

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	29 JULY 2020
Heading:	LOCAL GOVERNMENT ASSOCIATION – CONSULTATION ON MODEL MEMBER CODE OF CONDUCT		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

The purpose of this report is to update the Committee in respect of the work of the Local Government Association (LGA) in developing a draft Model Member Code of Conduct, and the accompanying consultation on the Code. The draft Model Member Code of Conduct is attached as Appendix A. The Consultation questions are contained in the report and attached as Appendix B.

Recommendation(s)

- 1. Members should note the content of the draft Model Member Code of Conduct and consider the consultation questions posed by the LGA.**
- 2. Approve the general content of the draft Member Model Code of Conduct consultation response.**
- 3. Authorise the Monitoring Officer to finalise the detailed drafting of the response in consultation with the Chairman prior to submission to the LGA.**

Reasons for Recommendation(s)

To ensure the Committee charged with ensuring high standards of conduct is aware of the LGA Model Code of Conduct and consultation exercise, and to provide a response to the consultation on behalf of the Council.

Alternative Options Considered

The Council could choose not to engage with the consultation and leave it to individual Members and Officers to provide a response. However, it is felt more appropriate for the Standards and Personnel Appeals Committee to provide feedback on the proposed Code.

Detailed Information

LGA's Work on a New Model Code of Conduct

This work is part of a wider programme of work on **civility in public life** and in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement. The work programme was approved by the LGA Leadership Board in September 2019.

The Board heard that "one of the most pressing concerns facing the conduct of public life at the moment is the increasing incidents of intimidation and abuse by members of the public against councillors. These attacks risk the personal safety of our members, undermine local democracy and decision-making, and can put off prospective candidates from standing. Intimidation and physical threats of violence against councillors are a real and growing concern in every area of the country. Whilst debate and having different views is all part of a healthy democracy; abuse, public intimidation and threats are designed to undermine democratic decision making by generating fear in those who represent it."

The purpose of the civility in public life programme is:

- To address the intimidation of local government members and officers
- To address standards of public discourse
- To address standards of political discourse and behaviour in public office
- To provide support and advice to councils and councillors

In reviewing the Model Code of Conduct the LGA *"aims to develop a code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It will set out the duties and expectations of persons in public office as well as their rights, particularly their right to be protected from abuse and intimidation resulting from their undertaking of public office."*

The LGA's objectives in reviewing the model code of conduct are to:

- Articulate what local government believes are good standards for all in public office
- Show leadership in good standards of conduct for those in public office, both elected and as employees
- Achieve consensus between the stakeholders affected by local government conduct
- Support its member councils and partners in achieving good standards of conduct
- Produce a code that is fit for purpose, useful and held in high regard
- Enhance the reputation of local government and local politicians
- Support the good running of councils

- Support all democratically elected local representatives to deliver their best on behalf of their local communities
- Build on the good practice that already exists within member councils

The LGA appointed Hoey Ainscough to work with it to review the Code. The first stage of the review was the gathering of views and good practice examples and a series of workshops with national representative bodies, officers and elected members. Three workshops were held on 17, 20 and 21 January 2020. The Council's Deputy Leader, Councillor Helen-Ann Smith was invited to attend one of these workshops. I understand from the LGA that the workshop discussions went very well and there were mutual concerns expressed by members and officers about the current codes, inconsistencies in application, lack of guidance and sanctions.

LGA draft Model Code of Conduct

On the 8 June 2020, the LGA released a draft Model Member Code of Conduct along with a consultation questionnaire. The Code aims to be *“concise, written in plain English, and be understandable to members, officers, and the public. The draft Model Member Code has been “designed to aid Members in all tiers of local government model the behaviours and high standards that anyone would expect from a person holding public office”.*

The Code has been designed to help set a framework for member behaviour and responsibilities, emphasising the importance of civility, and ensuring that councillors are protected from bullying, intimidation, and abuse. The recommendations from the Committee on Standards in Public Life, who, as Members will be aware, undertook a review of local government ethical standards in 2018, have also been incorporated into the development of the Code.

The Code is attached as Appendix A. The Standards and Personnel Appeals Committee will note that:

The Code is being *“offered as a template for Councils to adopt in whole and/or with local amendments”*. Members may wish to discuss if this is appropriately in line with the CoSPL's concerns around variations in Member Code of Conducts.

The Code has been developed in line with the Nolan Principles: seven principles which are the basis of the ethical standards of public office holders, set out by the Committee on Standards in Public Life's first report by Lord Nolan in 1995.

In accordance with the LGA's wider work programme of work on 'civility in public life', 'civility' is a theme used by the LGA throughout the Code, meaning ***“politeness, and courtesy in behaviour, speech, and in the written word”***.

The Code is presented in personal tense and sets out twelve statements that Members should commit to in carrying out their responsibilities.

1. Treating other councillors and members of the public with civility.
2. Treating council employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.
3. Not bullying or harassing any person.

4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.
5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.
6. Not preventing anyone getting information that they are entitled to by law.
7. Not bringing my role or council into disrepute.
8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.
9. Not misusing council resources.
10. Registering and declaring my interests.
11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, license, or other significant advantage.
12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

The Code provides a definition for bullying:

“Bullying may be characterised as offensive, intimidating, malicious, or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and not always be obvious or noticed by others”.

A definition for harassment is also included:

“The Equality Act 2010 defines harassment as ‘unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that individual’. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation”.

The use of social media is highlighted throughout the Code, and the LGA are requesting comments on whether there is sufficient reference to it. Members should consider whether a stronger reference to social media should be included in the Code, and if there is a need for a specific policy to be developed.

Detail has been provided on declaration of interests, with the LGA broadening the requirement to declare interests beyond the statutory minimum, in line with the recommendations of the CoSPL. The LGA is proposing that all councillors are required to declare interests where matters also relate

to or affect **other family members** or **associates**, not just directly themselves or their partner if applicable.

LGA Consultation

The consultation on the draft Model Member Code of Conduct will run for ten weeks from Monday 8 June until Monday 17 August (see Appendix B). The feedback from the consultation will be used by the LGA to develop a final draft, which will then be reviewed by the LGA's Executive Advisory Board before being presented to the next LGA General Assembly, planned for Autumn of 2020.

The LGA have produced a set of questions designed to assist members and officers in their consideration of the Code. The questionnaire addresses key areas that the LGA would like a view on to help finalise the Code.

- To what extent do you support the proposals that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media?
- Is it sufficiently clear which parts of the Code are legal requirements, which are obligations, and which are guidance?
- Do you prefer the use of personal tense, as used in the Code, or would you prefer passive tense?
- To what extent do you support the 12 obligations?
- Would you propose any additional obligations?
- To what extent do you think the concept of 'acting with civility' is sufficiently clear? Would you like to suggest an alternative phrase that captures the same meaning?
- To what extent do you think the concept of 'bring the council into disrepute' is sufficiently clear? Would you like to suggest an alternative phrase that captures the same meaning?
- To what extent do you support the definition of bullying and harassment used in the Code in a local government context? Are there any other definitions you would like to recommend?
- Is there sufficient reference to the use of social media?
- Should social media be covered in a separate code, or integrated into the overall code of conduct?
- To what extent do you support the Code going beyond the current requirement to declare interests of the councillor and their partner?
- Should the requirement to declare interests be in the main body of the Code, or in the appendix?

- To what extent do you support the inclusion of the additional categories for registration?
- To what extent do you agree with the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?
- The draft Code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?

The LGA will be hosting a consultation webinar on the Model Member Code of Conduct on 29 July. The webinar will give attendees the opportunity to find out about the background and reasoning behind the drafting of the consultation version of the Code. Attendees will be able to ask questions, give their opinions, and make suggestions for alterations to the draft Code. Discussions will also be held on how COVID-19 has impacted on how councillors undertake their role, particularly as more communication is taking place remotely and online between members and residents. Feedback from this webinar will be provided to Committee.

It is recommended that, following consultation with the Committee, all Members, and relevant Officers, Members authorise the Monitoring Officer to submit a response on the Council’s behalf.

Implications

Corporate Plan:

To ensure we deliver high-quality public services we have adopted a set of corporate values which underpin the successful delivery of our priorities. How we work is as important as what we do. The Council’s values are: People Focussed; Honest; Proud; Ambitious.

Legal:

Elements of the draft Model Code would require legislation.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	No direct financial implications arising from this report.
General Fund – Capital Programme	No direct financial implications arising from this report.
Housing Revenue Account – Revenue Budget	No direct financial implications arising from this report.
Housing Revenue Account – Capital Programme	No direct financial implications arising from this report.

Risk:

Risk	Mitigation

The Council has recognised the following Corporate Risk: ADC) CR003 Ethical Governance – failure/delay to implement changes to the Members' Code of Conduct and recommendations of the Committee on Standards in Public Life (CSPL) and Peer Challenge)	This report demonstrates the Council's commitment to maintaining high levels of ethical behaviour and an intention to implement a suitable revised code and the recommendations of the CSPL. The Committee work plan includes items to address the identified risk.
---	---

Human Resources:

There are no HR implications contained in the body of the report.

Environmental/Sustainability:

There are no Environmental/Sustainability issues as a direct result of the recommendations in this report.

Equalities:

There are no equalities issues as a direct result of the recommendations in this report.

Other Implications:

None.

Reason(s) for Urgency

None.

Reason(s) for Exemption

None.

Background Papers

None.

Report Author and Contact Officer

Ruth Dennis
DIRECTOR OF LEGAL AND GOVERNANCE
r.dennis@ashfield.gov.uk
01623 457009