

The Standards and Governance Committee

The Members of the Committee:

- **Councillor Nick Brown**
- **Councillor Sam Cross**
- **Councillor Melanie Davis**
- **Councillor David Ireton**
- **Councillor Nigel Knapton**
- **Councillor Clive Pearson**
- **Councillor Heather Phillips**
- **Councillor Monika Slater**
- **Councillor Andy Solloway**
- **Councillor Peter Wilkinson**

Independent Persons for Standards

- **Ms Gill Baker**
- **Mrs Hilary Gilbertson MBE**
- **Mrs Louise Holroyd**
- **Mr Roy Martin**
- **Mr James Nelson**
- **Ms Richinda Taylor**

Officers

Barry Khan

Assistant Chief Executive Legal & Democratic Services
and Monitoring Officer

Tel: 01609 532173

barry.khan@northyorks.gov.uk

Jennifer Norton

Assistant Director Legal
and Deputy Monitoring Officer

Tel: 01423 556036

jennifer.norton@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

Introduction

This edition of the Standards Bulletin for North Yorkshire 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 and the Local Government Association.

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 and Governance Committee

In this issue:

- Members' expenses
- Interests' regime
- Sensitive Interests
- Bias, Predetermination, Predisposition
- Members' Gifts and Hospitality
- Social media and the Members' Code of Conduct
- Online Safety Act 2023
- LGA: Handling online abuse and intimidation
- CSPL Lobbying Seminar, Summary Note
- CSPL – Local Government Standards
- 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 Council](#)

Interests' Regime

Under the Council's Code of Conduct for Members ([Councillors' code of conduct | North Yorkshire Council](#)), 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:

- 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. It is published on the Council's website (as required by the Localism Act 2011) - [Your Councillors | North Yorkshire 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 (DPIs)

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 (ORIs)

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 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.

Social media and the Members' Code of Conduct

Social media is an important means of communication and engagement, however the use of social media frequently features in many of the standards complaints received by the Monitoring Officer.

Aspects of the Members' Code of Conduct will apply to your online activity, as in other communications, if you are, or appear to be, acting in your capacity as a councillor, rather than a private individual. The same standards of conduct apply online as would be expected offline.

The key issue is whether you are acting in your official capacity as a councillor when using your social media platforms. Be clear as to the capacity in which you are posting, official or private.

Use of the title "Councillor" may give rise to an inference that you are acting in your official capacity, when the Code can be engaged.

If you publish information you can only access as a Member, you are likely to be viewed as acting in your official capacity.

"...These are ordinary descriptive English words. Their application is inevitably fact sensitive and so whether or not a person is so acting inevitably calls for informed judgment by reference to the facts of a given case. This also means that there is the potential for two decision makers, both taking the correct approach, to reach different decisions..."

You may wish to set up different social media accounts for your private life and councillor role to maintain professional boundaries.

You are personally responsible for the content you publish on social media, in the same way that you are responsible for letters or emails you send. It is less formal but is still a form of communication and posts can be capable of being misunderstood - the immediacy of social media can magnify this problem.

Being misunderstood is likely to lead to rapid and wide broadcasting (particularly with something perceived as being more controversial than was intended) almost instantly.

Be approachable, polite and respectful in your language and tone. Irony and sarcasm are very difficult to convey in writing and therefore should be avoided, as should profanity.

North Yorkshire Council has a Social Media Policy available on the Council's Intranet, which Members may find helpful.

Members should ensure that they are familiar with the provisions and that they do not put the Council's systems and information at risk, or be damaging to the reputation of the Council or the office of Member.

LATEST NEWS

Online Safety Act 2023

Members have previously been briefed regarding the Online Safety Bill which received its third reading in the House of Lords on 6 September 2023. The aim of the Bill was to protect people from online abuse and to make social media companies more responsible for their users' safety whilst on their social media sites.

The Online Safety Act 2023 ([Online Safety Act 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/2023/10)) received Royal Assent on 26 October 2023 and the majority of its provisions have been brought into force via three sets of Commencement Regulations.

The Act aims to address illegal and harmful content online and provides for a new regulatory framework which has the general purpose of making the use of internet services regulated by

the Act safer for individuals, particularly children, in the UK. The Act also introduces new criminal offences and creates Ofcom as the regulator for online safety, granting it new powers including those required to enforce the framework.

Ofcom has set out its plans for implementing the Act on its website - [Ofcom's approach to implementing the Online Safety Act - Ofcom](#).

The Department for Science, Innovation & Technology published an Online Circular regarding certain provisions of the Act, particularly new criminal offences. Details can be found here - [Online Safety Act: new criminal offences circular - GOV.UK \(www.gov.uk\)](#).

Further information can be found here - [UK children and adults to be safer online as world-leading bill becomes law - GOV.UK \(www.gov.uk\)](#).

LGA: Handling online abuse and intimidation

The Local Government Association has published on its website, presentation slides from a presentation on 12 October 2023 regarding "Handling online abuse and intimidation" - [Handling online abuse and intimidation, 12 October 2023 | Local Government Association](#) which Members may find interesting and helpful.

CSPL – Lobbying Seminar, Summary Note

As part of its watching brief on such issues, the Committee on Standards in Public Life (CSPL) held a seminar on 21 September 2023 to look at lobbying and transparency and how the currently lobbying rules are working in practice. The CSPL has produced a note of the themes discussed at the seminar. Further information is available here:

[Committee on Standards in Public Life - Lobbying Seminar, Summary Note - GOV.UK \(www.gov.uk\)](#)

[2023-09-21 Lobbying Seminar Summary Note \(publishing.service.gov.uk\)](#)

CSPL – Local Government Standards

In October 2023, the outgoing Chair of the Committee on Standards in Public Life, Lord Evans, at the end of his five year term, stated that there is "still a major problem" regarding local government standards and reiterated the CSPL's disappointment that the Government's response to their 2019 report on Local Government Standards had taken three years and rejected the CSPL's recommendations.

Lord Evans highlighted gaps in the standards regime and how he feels these need to be addressed going forwards, particularly in terms of compliance systems, development of an underpinning ethical culture within organisations and that there are appropriate consequences if standards are not met. He also recognised the serious problem of the abuse and intimidation of those in public life.

A transcript of the speech can be accessed here - [2023-10-17 Final IfG speech as delivered.docx \(publishing.service.gov.uk\)](#).

On 22 December 2023 the CSPL's newly appointed Chair, Doug Chalmers, published a statement on his appointment, in which he states that:

"The Nolan Principles are a well embedded cornerstone of public life in this country but they cannot be taken for granted. They take constant energy if they are to be meaningful. I look forward to working with all those who play a part in helping to maintain the high standards expected by the public of those that serve them.

As I start my five year term, I will endeavour to continue the Committee's reputation for carefully researched reports that make sound arguments to assist those in public life retain high ethical standards. We will be announcing the Committee's future work programme in the New Year."

He also reiterated that standards processes should be frequently reviewed. The full statement can be viewed here - [Introducing our new Chair, Doug Chalmers - Committee on Standards in Public Life \(blog.gov.uk\)](#).

NYC STANDARDS COMPLAINT STATISTICS

The Standards and Governance Committee monitors complaints raised with the Monitoring Officer under the standards regime.

As well as considering complaints that a member of North Yorkshire Council may have breached the Members' Code of Conduct, North Yorkshire Council is the principal authority for parish and town councils in North Yorkshire for the purposes of the standards provisions in the Localism Act 2011.

It is therefore also responsible for receiving and handling complaints that a parish/town councillor may have breached that authority's code of conduct for Members.

That is the extent of North Yorkshire Council's jurisdiction in respect of parish/town council governance; parish/town councils are separate legal entities and North Yorkshire Council has no jurisdiction to consider other complaints for example about the way in which the parish council has or has not done something, or about particular parish council decisions

For the year 1 April 2023 to date, the Council has received **146 complaints** that members may have breached the relevant authority's code of conduct for members.

- 24 cases relate to NYC Members;
 - 5 are connected in relation to a particular parish council;
- 122 cases relate to members of town/parish councils;
 - 47 are connected complaints, brought by the same complainant in relation to a particular town council;
 - 14 are connected complaints, brought by the same complainant in relation to a particular town council;
- 123 cases have been assessed by the Monitoring Officer in consultation with the Independent Person for Standards and of those assessed cases:
 - 100 cases did not merit any further action;

- 5 cases were to be resolved informally;
- 1 case was not pursued;
- 17 cases are to be investigated:
 - ❖ 11 of those cases are connected and only one allegation within the complaints is to be investigated (no action on the other complaint allegations);
 - ❖ 2 further cases are connected;
 - ❖ 2 further cases are connected;

- the remainder of the complaints are in preparatory stages or awaiting assessment by the Monitoring Officer in consultation with the Independent Person for Standards.

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

NATIONAL CASES

The Local Government Lawyer website recently reported on the following cases:

- It was alleged that a councillor in Wales, who attended a council meeting and voted remotely whilst driving, had breached the Code by bringing his office/authority into disrepute. The Public Services Ombudsman for Wales considered that the councillor's behaviour had the potential to bring the council into disrepute but no action was needed: the councillor did not repeat his actions and appeared to have learned from the complaint. Further action would not be in the public interest given the lack of a criminal investigation.
- The First-Tier Tribunal General Regulatory Chamber (Information Rights) found that a councillor was able to withhold disclosure of his declarations of interests regarding land and property ownership under section 44 of the Freedom of Information Act 2000, as amended. The Council had initially refused disclosure under section 40(2) of the Act. The Tribunal was satisfied that as the councillor and Monitoring Officer had agreed the interests were sensitive interests under section 32 of the Localism Act 2011, and the discretion to not publish the information

in the register of interests had been exercised, this therefore engaged the exemption in section 44 of the Freedom of Information Act.

- Following a standards investigation regarding disclosure of personal information, a councillor, the mayor, was found to have breached the code's disrepute and civility provisions. The breach regarding civility related to the councillor's relationship with an ex-employee who was involved in the bullying culture allegations, which the investigator found the councillor must have known about and could lead to the conclusion that the councillor was potentially supportive of the behaviour. The councillor was also found to have brought the authority into disrepute through WhatsApp messages he had with an ex-employee regarding human resources matters, when he should have intervened to stop such inappropriate discussions. The investigator found that the failure to intervene showed a lack of respect and damaged the reputation of the office of mayor. The councillor apologised.

Other cases:

- Allegations have been made that three councillors made offensive comments about children with special educational needs at a meeting, such as that they were "just really badly behaved", questioning whether "there was something in the water" increasing special needs cases and parents

swapping diagnosis tips on social media. The councillors have apologised and the council is undertaking an investigation.

- The deputy leader of a council pleaded not guilty, and subsequently guilty, to two charges of failing without reasonable excuse to notify a DPI when he was re-elected in 2019 and 2021. It concerned a £70k loan he made to a friend, a fellow councillor (X) in 2018. X used the money to purchase a property and registered her legal ownership, however the deputy leader failed to register his interest as a beneficial interest. He was fined £2,400. The court noted that whilst the deputy leader had received no obvious benefit through non-disclosure of his interest, the offences were serious, although more serious instances of non-disclosure could occur if there was a benefit to the councillor.

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