

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**
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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:

- 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 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 – “Making Sense of the Standards Landscape”

The Committee on Standards in Public Life has published an entry on its Blog regarding evidence given by the Committee to the House of Commons Standards Committee as part of their current enquiry into the House of Commons Standards landscape:

[Making sense of the standards landscape – Committee on Standards in Public Life \(blog.gov.uk\)](https://blog.gov.uk/making-sense-of-the-standards-landscape/)

The entry references three common threads to sanctions:

- i. Codes of conduct
- ii. Independent scrutiny and
- iii. Guidance and education

and states that there is more work to be done on education “both in terms of making people aware of the 7 principles and how to live them once in public life and a more general, wider political literacy about how our system of government and politics works.”

In the blog, the Chair emphasises that “Codes require regular review, ensuring they remain relevant and effective” and that “Maintaining standards requires vigilance and leadership.”

CSPL – “AI and Public Standards”

The Committee on Standards in Public Life wrote to Government Departments and public bodies seeking an update on how they are reviewing their governance arrangements in relation to artificial intelligence (AI) in line with the recommendations in the CSPL’s earlier report in 2020 ([Artificial Intelligence and Public Standards Report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/artificial-intelligence-and-public-standards-report)).

Responses received by the CSPL have been published online here: [AI and Public Standards: 2023 public bodies survey and responses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/artificial-intelligence-and-public-standards-2023-public-bodies-survey-and-responses)

The Department for Science, Innovation and Technology and Crown Commercial Service have also provided an update to the CSPL

which is published online here: [AI and Public Standards: government update on progress against recommendations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/artificial-intelligence-and-public-standards-gov-update)

The CSPL has subsequently published a follow up report updating on progress made in relation to their recommendations which is published online here: [AI and Public Standards: an update on progress made against our 2020 recommendations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/artificial-intelligence-and-public-standards-gov-update)

CSPL – “Accountability within Public Bodies”

‘Accountability’ is one of the seven General Principles of Public Life:

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

The Committee on Standards in Public Life has announced that it is to undertake a 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 \(www.gov.uk\)](https://www.gov.uk/committee-on-standards-in-public-life-launches-new-review-on-accountability-within-public-bodies).

The Chair of the CSPL said it aims to share best practice on “how organisations build and maintain systems of internal accountability that enable timely decision making, supporting proper scrutiny of their decision making”.

The review will look at:

1. “How the Nolan Principles can guide decision-making within public bodies.
2. How public bodies can support Parliament, regulators and other bodies to hold them to account on behalf of the public, including but not limited to making available the information necessary for them to do so effectively.
3. Best practice in managing risk within public sector organisations. We will look at how organisations can use data to analyse patterns, identify early warning signs and escalate issues of concern in a timely manner.

4. The role of boards of public bodies, including how they can maximise their effectiveness at providing timely challenge to the organisation.
5. How a healthy organisational culture can help public bodies to learn from their mistakes and take action swiftly to put things right.”

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 is holding an open consultation as part of its evidence gathering and has published a call for evidence on its website - [Accountability within Public Bodies - GOV.UK \(www.gov.uk\)](#). Anyone with an interest may make a submission. The consultation closes on 14 June 2024.

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

Members will be kept informed.

Security measures for councillors

The Home Office has announced that all elected representatives and candidates are to have a dedicated named Police liaison contact regarding security matters as part of wider work to protect democratic processes from disruption. This expands the support currently offered under current policing arrangements.

Further information is available on the [www.gov.uk](#) website here - [£31m committed to protect democratic process - GOV.UK \(www.gov.uk\)](#)

The Local Government Association has published an article on its website ([LGA backs new personal security measures for councillors | Local Government Association](#)) backing the new personal security measures for councillors in terms of locally elected representatives having dedicated police support for security matters.

The Chair of the LGA’s Civility in Public Life Steering Group commented that “We want to work with the Government to help take much needed steps to protect local councillors whilst they fulfil their democratic duty. This includes ending the legal obligation for a council to publish a councillor’s home address and providing greater police protection for local representatives.”

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](#).

Government guidance – “New definition of extremism (2024)”

The Department of Levelling Up, Housing and Communities has issued guidance ([New definition of extremism \(2024\) - GOV.UK \(www.gov.uk\)](#)) setting out a new definition for extremism alongside new engagement principles for Government (to ensure they do not inadvertently provide a platform for the advancement of extremist ideologies) as part of an effort to counter extremism and religious hatred while promoting social cohesion and democratic resilience.

The new definition in the guidance is:

Extremism is the promotion or advancement of an ideology based on violence, hatred or intolerance, that aims to:

1. negate or destroy the fundamental rights and freedoms of others; or
2. undermine, overturn or replace the UK’s system of liberal parliamentary democracy and democratic rights; or
3. intentionally create a permissive environment for others to achieve the results in (1) or (2).

The guidance sets out examples of behaviour which could constitute extremism, including “Using, threatening, inciting, justifying, glorifying or excusing violence towards public officials including our armed forces, police forces and members of local, devolved or national

legislatures, in order to dissuade them from conducting their obligations freely and fearlessly, without external interference.”, which could cover such action towards members of local government.

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 6 June 2024, a further 49 complaints have been received.

Since Vesting Day on 1 April 2023 to 6 June 2024, a total of 223 standards complaints have therefore been received.

Assessments

In total, 179 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) 35 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 179 complaints which have so far been assessed by the Monitoring Officer/Deputy Monitoring Officer, in consultation with the Independent Person for Standards:

- a) 145 complaints did not merit any further action;
- b) 5 complaints were recommended for informal resolution;
- c) 28 complaints were referred for investigation, through 9 investigations;
- d) one complaint was closed as the subject Member was no longer a Councillor.

Investigations/Determinations

One of the investigations (covering 11 connected complaints) has been completed and the complaint 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.

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:

- a newly elected councillor has been disqualified under the Local Government Act 1972 after it was discovered they were a primary school teacher and an employee of the authority.

The office was therefore made vacant with immediate effect as the councillor was disqualified from being a member of the authority under the Act as they were a paid officer of the local authority.

- a former leader of a council (X) was found to have breached the council's code of conduct in terms of its respect, disrepute and bullying provisions regarding X's behaviour towards the interim monitoring officer and section 151 officer. The complaint concerned various extensive conduct allegations, including X being aggressive in a conference call, threatening the officers' jobs. No sanction was imposed as X was no longer a serving councillor.

- A large-scale landlord who harassed local authority staff was found to be in contempt of court after breaching a court injunction. The injunction had been imposed after the landlord had harassed a member of the authority's legal team by insulting them and accusing them of criminal offences.

The authority alleged the landlord had breached the injunction by contacting the council leader, chief executive, and information team rather than the single point of contact (the head of legal), and making a series of Freedom of Information Act requests.

It was found that the landlord had harassed officers in the following ways:

- by making hurtful personal comments and unfounded allegations of criminal conduct;
- by sending large volumes of irrelevant material in a continuation of an unreasonable and oppressive course of conduct.

Other cases:

- A constituent (X) sent an email to a town councillor, copied to others, referencing her disabilities and challenging her ability to perform her role. He was subsequently convicted of an offence under the Malicious Communications Act 1988 of "sending an indecent or grossly offensive electronic communication with intent to cause distress or anxiety" and was sentenced to a community order.

X appealed, successfully, arguing that his email was a legitimate expression of his opinion and concerns under Article 10 of the European Convention of Human Rights.

The case held that:

- Whilst some forms of expression are beyond the right of free speech, eg solely vulgar abuse or ideas aimed at destroying democracy, courtesy is not legally required.

- Whether a message is “grossly offensive” is an objective question of fact by reference to the content and context, not its effect, and the sender’s purpose.
 - It must be considered whether the message goes beyond what is tolerable in society, reflecting society’s fundamental values including the weight to be given to free speech, the need for tolerance for political speech and the special need for tolerance by those holding public positions.
 - Context must also be considered – political speech attracts particular weight and requires a high threshold for prosecution.
- ‘purposes’ must be properly determined and not conflated with ‘intention’.

<p>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 website BBC news website Local Government & Social Care Ombudsman website</p>
