



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 Monika 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 last edition of the Standards Bulletin for North Yorkshire County Council sets out the latest developments in the national standards regime, particularly in relation to the work by the Committee on Standards in Public Life.

Members will continue 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.

Councillor Clive Pearson 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, 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** (DPIs) 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:

- exercising functions of a public nature**
- directed to charitable purposes or**
- 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

LGA – Handling abuse and intimidation presentation slides

Presentation slides on "Handling online abuse and intimidation" are now available on the Local Government Association (LGA) website, for Members' information:

[Handling online abuse and intimidation, 1 February 2023 | Local Government Association](#)

CSPL Report – "Leading in Practice"

In the last Bulletin, Members were informed about the Committee on Standards in Public

Life (CSPL)'s 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.

The CSPL has now published its report "Leading in Practice" which sets out case studies and examples from both the public and private sector on maintaining standards within organisations and embedding ethical values in their culture, policies, practices and in the services they deliver. The report, 84 pages long, is available to download from the CSPL website:

[Leading in Practice – A review by the Committee on Standards in Public Life \(publishing.service.gov.uk\)](#)

There is also an open letter from the Chair of the CSPL to public sector leaders about ethical leadership, "to prompt reflection, discussion and action" on the importance of ethical leadership:

<https://www.gov.uk/government/news/the-committee-on-standards-in-public-life-publishes-new-report-leading-in-practice>

The report poses 20 questions for consideration by leaders relating to

- Communicating values and leading by example
- Encouraging a 'speak up' culture
- Training, discussion and decision-making
- Governance
- Recruitment and performance management

Key highlights from the report are:

- the Principles of Public Life have stood the test of time and permeated public consciousness;
- it is crucial that the underpinning principle to act always in the public interest is maintained, and any decisions to shortcut normal processes are clearly explained and open to scrutiny;
- Senior leaders set the tone for their organisation. They must be clear about the importance they attach to the values of their organisation, exhibit those values and be

willing to address behaviour inconsistent with those values;

- futility and fear can be barriers to speaking up. Creating a 'speak up' culture requires leaders to take a proactive approach, to listen, to take action where appropriate, and to provide feedback on the outcome;
- regular training and discussion of the Principles of Public Life is integral to embedding high standards of conduct;
- identifying and bringing together data into a single report can be instructive for assessing the culture of an organisation;
- the CSPL would encourage public sector organisations to consider incorporating an assessment of how candidates' personal values align with the Principles of Public Life within their recruitment and selection processes, particularly for senior leadership positions.

CSPL letter re standards sanctions

The Chair of the CSPL has written to the Levelling up Secretary, calling on the Government to reconsider its stated position regarding the sanctions available to authorities where a breach of the Code of Conduct has been found.

Last year the Government rejected the CSPL recommendation in its 2019 report on Local Government Ethical Standards that authorities should be able to suspend councillors in breach of the Code. The Government stated that "There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime."

The Chair of the CSPL has urged the Secretary of State to reconsider the CSPL's recommendations in its report stating that "It

was clear from our evidence that the sector backed our call to strengthen the arrangements in place to support high ethical standards. There is clear frustration within local authorities at the limited powers within the local government standards regime to address poor behaviour by a minority of individuals."

[Correspondence between Lord Evans and the Rt Hon Simon Clarke MP, Secretary of State for Levelling Up, Housing and Communities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/correspondence-between-lord-evans-and-the-rt-hon-simon-clarke-mp-secretary-of-state-for-levelling-up-housing-and-communities)

Members will be kept informed of developments.

Guidance on social media

The Civility and Respect Project team established by the National Association of Local Councils (NALC), One Voice Wales, the Society of Local Council Clerks (SLCC) and county associations has produced a guide "Actively addressing the issues of Civility and Respect on Social Media" regarding the use of social media. More information can be found via the following link:

[SLCC | Civility and Respect Guide to Social Media](https://www.nalc.gov.uk/resources/civility-and-respect-guide-to-social-media)

Revision of LGA Guidance on model code of conduct to support local councils

The Civility and Respect Project team established by the National Association of Local Councils (NALC), One Voice Wales, the Society of Local Council Clerks (SLCC) and county associations has revised the Local Government Association (LGA) Code of Conduct supporting guidance "to better reflect the sector's needs".

A copy of the revised guidance can be accessed via the following link:

[Civility and Respect Project \(nalc.gov.uk\)](https://www.nalc.gov.uk/resources/civility-and-respect-project)

The guidance has been approved by NALC and the SLCC and is endorsed by the LGA.

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 \(www.gov.uk\)](http://www.gov.uk).

NYCC COMPLAINT STATISTICS

For the year 1 April 2022 to date, the Council has received six formal 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 & Social Care Ombudsman recently found flaws in an authority's standards investigation for example that there was no formal written complaint, insufficient information was given to the subject member about the complaint allegations, lack of clarity as to whether new allegations during the process formed part of the investigation and the conflation of the investigation with a separate investigation into a different councillor.

The Ombudsman recommended that the council should apologise to the subject member and rescind its decision notice upholding the complaint and should introduce a written standards procedure.

The Ombudsman said:

“Local councillors have a key role in scrutinising their authorities’ actions, and have an enhanced right of free speech to ask what might at times appear to be uncomfortable questions. Councils need to bear this in mind when deciding what constitutes a breach of their Code of Conduct.

“While both officers and members have a right to be treated with dignity and respect at work, and councils’ desire to

do more to protect them from poor treatment is to be encouraged, they still need to carry out investigations into councillor standards fairly and properly...”

- The leader of an authority was found to have breached the code conduct by failing to treat others with respect when she “shouted like a banshee” at a council worker and her husband threw a small tree at the worker’s head. The subject member was also found to have used “pejorative” language during a neighbour dispute, made unfounded allegations of bullying and had attempted to use her position to the benefit of her husband. The subject member apologised.

Contributors:

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North Yorkshire Legal and 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 website

BBC news website

Local Government & Social Care Ombudsman website