



Standards Bulletin

Introduction

This edition of the Standards Bulletin sets out the latest developments in the national standards regime, including the publication of the new model Code of Conduct for Members.

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.

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

Caroline Patmore
Chair of the Standards Committee

If in doubt, please seek advice from the following:

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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 <https://democracy.northyorks.gov.uk/>

Interests' Regime

Members must register and disclose '**disclosable pecuniary interests**' as set out in regulations and detailed in the Members' Code of Conduct, and **membership of any trade unions or professional associations** (as 'interests other than a disclosable pecuniary interests'), but generally no wider, non-pecuniary, interests (eg membership of public and charitable bodies) unless a Member holds a position/office within the body for profit or gain.

A pecuniary interest is a disclosable pecuniary interest ("DPI") if it is of a description specified in regulations ie

- **Employment, office, trade, profession or vacation (for profit or gain)**
- **Sponsorship**
- **Contracts**
- **Land**
- **Licenses**
- **Corporate tenancies**
- **Securities**

(please see the [Code](#) for the detailed descriptions)

And either:

(a) it is the Member's interest or

(b) an interest of—

- the Member's spouse or civil partner
- a person with whom the Member is living as husband and wife, or
- a person with whom the Member is living as if they were civil partners

And the Member is aware of the interest.

A Member with a DPI may not participate in the discussion of, or vote on, Council business (unless a dispensation is granted) and must withdraw from the meeting room.

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

The Register of Members' Interests is maintained by the Monitoring Officer and is generally available for public inspection at the Old Courthouse, Northallerton (subject to any necessary Covid-19 restrictions). Electronic copies of Members' interests forms (redacted to remove signatures) are also published on the Council's website (as required by the Localism Act 2011).

Members must, within 28 days of becoming aware of a new interest or a change to an existing interest, register the necessary details by providing written notification to the Monitoring Officer.

Please note:

A Member commits a **criminal offence** if, without reasonable excuse, s/he —

- fails to:
 - ❖ register disclosable pecuniary interests
 - ❖ disclose an interest to a meeting where required
 - ❖ notify the Monitoring Officer of an interest disclosed to a meeting
- participates in any discussion or vote where prohibited

- an individual Member decision taker takes any steps in relation to a matter where prohibited

A Member also commits a **criminal offence** if, in relation to the registration/disclosure of interests, s/he provides information that is false or misleading and —

- knows that the information is false or misleading, or
- is reckless as to whether the information is true and not misleading.

A court may also disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

Please therefore keep your interests form under review to ensure it is up to date.

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

Interests' issues are ultimately Members' responsibility.

If you are in any doubt as to your position, please contact the Monitoring Officer or any of his team.

Sensitive Interests

You do not need to register or declare the details of an interest which you and the Monitoring Officer have agreed is sensitive.

A “sensitive interest” is any interest (whether or not a disclosable pecuniary interest) where **disclosure of the details could lead to you,**

or a person connected with you, being subject to violence or intimidation.

The existence of an interest must still be registered/declared but not any detail in relation to it.

Should you feel that any of your interests are sensitive given any prevailing circumstances, please contact the Monitoring Officer immediately to discuss.

Bias, Predetermination, Predisposition

Members involved in making a decision on particular business must always bear in mind the rules relating to **bias and predetermination** and must not participate in, or seek to influence, Council business where their interests may prejudice, or appear to prejudice, their views.

Predetermination occurs *where a fair minded and well informed observer, looking objectively at all the circumstances, considers there is a real risk that a decision maker has refused to consider a relevant argument or would refuse.*

Possible examples of bias or predetermination are:

- connection with someone affected by a decision;
- improper involvement of someone with an interest in the outcome;
- prior involvement in a matter;
- commenting before a decision is made.

However, the Localism Act 2011 makes it clear that a Member is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because they had previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter; this would amount to **predisposition** to a view and is acceptable. This ensures that Members can freely discuss issues, including expressing a view and/or campaigning on an issue, and then later speak or vote on those issues.

Unless there is positive evidence of a closed mind, prior observations or

apparent favouring of a particular decision is unlikely to suffice as predetermination

Members are entitled to have and express their own views, as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.

Members' Gifts and Hospitality

Although gifts and hospitality offered and declined or received are no longer required to be registered in the Register of Members' Interests, Members do **still need to register** them with the Monitoring Officer, for filing in the Register of Gifts and Hospitality, by completing the appropriate form and returning it to the Monitoring Officer.

The current ethical framework does not stipulate a financial threshold over which gifts and hospitality should be registered (previously, under the old regime, the threshold was £25). The Standards Committee is currently considering guidance to Members in this respect.

Should you have any queries in relation to the registration of any gifts or hospitality received/offered, then please feel free to contact the Monitoring Officer or any of his team.

LATEST NEWS

New model Code of Conduct for Members

The Local Government Association (LGA) published a new model Code of Conduct for Members on 3 December 2020. The model Code and further information can be accessed on the [LGA website](#).

The LGA has undertaken this review and published the new model Code in advance of a response from the Government regarding the recommendations made by the Committee on Standards in Public Life (CSPL) in their report on Local Government Ethical Standards.

Should any of the recommendations be implemented this may necessitate a change to this model Code and the LGA has stated it will review the model Code on an annual basis.

The new model Code is voluntary and local authorities are able to adopt the model in its entirety or not at all, or adapt it to suit their local circumstances so there is plenty of scope for the Standards Committee to make the recommendations, if any, it deems appropriate for the Council in the future.

The Standards Committee is currently considering whether the new model Code, or any part of it, should be recommended for adoption by the Council; whether any amendments to the Council's current Code of Conduct for Members in light of the new model should be recommended to full Council for approval or whether the current Code is preferred in its present terms.

Members will be kept informed of developments.

Committee on Standards in Public Life Reviews

In its 14 January 2021 blog, the Committee on Standards in Public Life (CSPL) set out its anticipated work for the year ahead.

The CSPL intends to continue and complete its reviews of election finance and the standards regime ("Standards Matter 2").

Further information is available on the CSPL website [here](#).

Members will be kept informed of developments.

CSPL follow up on best practice recommendations

The CSPL has followed up with local authorities regarding progress against the best practice recommendations it made in its 2019 report on local government ethical standards and which it would expect any local authority to implement. In December 2020, The Council provided a response to the CSPL.

On 8 January 2021 the CSPL reported on the 213 responses it had received so far, noting the following:

- the vast majority of councillors and officers want to maintain the highest standards of conduct;
- authorities have implemented or are taking steps to do so, the best practice recommendations;
- for many of the councils, even if they didn't use the precise terms of the best practice recommendations, they had elements in place and were reviewing their practices to comply fully.

Further details are available on the CSPL website [here](#).

Misconduct in Public Office

Members have received previous updates on the consultation taking place regarding reform of the common law offence of misconduct in public office.

The Law Commission has recently published a substantial report (number 397) [here](#) setting out various recommendations for reform, including proposing two replacement offences (not to apply to education and health services):

- corruption in public office:** where a public office holder knowingly uses or fails to use their public position or power for the purpose of achieving a benefit or detriment, where that behaviour would be considered "seriously improper" by a reasonable person; and
- breach of duty in public office:** where a public office holder has a duty to prevent death or serious injury by virtue of the public office, breaches that that duty and is reckless as to the risk in doing so. It is proposed that there should be a statutory list of positions constituting "public office", capable of future amendment by statutory instrument.

The Law Commission believes the recommendations "... will clarify and modernise the law, while ensuring that public office holders are held to account for serious

breaches of the trust that the public places in them..."

The Government will now consider the recommendations in order to decide whether to implement the reforms.

Members will be kept informed of developments.

CSPL review of intimidation in public life

Members have received previous updates regarding the CSPL's 2017 review of the intimidation of Parliamentary candidates and the broader implications for all public office holders.

In December 2017, the CSPL published its report to government, making various recommendations "to address the increasing prevalence of intimidation in public life".

On 17 December 2020 the CSPL published a progress report on recommendations it made in its report. The progress report is available [here](#).

The CSPL concludes that "It is clear that much has happened to tackle threats to public office holders since the publication of the Committee's report in 2017, but there remains more to do, and at a greater pace – by everyone in public life."

NYCC COMPLAINT STATISTICS

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

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

CASES

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

- A council was unable to sanction three councillors, including the mayor (who subsequently resigned), for breaching Covid-19 lockdown rules. The councillors attended a garden party during lockdown however as they attended in their personal capacity rather than their official capacity as councillors, the authority was unable to take any action.
- A councillor made comments regarding the LGBT community including describing the community as being “misguided by a powerful ideology.” It was found that whilst the comments were “unwise and unhelpful”, they did not amount to a breach of the code of conduct “due to the high level of protection afforded to councillors in respect of their right to freedom of expression within political debate.” The Councillor did however lose her position as portfolio holder for social mobility and skills due to her comments.
- A councillor was found to have twice broken his authority’s code of conduct by making “unsubstantiated allegations” about a parish council’s objection to his planning application, which amounted to a failure to treat others with respect and to bringing his office or the authority into disrepute. The councillor apologised.
- A councillor who drove a lorry during an authority cabinet meeting, was fined £200 and received six points on his driving licence. The councillor stepped down as portfolio holder for tourism, arts and culture, admitting that he “shouldn’t have joined” the meeting.
- An authority’s cabinet member for recreation and heritage was found to have breached the code of conduct regarding a council grant to a children’s motorcycle display team. The investigation found that the councillor was “heavily involved” in supporting a team official with the grant application before it was submitted. The investigator found that the councillor should not just have excluded himself from the formal decision to award the

grant but should have taken no part in the application process. He had breached his authority’s code of conduct requirements to act ‘fairly, appropriately and impartially’. No further action was required.

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 case reports

www.bbc.co.uk