

**Report for:** Standards Committee, 28<sup>th</sup> February 2022

**Title:** Local Government Association (LGA) Model Councillor Code of Conduct

**Report authorised by:** Fiona Alderman – Head of Legal and Governance and Monitoring Officer

**Lead Officer:** Stephen Lawrence-Orumwense – Head of Legal (Social Care and Contracts) and Deputy Monitoring Officer.

**Ward(s) affected:** N/A

**Report for Key/**

**Non Key Decision:** Non key

## **1. Describe the issue under consideration**

- 1.1 This discussion paper is on the Local Government Association (LGA) Model Councillor Code of Conduct and its supporting Guidance. The Model Code is in response to the recommendation of the Committee of Standards in Public life (CSPL) Local Government Ethical Standards Report 2019 that the LGA should create an updated model code of conduct. This paper sets out the details of the LGA Model Code and provides some comparative analysis against the Council's current Members Code of Conduct.

### **Cabinet Member Introduction**

N/A

## **2. Recommendations**

- 2.1 Members are asked to discuss and comment on the LGA Model Code of Conduct and Guidance in Appendix 1 and 2 and comparison with the Council's Member Code of Conduct in Appendix 3.
- 2.2 Members should note that there will be similar discussions with the Political Groups, Group Leaders, other Statutory Officers and the Independent Persons on the Model Code.

## **3. Reasons for decision**

- 3.1 The LGA Model Code is a template for local authorities to adopt in whole or with amendments. There are several authorities considering the LGA Code and reviewing their current Member Code of Conduct.

- 3.2 The LGA Model Code and Guidance is a modern reiteration of the Council's current Code of Conduct. It provides a benchmark with which to measure the Council's Code of Conduct.
- 3.3 This discussion paper on the LGA Model Code will assist in the development of any proposed update and refresh of the Council's current Code of Conduct.
- 3.4. The discussion serves to foster the role of the Committee to advise the Council on the revision of its Members' Code of Conduct.

#### **4. Alternative options considered**

- 4.1. There are no alternative options considered.

#### **5. Background information**

- 5.1 In January 2019 the Committee on Standards in Public Life (CSPL) published its Local Government Ethical Standards Report and made several recommendations that included for the LGA to create an updated model code of conduct. After a period of work and consultation, the LGA published the Model Councillor Code of Conduct in December 2020 and subsequently Guidance on the Code in July 2021. According to the LGA, the Model Code, together with the Guidance, has been designed to protect local authorities democratic role, encourage good conduct, and safeguard the public's trust and confidence in the role of councillor in local government.
- 5.2 The LGA Model Code provides an updated template code of conduct for local authorities to consider whether to adopt in whole or with amendments. It appears that the move by authorities to adopt the Model Code is gradually developing. In the Committee's advisory role on the Members' Code of Conduct, it is important that the Committee have a considered view on the LGA Code.

#### **LGA Model Code of Conduct**

- 5.3 The LGA Model Code covers the subject headings in Table 1 below. For comparison purposes, the Council's Code subject headings is also inserted. Some key points to note on the LGA Code are:
  - a) An annual review of the Code will be undertaken by the LGA to ensure it continues to be fit for its purpose and takes account of any updates and changes in legislation.
  - b) The Paragraph "Purpose of the Code" is a positive statement and should resonate well with Members.

- c) The Code is written in the first person, e.g., 'I treat other councillors and members of the public with respect' and conveys more a sense of personal responsibility.
- d) The Code 'Standards of councillor conduct' 'General Conduct' is written in a way that is easy for all (including Councillors and members of the public) to understand.
- e) It modernises the current Code template and has explanatory text to enable better understanding of the obligations.
- f) The 'General Conduct' part of the Model Code covers almost all of the Council's Code 'General Obligations' except for the obligations to have due regard to the advice of the Monitoring Officer and Chief Finance Officer, to give reasons for decisions and not to make trivial or malicious allegations.
- g) The Code is supported by a Guidance document, which helps Councillors and members of the public to better understand the nature and extent of the obligations, and contains very useful case examples.
- h) The format of the Model Code of Conduct is largely consistent with the model that has been used by this Council, with both general provisions relating to conduct and specific provisions relating to member interests.
- i) While many of the provisions and concepts are similar to those in the Councils current Code of Conduct and will be familiar, the wording has been updated and may be easier to follow.

**Table 1 – Outline of the LGA Model Code and Council's Members Code of Conduct**

<b>LGA Model Code</b>	<b>The Council's Current Code</b>
Joint statement	
Introduction	
Definitions	
Purpose of the Code of Conduct	
General principles of councillor conduct	The General Principles
Application of the Code of Conduct	Application of the Code
Standards of councillor conduct	
General Conduct: <ul style="list-style-type: none"> <li>▪ Respect</li> <li>▪ Bullying</li> <li>▪ Harassment</li> <li>▪ Discrimination</li> <li>▪ Impartiality of officers of the council</li> <li>▪ Confidentiality and access to information</li> <li>▪ Disrepute</li> <li>▪ Use of position</li> <li>▪ Use of local authority resources and</li> </ul>	Part 1 General Obligations <ul style="list-style-type: none"> <li>▪ Respect</li> <li>▪ Equalities duties</li> <li>▪ Bullying</li> <li>▪ Harassment (including to complainant, witness, or persons involved a Code of Conduct investigation)</li> <li>▪ Impartiality of officers of the council</li> <li>▪ trivial or malicious allegations</li> <li>▪ Disclosure of confidential</li> </ul>

<p>facilities</p> <ul style="list-style-type: none"> <li>Complying with the Code of Conduct (undertake Code of Conduct training; Cooperate with Code of Conduct investigations; not to intimidate a person involved in any investigation and comply with sanction)</li> </ul>	<p>information</p> <ul style="list-style-type: none"> <li>Access to information entitled to by law</li> <li>Disrepute</li> <li>Use of position</li> <li>Use of local authority resources</li> <li>Due regard to advice from statutory officers</li> <li>Give reasons for decisions</li> </ul>
<ul style="list-style-type: none"> <li>Protecting your reputation and the reputation of the local authority/ Interests (Register/disclose interest)</li> <li>Gifts and hospitality</li> </ul>	<p>Part 2: Members Interest</p> <ul style="list-style-type: none"> <li>Disclosable Pecuniary Interests</li> <li>Personal Interests</li> <li>Prejudicial Interests</li> </ul>
<p>Appendix B: Registering Interests</p> <ul style="list-style-type: none"> <li>Non-participation in case of disclosable pecuniary interest</li> <li>Disclosure of Other Registerable Interests</li> <li>Disclosure of Non-Registerable Interests</li> </ul>	<p>Part 3: Registration of Members' Interests</p> <ul style="list-style-type: none"> <li>Notification and Registration of Members' Interests</li> <li>Registration of Gifts and Hospitality</li> <li>Sensitive Interests</li> </ul>
<p>Appendix C: the Committee on Standards in Public Life.</p>	<p>Part 4: Disclosure of Members' Interests and effect upon Participation at Meetings</p> <ul style="list-style-type: none"> <li>Disclosure of Interests</li> <li>Effect of Disclosable Pecuniary Interest or Prejudicial Interest on Participation at Meetings</li> </ul>
<p>Appendix A: The Seven Principles of Public Life</p>	<p>Appendix A Disclosable Pecuniary Interests</p>
	<p>Appendix B Offences</p>

## The Council's Code of Conduct

5.4 The Council's current Code of Conduct is based on the then 2007 National Code of Conduct Model which ceased to apply, and councils were required to adopt their own code of conduct which had to include, as a minimum, provisions about member interests, the other content being a matter of local choice. Like many other authorities, the Council chose to keep the general provisions of the National Code of Conduct and add to them the changes being made to member interests by the Localism Act 2011. There have been subsequent changes to the Code (bullying and harassment) following the CSPL Ethical Standards Report in 2019. Otherwise, no significant changes have been made in the language and presentation of the current Code. The recent review and work undertaken by the LGA is a helpful way of giving an opportunity to review and if required update the Council's Code of Conduct.

## Comparative analysis of the LGA Model Councillor Code of Conduct

5.5. Table 2 below is a further comparative analysis of the general obligation's provisions of the LGA Model Code and the Council's own Code.

Table 2 -

<b>General Obligations/Conduct</b>	<b>The LGA Model Code</b>	<b>The Council's Code</b>
1. Respect	Explanatory text on the nature of the obligation.	Obligation stated but no further explanatory text.
2. Bullying, harassment and discrimination	Explanatory text on the nature of each obligation. Legislative references also included.	Explanatory text on the bullying and harassment obligation. But not the same on discrimination.
3. Impartiality of officers	Explanatory text on the nature of the obligation.	Obligation stated but no further explanatory text.
4. Confidentiality and Access to Information	Obligation stated but no further explanatory text.  However, new obligation that deals with improperly using knowledge gained as a result of being a councillor for the self -advancement or of their friends, family members, employer or their business interests.	Obligation stated but no further explanatory text.
5. Use of position to improperly confer an advantage	Explanatory text on the nature of the obligation.	Obligation stated but no further explanatory text.
6. Disrepute	Explanatory text on the nature of the obligation.	Obligation stated but no further explanatory text.
7. Use of local authority resources and facilities	Explanatory text on the nature of the obligation. Omits reference to having regard to the Local Authority Code of Publicity in the Council's Code.	Obligation stated but no further explanatory text.

General Obligations/Conduct	The LGA Model Code	The Council's Code
8. Complying with Code of Conduct	The requirement to undertake Code of Conduct training provided by the local authority is new. The requirements to cooperate with an investigation and/or determination finding are new. Explanatory text included	The provisions concerning training and co-operation with any investigation and finding are not in the Code,

### **Interests, Registration, Disclosure and Participation in Meetings**

- 5.6 The Model Code covers the obligations in respect of 'Interests' and in the following order: registration of disclosable pecuniary interest (DPI), non-participation in case of DPI, disclosure of other registerable interests, disclosure of non-registerable interests, and gifts and hospitality. There is an obligation "not to accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence" and an obligation to register gift or hospitality with an estimated value of at least £50.
- 5.7 In contrast, the Council's Code covers the obligations on 'Interests' in the following order: 'Members Interests' - DPI, personal interests and prejudicial interest. 'Registration of Members' Interests' – notification and registration of interests, registration of gifts and hospitality and sensitive interest. 'Disclosure of Members' Interests and effect upon Participation at Meetings' – disclosure of interest, and effect of DPI or prejudicial interest on participation at meetings. In respect of gifts and hospitality, the Council's Code only provides for the registration of gifts and hospitality with an estimated value of at least £25.
- 5.8 On 'interests' the layout of the Model Code and the descriptive language on interest other than DPI, differs from the Council's Code, making direct comparative analysis more difficult. Whilst we can discern the outcomes from both codes, the language and approach from the Council's Code appears easier to grasp. However, there might be aspects from the Council's Code that should be reviewed for example relating to the acceptance of gifts and hospitality.

### **Consideration about whether to adopt or not**

- 5.9 There is no requirement to adopt the Model Code either in its entirety or at all. However, the Code is helpful in presenting an up-to-date version of the code of conduct.
- 5.10 The LGA will be reviewing the Model Code on a periodic basis. If adopted, this may be helpful to the Council in aligning any future review that we do to changes being recommended by the LGA.

- 5.11 The LGA will also produce periodic guidance to assist local authorities with the interpretation of the Model Code of Conduct. The guidance is likely to be more directly relevant if we have adopted the wording of the LGA Model Code of Conduct.
- 5.12 Nationally, not all Councils are adopting the LGA Model Code of Conduct and there is no requirement to do so.
- 5.13 The current Code of Conduct is operational and deals with almost all the areas that are addressed by the LGA Model Code of Conduct.
- 5.14 Aside of the work undertaken by the LGA, there is no pressing need to make changes to the Code of Conduct.
- 5.15 Additional work will be required to change to and roll out a revised code of conduct.

## **6. Contribution to strategic outcomes**

- 6.1. The discussion on the LGA Code supports the governance of the Council and its decision-making, thereby assisting the Council to meet its strategic outcomes.

## **7. Statutory Officers comments (Chief Finance Officer (including procurement), Head of Legal and Governance, Equalities)**

### **Finance**

- 7.1. None

### **Procurement**

- 7.2. None.

### **Legal**

- 7.3. The Committee is responsible for advising the Council on the revision of the Members' Code of Conduct.

### **Equality**

- 7.4. None.

## **8. Use of Appendices**

- 8.1. Appendix 1 LGA Model Code of Conduct  
Appendix 2 LGA Model Code Guidance  
Appendix 3 Council's Member Code of Conduct

## **9. Background information Local Government (Access to Information) Act 1985**