



Standards Bulletin

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

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 new model Code of Conduct for Members and the supporting Guidance issued by the Local Government Association.

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.

Caroline Patmore
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 [New Council Constitutions \(northyorks.gov.uk\)](http://northyorks.gov.uk)

Interests' Regime

Under the Council's current Code of Conduct for Members, 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 during office hours at County Hall, 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 disclosable pecuniary 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

Model Code of Conduct for Members and supporting Guidance

The Local Government Association (LGA) published a new, voluntary 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 published the 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 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.

The Standards Committee has considered the Model Code and reviewed the Council's Code of Conduct for Members in light of it. The Committee has determined that the Council's Code should be partially amended to take account of certain aspects of the Model Code, particularly in relation to the registration and declaration of interests and will recommend proposed amendments to full Council for approval.

These proposed changes relate to matters such as:

- including in the Council's Code, relevant guidance extracts from the Model Code, to aid understanding of the Code's requirements;
- including in the Council's Code, further general conduct obligations eg obligations to comply with the Council's standards regime, and to refrain from making trivial, vexatious, malicious, politically motivated or tit-for-tat standards complaints against other Members;
- expanding, clarifying and including a £25 threshold in relation to the gifts and hospitality provisions;
- the expansion of the registration and declaration of interests regime, akin to the previous personal/prejudicial interests process, including:
 - the inclusion of a specific requirement for a Member with a Disclosable Pecuniary Interest ("DPI") to declare the existence and nature of the interest before leaving the meeting (to reflect current practice);
 - the inclusion of a specific requirement (to reflect current practice) for a

- Member with a DPI to leave the meeting room after declaring the interest (subject to the dispensation provisions);
- the expansion of the range of interests other than DPIs (“Other Registrable Interests”) (“ORIs”) required to be registered, to cover not only membership of trade unions and professional associations but also:
 1. Unpaid directorships;
 2. Any body of which the Member is a member or is in a position of general control or management and to which they are nominated or appointed by the 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 the Member is a member and in a position of general control or management
 - making specific provision for the declaration of those Other Registrable Interests in matters considered at meetings and participation in relation to them, ie:
 - where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of the Other Registerable Interests, the Member must disclose the interest to the meeting, may speak on the matter if the public can, but otherwise must not take part in any discussion or vote and must leave the room (subject to the provisions on sensitive interests);
 - where a matter arises at a meeting which **directly relates** 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), the Member must disclose the interest to the meeting, may speak on the matter if the public can, otherwise they must not take part in any discussion or vote on the matter and must not remain in the room;
 - where a matter arises at a meeting which **affects** 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), the Member must disclose the interest to the meeting BUT may be able to remain in the meeting after considering the prejudicial interest test:
 - ❖ where the matter affects the financial interest or wellbeing:
 - to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision 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 may speak on the matter if the public can, but must not take part in any discussion or vote on the matter and must not remain in the room;
 - ❖ where the matter does not so affect the financial interest or

wellbeing, then the Member may speak and vote on the matter in the usual way.

- making similar provision for Other Registrable and Non-Registrable Interests, as for DPs, in matters considered by a single member.

On 8 July 2021 the LGA published, online, supporting **Guidance** on the new Model Code, which can be accessed online here:

[Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#)

HOWEVER, given that the Standards Committee is only recommending some of the Model Code provisions for the Council's Code, tailored to the Council, not all of the LGA Guidance will be relevant to the Council. The Standards Committee is considering how best to disseminate guidance to Members.

Members will be kept informed of developments.

Committee on Standards in Public Life – Annual Report 2020/21

On 15 July 2021 the CSPL published its Annual Report covering the period July 2020 - June 2021:

[Annual Report 2020-2021 - GOV.UK \(www.gov.uk\)](#)

The Report sets out the work the CSPL has carried out in its priority areas over the period July 2020 - June 2021, including:

- two major reviews; one on election finance and one on the strengths and weaknesses of the standards landscape – “Standards Matter 2”. The published findings from that review will inform the CSPL’s final report and recommendations to Government later in 2021;
- monitoring the impact of the Covid-19 pandemic on public standards and standards issues arising as a result of the pandemic. The CSPL will continue to

monitor the impact of the pandemic on ethical standards in public life;

- following up previous reviews on intimidation in public life and local government ethical standards.

The CSPL noted that the Local Government Association had taken forward the CSPL’s 2019 recommendation of a model code of conduct for councilors, in an effort to enhance the consistency and quality of local codes, and to support action against bullying and harassment.

The CSPL “remains concerned” that the Government has not yet formally responded to its January 2019 Report on Local Government Ethical Standards, some two and a half years after it was published and urges the Government to look at the recommendations made in the report as a matter of urgency. The Government has previously acknowledged that its response to the CSPL’s review is “overdue” (citing the reasons of the 2019 election and then the Covid-19 pandemic) and will follow in due course.

Going forwards, the CSPL’s next review, later in 2021, will highlight best practice in education, culture, and leadership on ethical standards. The CSPL aims to report to Government in 2022.

CSPL report on the regulation of election finance

In July this year, the CSPL has published its 22nd report, on the regulation of election finance. The report is detailed, spanning 167 pages and is available on the website:

[Regulating Election Finance: report - GOV.UK \(www.gov.uk\)](#)

and makes 47 separate recommendations in relation to the following broad areas:

- principles underpinning the regulation of election finance;
- electoral law and legal framework (and its simplification);
- the role of the Electoral Commission;
- regulating donations and loans;

- regulated periods (periods during which spending limits and reporting obligations apply) and campaign expenditure;
- digital campaigning and election finance;
- reporting campaign expenditure timeframes;
- non-party campaigning;
- the framework for the enforcement of election finance offences (the criminal and civil regimes);
- a civil sanctions regime for candidates, overseen by the Electoral Commission.

The CSPL states that the report “focuses on practical proposals that seek to modernise and reform aspects of the regime.... Together, the recommendations we have made in this report will deliver significant improvements to the current framework for regulating election finance, creating a more transparent, proportionate and effective system.”

CSPL findings from ‘Standards Matter 2’ review

The CSPL has published its findings from its ‘Standards Matter 2’ review, in advance of its final report:

[Standards Matter 2: The Committee's Findings - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

The Committee launched its Standards Matter 2 review ([Standards Matter 2 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)) last autumn “to evaluate the strengths and weaknesses of the institutions, processes and structures in place to support high standards of conduct in public life.... In light of sustained public scrutiny on standards in public life and a number of ongoing parliamentary and government inquiries into standards issues, the Committee is publishing findings from the review. The Committee’s final report and recommendations to the Prime Minister will follow later this year”.

The findings cover the following broad areas:

- four areas of standards regulation require significant reform: the Ministerial Code and the Independent Adviser on Ministers' Interests, the business appointment rules and the Advisory Committee on Business Appointments (ACOBA), transparency around lobbying, and the regulation of public appointments;

- immediate issues with the current operation of the standards regulatory regime, and point in the direction of necessary reforms.

The CSPL states that its final report will be published later in 2021, and it will include the CSPL’S assessment of the relevance of the General Principles of Public Life, on how ethical standards are being upheld and the CSPL’s formal recommendations to Government.

Civility in public life - digital citizenship resources

As part of its work on Civility in Public Life, the LGA is publishing a range of new resources and tools to support councillors with online communications:

[Digital citizenship: support and resources for councillors | Local Government Association](#)

The resources currently cover matters such as:

- new “Rules of engagement” and “Handling online abuse” infographics and accompanying accessible text;
- handling intimidation in public life;
- the Model Code of Conduct;

and will be developed over time, as the LGA works with partners on a long-term project to improve civility in public life.

NYCC COMPLAINT STATISTICS

For the year 1 April 2020 to 31 March 2021, the Council received one formal standards complaint, which is currently under consideration by the Monitoring Officer and awaiting investigation.

For the year 1 April 2021 to date, the Council has received one formal standards complaint. The complaint was assessed by the Monitoring Officer in consultation with the Independent Person for Standards when it was concluded that no action should be taken in relation to the complaint as there was no evidence to suggest a breach of the Code by the Subject Member.

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 leader resigned after an external report raised concerns about his conduct in relation to planning applications by his son and a friend. There were complaints that the Subject Member had “attempted to encourage support” for his son’s application (in respect of which officers had recommended refusal). The Subject Member’s friend’s application was refused but the Member tried to persuade another member to call the matter in. It was found that the lobbying of members and officers in relation to the applications was improper as he had attempted to confer on or secure an advantage for his son and friend .
- The First Tier Tribunal has upheld a decision by a council to refuse to disclose the views of two independent persons on a complaint about the conduct of a councillor, in respect to a request under the Freedom of Information Act.

The Information Commissioner upheld the council’s decision, concluding that it was reasonable to withhold information comprising the IPs’ views on the complaint, on the basis that publication would be likely to inhibit the free and frank provision of future advice, and would be likely to be otherwise prejudicial to the effective conduct of public affairs. In addition, the public interest in the withheld information being disclosed was outweighed by the public interest in the exemption being maintained.

On appeal, the FTT acknowledged that the public interests of transparency,

openness and accountability in relation to public sector activities were always important public interests but was satisfied that they should not be afforded especial weight in the context of local democracy. “Rather, the weight afforded must always be fact dependant and varies according to context.”

The FTT was satisfied that the ability of the IPs to provide candid and uncensored advice to the monitoring officer was an important part of the council’s complaint system - “We find in addition that there is a strong public interest in avoiding detriment to the Council’s process for dealing with complaints made against elected officials.”

The FTT concluded that the public interests of transparency, openness and accountability were outweighed in this case by the significant public interest in avoiding the risk of inhibition of the IPs’ candid advice, and in maintaining the effectiveness of the council’s complaint process which might otherwise be undermined.

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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