

LOCAL GOVERNMENT ASSOCIATION MODEL MEMBERS CODE OF CONDUCT

MEETING: (1) STANDARDS AND AUDIT COMMITTEE
(2) CABINET MEMBER FOR FINANCE AND GOVERNANCE

DATE: (1) 3RD FEBRUARY 2021
(2) tbc

REPORT BY: MONITORING OFFICER

WARD: ALL

FOR PUBLICATION

1.0 PURPOSE OF REPORT

1.1 To inform members of the Local Government Association (LGA) model code of conduct for members. To seek comments on the code and to set out proposed way forward.

2.0 RECOMMENDATION

2.1 That members of the committee consider and comment on the Local Government Association (LGA) new model code.

2.2 That a further report is submitted to the next meeting of this committee setting out proposals for a way forward.

3.0 BACKGROUND

3.1 The current standards system has been in place since changes were introduced by the coalition government in the Localism Act 2011. While simplifying the members' ethical standards system, dispensing with much

bureaucracy, and closing the national body overseeing standards (Standards for England), after several years of operation there is a growing belief that the system lacked teeth and consistency. All local authorities must have a code of conduct which must be followed by its councillors and procedures for dealing with alleged breaches. The Council's current members code was adopted on 1st July 2012 (2012 Code)¹, based on the LGA draft code issued at the time. Before that there was a code of conduct using a national model code produced by the government.

- 3.2 Various reports were submitted to this committee during 2019 considering and enabling best practice changes to this Council's ethical procedures in response to the Committee on Standards in Public Life (CSPL) report, published late January 2019².
- 3.3 One of the CSPL report recommendations was that the LGA draft a new model code. The consultation draft was published in May and reported to this committee at its meeting on 22nd July 2020. Some of the CSPL recommendations required legislation. The government has yet to bring forward any proposals in response to the CSPL recommendations.
- 3.4 No changes were made to the Council's members code of conduct in response to the CSPL report, pending the LGA's proposals. Many of the best practice recommendations were already in place or could be adopted with small changes to Council procedure.

4.0 LGA MODEL CODE

- 4.1 The LGA code was published on 3rd December 2020. It is similar in format to the draft code published in May 2020. It contains an explanatory document, which makes the proposals easier to understand.
- 4.2 The draft code explained that it contained the minimum requirements of member conduct. These were set out in the July 2020 report. Particular points included:
- Some provisions (in square brackets) are those required further consideration in the consultation and government action.
 - Notable was the use of the word "civility" used instead of "respect".
 - Specific provisions addressed bullying and harassment
 - Explanatory notes would make the code easier to understand

¹ <https://www.chesterfield.gov.uk/media/144612/council-members-code-of-conduct-2012.pdf>

² <https://www.gov.uk/government/collections/local-government-ethical-standards>

- There were also suggestions for an adoptable resolution procedure and escalation process, with sanctions.
- It provided for an annual review by the LGA.

4.4 The July report said that a further report would be submitted in due course once the model code was finalized, so the committee and (later) full council can consider adoption.

4.5 The new LGA Model Code³ (Appendix 1), released near the beginning of December, differs from the consultation document in several ways for example:

- It is 17 pages rather than the consultation draft's 14 pages
- the preamble is different, written as a joint statement on behalf of councillors ("we") instead of addressing councillors ("you")
- each commitment of the code is now written in the first person – "I ..." as direct personal obligations by the councillor.
- gone is the reference to "civility", one of the LGA significant proposals previously, replaced by the more familiar "respect."
- The Nolan 7 principles of public life are set out in the new code but not in the draft code (they are in the 2012 code)

4.6 Significant new features of the model code are as follows:

- The LGA commits to an annual review of the code, the model code is a template for councils to adopt in whole or amendments
- The Nolan principles are personalised ("I")
- It makes it clear that the code also applies when giving the impression of acting as a councillor
- Specifically refers to social media communications in a list of relevant communications
- Each requirement is accompanied by an explanation
- The obligations are direct, rather than generalised principles
- A requirement:
 - to treat others with respect (Paragraph 1)
 - not to bully or harass (Paragraph 2.1 and 2.2)
 - to promote equalities and not discriminate (Paragraph 2.3)
 - not to compromise officer impartiality (Paragraph 3)
 - specific obligations relating to confidentiality (Paragraph 4)

³ <https://www.local.gov.uk/local-government-association-model-councillor-code-conduct-2020-0>

- not to bring role or authority into disrepute (Paragraph 5)
- not use position to confer advantage (Paragraph 6)
- properly use council resources (Paragraph 7)
- to comply with the code (Paragraph 8)
- to undertake code training (Paragraph 8.1)
- to cooperate with investigations, decisions and sanctions on them (Paragraph 8.2 and 8.4)

Most of these are not specifically present in the 2012 code, but many of the provisions have similar wording to that used in the 2007 model code.

- Specific requirements about registering of interests and gifts and hospitality are in appendices
- It acknowledges that the government would need to act on some CSPL recommendations and change the law before they could be applied in a code of conduct – that the LGA code might then need amending.
- The LGA has committed to producing guidance on the model code. It is not known when this will be available.

5.0 NEXT STEPS

- 5.1 Members are asked to note the LGA model code of conduct and give any views on it.
- 5.2 There is no requirement to adopt this code, but by settling out more clearly the expectations of councillors it should be easier to apply than the one currently in use.
- 5.3 There is an expectation for separate tiers of local authority (parish, district, county) to adopt the same or similar versions of the code to ensure clarity of application across the sector. In practical terms this would mean county wide (or near countywide) adoption for parishes, districts, county, and fire and police authorities. Accordingly Monitoring Officers for the Derbyshire Authorities (Derbyshire Monitoring Officers) are meeting to discuss the provisions. Once these discussions have taken place further report(s) will be submitted to the committee as necessary.
- 5.4 Initial discussions have been held with other Derbyshire Monitoring Officers with the following points arising:

- While there is an indication that some authorities outside the county are pressing ahead with adoption of the new code, many seem to be taking time to consider it carefully before making any decisions
- There is some Derbyshire Monitoring Officer support for a unified code across all tiers of local government in this county – in many cases there are triple (or more) hatted councillors and one code would have considerable benefits for clarity on expected standards of behaviour, definitions etc
- Some authorities are more satisfied with their current code than others and may prefer to retain/adapt them rather than adopt the new LGA code
- Some disappointment that the new code did not give more emphasis to social media
- One authority has established a member/officer/IP working group to discuss the LGA code
- A Derbyshire MO group has been established to look at the new code and to explore the potential for a county wide unified code where practicable

5.5 Any adoption of the new code as drafted, or with amendments, would also need approval of Full Council. Any Council procedures relating to the application of the code would also need reviewing.

5.6 The changes would only be complete with government action, as any code needs effective sanctions. This requires legislation.

6.0 RECOMMENDATION

6.1 That members of the committee consider and comment on the LGA model code.

6.2 That a further report is submitted to the next meeting of this committee setting out proposals for a way forward.

7.0 REASON FOR RECOMMENDATION

7.1 To enable members to consider the draft LGA model code of conduct.

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