

## 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**

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## 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

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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 Council](#)

## Interests' Regime

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

**Members may request to have, for example, their home address treated as sensitive and not disclosed in the Register of Interests or in their contact details on the Council website, if they feel this is necessary for their personal safety.**

Please see the later section in the Bulletin on Sensitive Interests and contact the Monitoring Officer to discuss any concerns in this regard.

**Should Members have any immediate concerns around Member safety, please contact the Head of Democratic Services and Scrutiny to discuss.**

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. 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

### CSPL – “Setting the Standard”

The Committee on Standards in Public Life (CSPL) has published an entry on its blog titled ‘Setting the Standard’ - [Setting the Standard – Committee on Standards in Public Life \(blog.gov.uk\)](#).

In the blog, the importance of ‘service’ in holding public office, and the need to take decisions in the wider public interest, is emphasised. The CSPL states that the General Principles of Conduct have stood the test of time and are the ‘bedrock’ of the standards regime.

The CSPL acknowledges that the standards landscape is complex and there is unfinished business in relation to addressing major risks to standards.

### CSPL – “Annual Report 2023 - 2024”

The Committee on Standards in Public Life has published its Annual Report for 2023-2024 - [Annual Report 2023 - 2024 - GOV.UK \(www.gov.uk\)](#).

In the report, the CSPL advises on arrangements for upholding ethical standards of conduct across public life and describes the work it has carried out over the past year, including:

- the appointment of a new Chair in December 2023;
- maintaining its watching brief on standards across public life;
- championing its 2023 Leading in Practice report;
- holding a seminar on lobbying exploring how current lobbying rules are working in practice, particularly in respect of governance and transparency arrangements;
- following up the CSPL’s 2020 AI and public standards report with a seminar.

The CSPL hopes to continue its evidence-based review work; maintaining strong relationships with those delivering the

standards landscape, including within the Devolved Administrations; and engaging widely to promote the Nolan principles.

### CSPL – “Accountability within Public Bodies”

The Standards and Governance Committee has previously been briefed regarding the CSPL’s review of accountability within public bodies and the importance of acting on early warning signs - [Committee on Standards in Public Life launches new review on accountability within public bodies - GOV.UK \(www.gov.uk\)](#).

The full terms of reference for the review and further details are published online here - [Accountability within Public Bodies: terms of reference - GOV.UK \(www.gov.uk\)](#), along with Frequently Asked Questions regarding the terms of reference ([2024-03-21 Accountability within public bodies - terms of reference FAQ final \(publishing.service.gov.uk\)](#)).

As part of its review, the CSPL held an open consultation as part of its evidence gathering and published a call for evidence on its website - [Accountability within Public Bodies - GOV.UK \(www.gov.uk\)](#). The consultation closed on 14 June 2024.

CIPFA has responded to the consultation, making a series of recommendations, details of which are published here - [Boost local government accountability through governance, ethical, and risk management improvements: CIPFA \(localgovernmentlawyer.co.uk\)](#).

The National Association for Local Councils (NALC) has also responded to the consultation and details can be found here - [Standards regime needs more “teeth”, town and parish councils say \(localgovernmentlawyer.co.uk\)](#).

It is anticipated that a report detailing best practice for public sector organisations will be published in Spring 2025

### Security for councillors

The Local Government Association (LGA) has published presentations from its event on 10 July 2024 regarding “Personal Safety for newly

elected councillors”, which Members may find helpful - [Personal safety for newly-elected councillors, 10 July 2024 | Local Government Association](#).

It has also published presentations from its event on 23 July 2024 regarding “Handling online abuse and intimidation for newly-elected councillors” - [Handling online abuse and intimidation for newly-elected councillors, 23 July 2024 | Local Government Association](#).

The LGA has previously published its report “Debate Not Hate: Ending abuse in public life for councillors” outlining “how councils can better support councillors to prevent and handle abuse and includes principles for councils to consider, top tips and good practice case studies.” - [Debate Not Hate: Ending abuse in public life for councillors | Local Government Association](#)

## 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.

### **Complaints received**

During the period 1 April 2023 to 31 March 2024, the Council received 174 complaints that

members may have breached the relevant authority’s code of conduct for Members.

During the period 1 April 2024 to 28 August 2024, a further 83 complaints have been received.

Since Vesting Day on 1 April 2023 to 28 August 2024, a total of 257 standards complaints have therefore been received.

### **Assessments**

In total, 214 assessments have been completed by the Monitoring Officer and Deputy Monitoring Officer in consultation with the Independent Persons for Standards.

A number of complaints’ assessments are currently on hold, pending responses from subject Members or the outcome of previous assessments and investigations.

A high proportion of these complaints were in respect of Members of three Town/Parish Councils, as follows:

- a) 43 connected complaints were received against Members of Town Council A, and 6 connected complaints made against a North Yorkshire Councillor were in relation to matters at this Town Council;
- b) 75 connected complaints were received from 2 linked complainants against Members of Town Council B;
- c) 11 connected complaints were made against Members of Parish Council C, linked to 6 connected complaints made against a North Yorkshire Councillor in relation to matters at this Parish Council;

Of the 214 complaints which have so far been assessed by the Monitoring Officer/Deputy Monitoring Officer, in consultation with the Independent Person for Standards:

- a) 180 complaints did not merit referral for formal investigation;
- b) 6 complaints were recommended for informal resolution;
- c) 28 complaints were referred for investigation, through 8 investigations;

One complaint was closed as the subject Member was no longer a Councillor.

### **Investigations/Determinations**

One of the investigations (covering 11 connected complaints about Town Councillors) was determined by the Standards and Governance Committee Hearings Panel when it determined that the subject Members had not breached the relevant authority's Code of Conduct for Members.

After the Panel had completed its determination of the complaints, the Deputy Monitoring Officer consulted the Panel under the Standards and Governance Committee's Protocol for dealing with Unreasonably Persistent/Vexatious Complainants. The Panel agreed that the allegations by the complainant had been investigated and determined and that any further complaints by the complainant on essentially the same issues as have already been assessed by the Monitoring Officer and/or then investigated and determined by the Panel do not need to be considered by the Monitoring Officer through the assessment process in the usual way.

A further investigation (concerning one North Yorkshire Councillor) has been completed and the complaint determined by the Hearings Panel, in consultation with the Independent Person, on 20 August 2024, when the Panel determined the complaint in private, given the sensitive personal data involved. The Panel concluded that the subject Member had breached the Code of Conduct for Members. It made some recommendations back to the relevant authority. At the end of the hearing, the Panel again considered the issue of the privacy of the documentation and concluded that whilst the nature of the documentation had been deemed exempt, it would be appropriate to publish a summary decision notice on the North Yorkshire Council website.

The remaining investigations are currently live.

The remainder of the complaints are in preparatory stages or awaiting assessment by the Monitoring Officer/Deputy 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:

- Members have previously been briefed through the Bulletin regarding a standards complaint made about the comments of three councillors about children with special educational needs. The comments related to children being "just really badly behaved", requiring "some form of strict correction", "families ...swapping tips on how to get their children diagnosed" and a question as to "Why are there so many people now jumping out with these needs? Where were they in the past when I was at school?"

The investigation found that whilst the wording used was disrespectful and showed a lack of care and sensitivity and was capable of causing reputational damage to the authority and office of councillor, it did not amount to a breach of the Code.

- A recent Tribunal case rejected an appeal by a requester under the Freedom of Information Act (FOIA) regarding a refusal under section 40(2) of the FOIA (personal information) by an authority to disclose all information relating to a code of conduct review panel hearing.

The requester argued that health and safety legislation should have supremacy over the Freedom of Information (FOI) Act 2000 however the Tribunal found that this was irrelevant to the content of the requested information relating to councillor conduct.

The Public Services Ombudsman for Wales has published its annual report and accounts for 2023/24 ([Annual-Report-and-Accounts-2023-24.pdf \(ombudsman.wales\)](#)). In the report they state that they have seen a 16% rise in code of conduct complaints from the previous year.



**Resources**

Localism Act 2011 and subordinate legislation.

[www.gov.uk/government/organisations/the-committee-on-standards-in-public-life](http://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life)

Information published on [www.gov.uk](http://www.gov.uk)

Local Government Lawyer website

BBC news website

Local Government & Social Care Ombudsman website