



Standards Bulletin

Introduction

This October edition of the Standards Bulletin sets out the latest developments in the national standards regime.

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

The Standards Committee

The Members of the Standards Committee:

- **Vacancy**
- **County Councillor Andy Paraskos**
- **County Councillor Caroline Patmore**
- **County Councillor Peter Sowray**
- **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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CSPL Review – AI and public standards

The Committee on Standards in Public Life (CSPL) has recently launched a review on artificial intelligence and its impact on standards across the public sector, to examine “whether the existing frameworks and regulations are sufficient to ensure that high standards of conduct are upheld as technologically assisted decision-making is adopted more widely across the public sector”.

More information can be found at:

<https://www.gov.uk/government/publications/ai-and-public-standards-terms-of-reference>

The CSPL intends to publish a report early next year.

CSPL Annual Report 2018-19

The CSPL has recently published its Annual Report for 2018-19. The Report is published online at:

<https://www.gov.uk/government/publications/annual-report-2018-19>

and describes the work undertaken by the CSPL in relation to its priority areas during the period July 2018 – June 2019:

- Local government and ethical standards
- AI and public standards
- Intimidation in public life
- MP's outside interests
- Bullying and harassment in Westminster

The CSPL confirms its vision “to reinforce clear expectations across public life of high standards of conduct”.

CSPL Report re Intimidation in Public Life

The Standards Committee has previously considered the CSPL's report regarding

Intimidation in Public Life, which is published at:

<https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>

and which made a number of recommendations to government, social media companies, political parties, the police, broadcast and print media, MPs and Parliamentary candidates.

The CSPL has recently published correspondence from the Government in relation to the Committee's report:

<https://www.gov.uk/government/publications/intimidation-in-public-life-letter-from-the-minister-for-the-constitution>

which outlines the steps which have been taken in response to the report, including:

- laying a written Ministerial Statement to update Parliament on Government's progress in implementing the CSPL's recommendations since the Government's response was published in May 2018;
- undertaking a public consultation entitled 'Protecting the Debate: Intimidation, Influence and Information', seeking views on, amongst other matters, a proposed new electoral offence of intimidation of candidates and campaigners;
- holding discussions with the social media companies and the Electoral Commission;

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.

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

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<http://www.northyorks.gov.uk/article/23630/Councillors-code-of-conduct>)

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 available for public inspection in Rm 11,

County Hall. 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) at:

<http://democracy.northyorks.gov.uk/Committees.aspx?councillors=1>

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, please contact Julie Robinson on ext 2953 to make the necessary arrangements.

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.

Complaint Statistics

For the year 1 April 2019 to date, the Council has received six formal standards complaints. Four of those complaints were in relation to same subject Member and matter and were dealt with together, when it was concluded that the complaints should be dealt with by local settlement under informal resolution: namely that the subject Member should issue a formal apology, undergo suitable diversity training as directed by the Monitoring Officer and that the assessment record should be published on the Council website.

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

Cases

The Local Government Lawyer reported on the following cases:

- A case where Facebook posts by a councillor calling for Theresa May to be hanged for treason, were the subject of a standards investigation. The councillor was held not to have breached the code of conduct as he was not acting in an official capacity when he made the statements.

The councillor was convicted of four offences under the Communications Act and sentenced to a six-month curfew between 7pm and 7am, which prevented him attending council meetings, so leaving him liable to disqualification for non-attendance. The councillor applied to the council for a dispensation to avoid this, which was refused by the council.

The councillor resigned.

- In another case, three councillors were found to have brought their authority into disrepute, after information about another councillor's affair with a staff member was leaked from the council's email system to a national newspaper.

One of the councillors was also found to have misled officers and was removed from the standards committee.

Two of the councillors were found to have intimidated and misled officers, and one was found to have bullied an officer, for which they received a censure.

It was not suggested that the subject Members had leaked the information but the standards committee was dissatisfied with their attitude towards the investigation.

In a separate standards hearing one of the councillors was found to have shouted at a member, gesticulated with his spectacles and acted "in such a manner as to cause alarm and distress to another member of the public" during a parish meeting.

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