means the matter is not directly about that interest but nevertheless the matter has clear implications for the interest – for example, it is a planning application for a neighbouring property which will result in it overshadowing the Member's property. An interest can of course affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, an interest would need to be declared in both situations.

Please note:

A Member commits a **criminal offence** if, without reasonable excuse, they —

- fail to:
 - ❖ register disclosable pecuniary interests
 - ❖ disclose an interest to a meeting where required
 - ❖ notify the Monitoring Officer of an interest disclosed to a meeting
- participate 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, they provide information that is false or misleading and —

- know that the information is false or misleading, or
- are 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.

NB: Even if something is not a Code issue, always bear in mind the rules relating to bias, predetermination and predisposition.

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

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

Under the Council's revised Code of Conduct, you should not accept gifts/hospitality, of any value, which could create an impression of obligation upon you or the Council or substantive personal gain or propensity to show favour. You should inform the Monitoring Officer of any such offers.

Otherwise, you should register any gifts/hospitality received or offered worth £25 or more.

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

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 ([Local government ethical standards: report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/782222/Local_government_ethical_standards_report_-_GOV.UK.pdf)).

The Report makes a number of recommendations (26), which are not legally binding, to the Government regarding the national ethical framework, which would require changes to legislation and the regulatory framework if accepted. It also makes various best practice recommendations,

considered as a benchmark of good ethical practice, which local authorities could choose to implement immediately should they so wish. The Report has been considered by the Standards Committee, which noted that the Council already complies with the spirit of almost all the best practice recommendations.

A response from Government to the 2019 Report has been long-awaited and on 18 March 2022, the Government published its response:

[Local government ethical standards: government response to the Committee on Standards in Public Life report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/104222/Local_government_ethical_standards_government_response_to_the_Standards_in_Public_Life_report_-_GOV.UK.pdf)

Regarding the CSPL suggestions to amend the legislative framework around the ethical framework, the Government responded that it considered many of the suggestions did not require legislative action and could be actioned by authorities as best practice steps, for example by reviewing their code of conduct for members. Other highlights of the response are as follows:

- a) it rejects the recommendation to give local authorities power to suspend councillors, without allowances, for up to six months for breaches of the code of conduct. The Government's reasoning for rejecting this proposal is that there is no legislative provision enabling this, and that that was a deliberate policy decision at the time. The Government also wishes to avoid any "chilling effect" on free speech and that ultimately councillors are accountable "via the ballot box";
- b) it rejects the recommendation to change the Localism Act 2011 to require Independent Persons for Standards to be appointed for a fixed term of two years, renewable once but suggests this could be adopted by authorities as as good practice but subject to the needs of the authority. Government agrees that Independent Persons should be indemnified by the relevant authority if their views were to be disclosed, however the Government does not believe legislative change is required to enable this;
- c) it rejects the recommendation to amend the Local Government Transparency Code to

require authorities to publish standards complaints information annually, however the Government will develop actions to increase transparency, for example through more proactive publication of data;

- d) it rejects the recommendation that criminal offences in relation to the interests' regime should be abolished;
- e) it will further consider issues stemming from the recommendation to provide clarification on whether authorities could legally prevent councillors attending authority premises or using authority facilities;
- f) it agrees in principle with the recommendation that legal protection should be extended to all disciplinary action against statutory officers, not just dismissal, and indicated its intention to consult on this.

In its statement on the Government response to the Report, the CSPL noted that the Government intends to further support the maintenance of high ethical standards but expressed its disappointment that many of its recommendations had not been accepted ([Lord Evans' statement on the Government's response to the Committee's report on local government ethical standards - GOV.UK \(www.gov.uk\)](#)).

CSPL Review of Embedding of Nolan Principles

The CSPL has announced it is undertaking a review, 'Leading in Practice', looking at the role of leadership in embedding the General Principles of Public Life (the Nolan Principles) in public sector organisations:

[Leading in Practice: Terms of Reference - GOV.UK \(www.gov.uk\)](#)

As stated on the website, the review intends to:

1. Examine the role of leadership at all levels of an organisation in understanding, developing and sustaining a commitment to the Principles of Public Life;

2. Identify examples of how the Principles of Public Life are upheld in public sector organisations and how obstacles have been overcome on the path to implementing good practice;
3. Identify the characteristics of organisations that facilitate public office holders acting in line with the Principles of Public Life;
4. Consider whether there are mechanisms and practices used for embedding principles in the private and third sectors that can usefully be applied in the public sector, and by companies and charities providing services paid for by the taxpayer.

The Government has welcomed the review and re-emphasised its commitment to high ethical standards:

[Letter from Lord True about the CSPL review on leadership and public standards - GOV.UK \(www.gov.uk\)](#)

Members will be kept informed of developments.

LGA Councillors' Guide to handling harassment, abuse and intimidation

The Local Government Association (LGA) has produced guidance to support Members in fulfilling their role and engaging with the public and to provide "...practical steps they can follow to decrease the likelihood of experiencing harassment, abuse and intimidation and give them some ideas on how to respond should an incident occur.":

[Councillors' guide to handling harassment, abuse and intimidation | Local Government Association](#)

The Standards Bulletin has previously informed Members of the LGA's call for evidence "Civility in Public Life: Abuse and Intimidation of 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.”

Responses to the call for evidence indicate that many councillors believe abuse is becoming more common, and of those who experience abuse and intimidation, the majority experience it multiple times and half experiencing it on an ongoing basis.

The LGA has issued a further report “Debate Not Hate: The impact of abuse on local democracy” ([Debate Not Hate: The impact of abuse on local democracy | Local Government Association](#)) summarising its findings from the first six months of the call for evidence and setting out what more could be done. The following themes were identified from the responses:

- Variability of support offered by councils, political parties, and the police;
- Targeted abuse – responses indicate that councillors and candidates with protected characteristics were more likely to receive personalised abuse, particularly related to misogyny, racism and homophobia.
- Personal and democratic impacts – abuse and intimidation can significantly impact councillors, their families, and the wider community and also impact councillors’ willingness to stand for re-election or deter others from considering standing for public office.
- Vulnerability of councillors – Many respondents highlighted the visibility and accessibility of councillors in their local community, particularly when councillors’ home addresses are available online.
- Normalisation – There is a growing feeling that abuse and intimidation, particularly online, are becoming normalised.

The report makes the following recommendations:

- **Recommendation 1:** Councils and other relevant partners should take greater responsibility for the safety and wellbeing of councillors and take a proactive approach to preventing and handling abuse and intimidation against councillors. This should include addressing the impacts of abuse on councillors’ mental health and wellbeing and working in

partnership with other agencies and councils to ensure that threats and risks to councillors’ safety, and that of their families, are taken seriously.

- **Recommendation 2:** The LGA should continue to gather and disseminate good practice from across the sector, consider what more can be done to prevent abuse and intimidation of councillors through the Civility in public life programme, and support councils and councillors when these incidents occur.
- **Recommendation 3:** Police forces should work to improve the consistency of responses to abuse of and threats made against councillors and take a risk-based approach that accounts for the specific risks that councillors face, as they do with other high-risk individuals, such as MPs. This should include identifying best practice in relation to councillor support and safety and sharing it across the country.
- **Recommendation 4:** The Government should prioritise legislation to put it beyond doubt that councillors can withhold their home address from the public register of pecuniary interests.
- **Recommendation 5:** The LGA should work with political parties, election and democratic officers, and organisations responsible for guidance to raise awareness of the options currently available and promote the practice of keeping home addresses private during the election process and once elected.
- **Recommendation 6:** Social media companies and internet service providers should acknowledge the democratic significance of local politicians and provide better and faster routes for councillors reporting abuse and misinformation online.
- **Recommendation 7:** The relevant Government department should convene a working group, in partnership with the LGA, to bring together relevant agencies to develop and implement an action plan to address the issue of abuse of local politicians and their safety.

The call for evidence is ongoing. If Members wish to know more, further 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 \(local.gov.uk\)](#)

[7 in 10 councillors have experienced abuse and intimidation in the last year – LGA survey | Local Government Association](#)

Previous CSPL reports and reviews

Links to all reports and reviews conducted by the CSPL since 1995 are published on its website - [Previous CSPL reports and reviews - GOV.UK \(www.gov.uk\)](#).

NYCC COMPLAINT STATISTICS

For the year 1 April 2022 to date, the Council has received four new, connected, standards complaints which are currently under consideration by the Monitoring Officer.

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

CASES

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

- A former councillor was held to have brought their office and authority into disrepute by having made false accusations against Members and posting misinformation online, which was “potentially harmful and reputationally damaging to the individuals concerned and to the council.” The repetition of the accusations also amounted to bullying/harassment. The councillor was disqualified from holding office for

three years by the Adjudication Panel for Wales.

- A former councillor was held to have brought their office into disrepute and was disqualified from holding office for 12 months by the Adjudication Panel for Wales, after pleading guilty to causing bodily harm by "wanton and furious driving". The councillor drove her car "at speed" on private land at a council contractor undertaking duties for the council, striking two minors in the process and received a suspended 10 week prison sentence.

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