

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

15 September 2017

Standards Bulletin**1.0 PURPOSE OF REPORT**

- 1.1 To present to the Committee, for consideration, a draft Standards Bulletin.

2.0 BACKGROUND

- 2.1 The Standards Bulletin is produced periodically and circulated to Members of the Council to keep them informed of key developments in the standards regime.
- 2.2 In adopting the ethical framework under the Localism Act 2011, the Council decided that the continued production of the Standards Bulletin would help to maintain the Council's statutory duty to promote and maintain high standards of conduct.

3.0 THE STANDARDS BULLETIN

- 3.1 The latest draft edition of the Bulletin is attached at **Appendix 1** to this report.
- 3.2 The Committee is requested to consider the Bulletin with a view to its subsequent circulation.

4.0 RECOMMENDATIONS

- 4.1 That, subject to any comments Members may have, the Bulletin be updated as necessary following the outcome of the Committee's meeting and approved for circulation.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

7 September 2017



North

Yorkshire County Council

STANDARDS BULLETIN

INTRODUCTION

The Committee on Standards in Public Life is continuing to maintain 'a watching brief' of the standards regimes in local government and the changes resulting from The Localism Act 2011.

The CSPL's forward work programme includes a review of local government standards, upon which the CSPL intends to consult in early 2018 with a view to making findings and publishing recommendations later in 2018.

Members will be kept informed of developments.

Should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of his Team.

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Chair of the Standards Committee

THE STANDARDS COMMITTEE

The Members of the Standards Committee:

- **County Councillor John Blackie**
- **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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Voluntary Principles on Standards for Political Discourse

The Equality and Human Rights Commission published a set of 'Voluntary principles on standards for political discourse' for political parties, candidates and campaigners in relation to the general election earlier this year, to support its belief that "...while political debates should be free and open, they should not create or worsen divisions in society..."

A copy of the principles is available to view on the Commission's website:

<https://www.equalityhumanrights.com/en/publication-download/voluntary-principles-standards-political-discourse>

It is suggested that the Authority maintains a strong ethical framework, shaped by its Code of Conduct and accompanying standards documents, underpinned by support from the Authority's leadership, which encapsulates the spirit of the Commission's Voluntary Principles.

CSPL Ethical Standards For Providers Of Public Services

The Committee on Standards in Public Life ("CSPL") is an advisory Non-Departmental Public Body (NDPB) sponsored by the Cabinet Office. The Chair and members are appointed by the Prime Minister. It advises the Prime Minister on national ethical standards issues regarding standards of conduct of public office holders. The CSPL terms of reference were amended in 2013 to cover all involved in delivering public services, not just those elected/appointed to public office.

The CSPL is currently undertaking a follow up review of its 2014 report 'Ethical standards for providers of public services' and 2015 guidance, to see if there have been any changes in how private/voluntary

sector providers undertaking outsourced public services uphold the Nolan Principles and ethical standards. It will also assess how the CSPL guidance has been used and review how government has responded to its recommendations for transparent commissioning based on ethical expectations.

<https://www.gov.uk/government/news/ethical-standards-for-providers-of-public-services-follow-up>

Members will be kept informed of developments.

CSPL Review – Members' Outside Interests

In 2009, the CSPL recommended that "MPs should not be prohibited from paid employment such as journalism outside the House, providing any such activity remains in reasonable limits. But it should be transparent and information about it should be drawn to voters' attention at election time."

The CSPL is undertaking a short review of MPs' outside interests, to inform its submission on "reasonable limits" for such interests to the ongoing inquiry by the Commons Committee on Standards into the MPs' Code of Conduct:

<https://www.gov.uk/government/news/mps-outside-interests-committee-announces-short-review>

For those wishing to contribute to the review, further information is available on the CSPL website:

<https://www.gov.uk/government/consultations/mps-outside-interests-cspl-review>

The review is open until 5pm on 13 September 2017. Members will be kept informed of developments.

CSPL Review of Intimidation of Parliamentary Candidates

The Government has asked the CSPL to conduct a short review of intimidation of Parliamentary candidates and the broader implications of this for other public office holders:

“As an independent Committee, we will consider this issue on a non-partisan basis. Members of Parliament and candidates from a range of political backgrounds have been subjected to intimidation. It is important to shed light on these experiences to inform efforts to better protect those affected and at the same time maintain healthy, robust debate and legitimate scrutiny from the public and the press.

“In particular, we will want to examine how social media tends to amplify, intensify, and escalate some of the long-standing issues which the Committee has been concerned about.

“How those in public life and candidates for public office are treated inevitably has implications for standards in public life more broadly, including how public office holders relate to members of the public.

“We will announce our methodology for this review later this month. We would welcome contributions from anybody interested in this issue. The Committee is keen to encourage further debate and consideration of these important issues. Further information on how to contribute will be on our website.”

<https://www.gov.uk/government/news/intimidation-of-parliamentary-candidates-committee-announces-short-review>

<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

CSPL Review of Local Government Standards

The CSPL has published its Strategic Plan, Annual Report for 2016-17 and Forward Plan for 2017-18. Copies can be found:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626271/Setting_the_Standard - Strategic Plan Annual Report 2016-17 Forward Plan 2017-18.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626271/Setting_the_Standard_-_Strategic_Plan_Annual_Report_2016-17_Forward_Plan_2017-18.pdf)

The CSPL maintains a watching brief on the local government standards regime. In its 2013 report “Standards Matter” the CSPL outlined its concerns regarding possible issues re the local government standards framework under the Localism Act of 2011: *‘The new, slimmed down arrangements have yet to prove themselves sufficient for their purpose. We have considerable doubt that they will succeed in doing so and intend to monitor the situation closely’*. The forward work programme includes a review of local government standards, upon which the CSPL intends to consult in early 2018 with a view to making findings and publishing recommendations later in 2018. Members will be kept informed of developments.

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 -

<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.

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 or call in to Room 11 in County Hall, Northallerton. **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.

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, by completing the appropriate form and returning it to the Monitoring Officer. Should you have any queries in relation to the registration of your interests or 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 2016 to 31 March 2017, the Council has received three complaints that a Member may have breached the Members' Code of Conduct. Two complaints are currently under consideration by the Monitoring Officer. The other complaint was assessed by the Monitoring Officer in consultation with the Independent Person for Standards and found to be out of the Standards Committee's jurisdiction and consequently no action was required. 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:

1. Two County Councillors in Wales (where a different ethical framework applies) were suspended by their authority's standards committee for bringing the office of member/authority into disrepute after being prosecuted for breaches of Cattle Identification Regulations. During the suspension period, neighbouring councillors were asked to cover for the suspended councillors on behalf of residents of the relevant wards.
2. A member of the public conducted a long campaign of harassment against

councillors and officers, making repeated accusations of dishonesty, conspiracy, fraud, concealment, corruption and misconduct in public office and visiting councillors' homes and disrupting meetings.

Before the trial, the complainant gave an undertaking to cease the behaviour but he later repeatedly breached the undertaking by posting similar allegations on Facebook and making false allegations of theft to the Police. The authority began court proceedings for breach of the undertaking. The High Court ordered the complainant to apologise on social media, remove the postings in question and pay £100,000 towards the authority's legal costs.

3. A councillor was alleged to have been involved in transactions procuring the sale of council assets to family friends at substantial undervalue and have used his senior position within the authority to have parking tickets issued to his family withdrawn.

An investigation commenced after various subsequent allegations of serial and longstanding wrongdoing by councillors. The external investigator made a personal and derogatory observation about the councillor and his family to the chief executive.

The chief executive considered whether to continue using the investigator given the risk of bias. They continued, as the investigation was advanced, but sought Counsel's advice on the investigation report and evidence.

Counsel advised that there was a serious case to be met by the councillor and the investigation report should be published to address public criticism that the authority was suppressing wrongdoing. Counsel further advised

that a standards investigation be undertaken.

The investigation report and Counsel's Opinion were leaked during elections of a new Leader.

The councillor sought permission for judicial review and an order prohibiting publication of the documents. Permission was initially refused by the High Court but subsequently granted by the Court of Appeal. The authority's standards investigation was also stayed pending the outcome of the judicial review.

The councillor argued that the investigation was unlawful as it was tainted by bias and unreasonable and there was no power to investigate misconduct pre the Localism Act 2011. In addition, he argued that the publication of the report and Opinion was an irrational and politically motivated act, tainted by bias, unlawful under data protection legislation and violated his human rights.

The Court dismissed the councillor's judicial review claim. There was a serious case against the councillor which should be investigated under Localism Act 2011 standards arrangements.

The Court held that the authority had "ample" powers to conduct investigations into impropriety, that the publication of the report and Opinion were justified, in the public interest and not prohibited by data protection or human rights legislation. Even if this analysis was wrong and the authority had acted unlawfully, none of those breaches would be material or have any real impact on the fairness of the future investigation.

The Court order the stay on the investigation to be lifted, stating that the councillor would have a full opportunity

to present his case in the future investigation process.

The councillor was ordered to pay £55,000 costs.

4. An authority appointed an external investigator to investigate how a confidential report was leaked to a newspaper. An opposition councillor had already admitted to leaking the report after being given it by the group leader.

The investigator concluded that the group leader had given the report to the councillor and knew there was a possibility s/he would leak it to the press. The investigator stated that the fact the councillor went straight to the press and did not discuss any concerns with the council or any external agency suggested that their motivation was more political or personal rather than in the public interest.

The investigator recommended that the authority ensures it has a robust information governance framework and provide mandatory data protection training for members and officers.

Contributors:

MOIRA BEIGHTON

North Yorkshire Legal & Democratic Services

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