

Report of the City Solicitor to the meeting of Standards Committee to be held on 6 October 2021

Subject:

A

Local Government Association Model Councillor Code of Conduct

Summary statement:

To consider the Local Government Association (LGA) new Model Councillor Code of Conduct and decide whether to recommend to Council its adoption with or without amendments to replace the Council's existing Members' Code of Conduct or whether to require consultation with Councillors before considering adoption.

EQUALITY & DIVERSITY:

Equality – The LGA Model Councillor Code of Conduct requires members to promote equality and not discriminate unlawfully against any person. It also makes specific reference to the Equality Act 2010 placing specific duties on local authorities. The Code emphasises that councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

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Portfolio:

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Overview and Scrutiny Area:

Corporate

1. SUMMARY

The Local Government Association (LGA) produced a new Model Councillor Code of Conduct (“the Code”) in December 2020 which has been subject to minor revisions in May 2021. The Committee is asked to consider the Code and decide whether to recommend to Council its adoption with or without amendments to replace the Council’s existing Members’ Code of Conduct or whether to require consultation with Councillors before considering adoption. On 8 July 2021 the LGA produced supporting Guidance on the Code.

2. BACKGROUND

2.1 The Council’s current Members’ Code of Conduct (with a number of subsequent amendments) was adopted by Council in July 2012 following the implementation of the Localism Act 2011 which required all councils to have a Member Code of Conduct.

2.2 In December 2020 the LGA developed and produced a Model Councillor Code of Conduct in association with key partners and following extensive consultation. The Code was subject to minor revisions in May 2021 and is attached as Appendix 1 to this report. This new Code was developed in response to the Committee on Standards in Public Life’s (CSPL) report into Local Government Ethical Standards. The CSPL report included a best practice recommendation for local authorities to adopt a Code of Conduct based on a model to be produced by the LGA. The Code is based on the CSPL best practice recommendations and the expectation is that all councils should adopt it as a minimum, but with provision for additional local variations.

2.3 The Model Code is described by the LGA as “designed to protect the democratic role, encourage good conduct and safeguard the public’s trust and confidence in the role of the councillor in local government.”

2.4 The LGA states of the Code and Guidance:

While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage councillors to model the high standards expected of councillors, to be mutually respectful even if they have personal or political differences, to provide a personal check and balance, and to set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of councillors and in breach of the code. It is also to protect councillors, the public, local authority officers and the reputation of local government.

2.5 The Code builds on the Nolan principles and contains the following general principles for councillors:

In accordance with the public trust placed in me, on all occasions:

I act with integrity and honesty

- *I act lawfully*
- *I treat all persons fairly and with respect; and*
- *I lead by example and act in a way that secures public confidence in the role of councillor.*

In undertaking my role:

- *I impartially exercise my responsibilities in the interests of the local community*
- *I do not improperly seek to confer an advantage, or disadvantage, on any person*
- *I avoid conflicts of interest*
- *I exercise reasonable care and diligence; and*
- *I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.*

2.6 The Code details members' obligations as the minimum standards of conduct. The Code of Conduct covers:

- joint statement
- introduction
- definitions
- purpose of the code of conduct
- general principles of Councillor conduct
- application of the code of conduct
- standards of Councillor conduct
- general conduct: respect; bullying, harassment and discrimination; impartiality of officers of the Council; confidentiality and access to information; disrepute; use of position; use of local authority resources and facilities; complying with the code of conduct; interests; gifts and hospitality.
- Appendix A: The 7 principles of public life
- Appendix B: Registering interests
- Appendix C: lists the recommendations of the CPSL together with their 16 best practice recommendations, some of which would require legislative changes.

2.7 The LGA Guidance provides guidance on the Code's application and is attached at Appendix 2.

3. OTHER CONSIDERATIONS

3.1 The Code is more detailed than the Council's current Members' Code of Conduct (attached at Appendix 3) and for example, includes specific reference to respect and bullying, harassment and discrimination. In addition:

3.1.1 The Code requires members within 28 days of becoming a member or re-election or re-appointment to office to register with the Monitoring Officer Disclosable Pecuniary Interests. Under the Council's current Code where a member is re-elected/reappointed notification is only required of any new disclosable pecuniary interests.

- 3.1.2 The Code requires disclosure of other registerable interests as detailed in Appendix B Table 2 of the Code.
- 3.1.3 The Code details when disclosure of non- registrable interests is required at a meeting.
- 3.2 If the Code is to be adopted, consideration needs to be given as to whether to amend the Code to include matters included in the Council's current code namely:
 - 3.2.1 Disclosure of other interests which members feel should be declared in the public interest (paragraphs 20 and 21 of the current Code).
 - 3.2.2 The mandatory requirement that members complete a training course on Child Sexual Exploitation (paragraph 21A).
 - 3.2.3 Confirmation that all complaints alleging a failure to comply with the Code will be considered in accordance with the Procedure agreed by full Council (paragraph 22).
 - 3.2.4 Incorporation of the Member- Officer Relations and the Members Use of Council Resources protocols into the Code (paragraph 23), and also whether the Protocol for Members on Gifts and Hospitality should also be incorporated.
 - 3.2.5 The provisions regarding granting of dispensations (paragraph 24).
 - 3.2.6 In addition to the above matters, a summary of the differences between the Local Government Association's New Model Councillor Code of Conduct and Bradford Council's current Members' Code of Conduct is attached at Appendix 4.
- 3.3 If the Code is to be adopted, three Protocols in the Constitution will need to be considered and either amendments to the Code or the Protocols made to address a number of inconsistencies, for example:

3.3.1 **Protocol on member -officer relations**

Paragraph 5 of the protocol on member - officer relations states members cannot use support services and resources provided by the Council for political or campaigning activity. Paragraph 7 of the LGA Code allows resources to be used for political purposes if that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which they have been elected or appointed.

3.3.2 **Protocol for members on gifts and hospitality**

Paragraphs 2.3 and 2.4 of the protocol on gifts state that the decision is for the member in every case whether or not it is appropriate to accept any gift or hospitality. Paragraph 10.1 of the LGA Code sets out a specific rule to not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence, etc. Paragraph 9.1 of the protocol requires members within 28 days of receiving any gift or

hospitality over the value of £25 to notify the Monitoring Officer. Paragraph 10.2 of the LGA Code raises this amount to £50.

3.3.3 **Resources Protocol**

Paragraph 7 of the LGA Code states that resources are not to be used for business or personal gain. Paragraph 7 of the resources protocol allows some private use but not for private business use.

3.4 If the LGA Code is adopted it would be advisable to make it clear that the Code takes precedence should there be a conflict between the Code and one of the Protocols.

3.5 If the Code is adopted the Complaint form for submitting complaints against Elected Members will also need revising.

3.6. Calderdale Council have adopted the Code in its entirety. West Yorkshire Combined Authority have also adopted the Code. Leeds Council have adopted the Code with a number of amendments. Wakefield Council have also adopted the Code with a number of amendments.

4. **FINANCIAL AND RESOURCE APPRAISAL**

There are no direct financial implications arising from this report.

5. **RISK MANAGEMENT AND GOVERNANCE ISSUES**

The adoption of the Code with appropriate amendments would strengthen the Council's governance arrangements. Consideration will need to be given to providing briefings to all Councillors on the Code should it be adopted by Council.

6. **LEGAL APPRAISAL**

6.1 The Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by its members and co-opted members and to adopt a code of conduct consistent with the Nolan principles on standards of public life.

6.2 Any changes to the current Code of Conduct would be subject to the approval of full Council.

7. **OTHER IMPLICATIONS**

7.1 There are no sustainability implications, greenhouse gas emissions impact or community safety, Human Rights Act, Trade Union, ward or corporate parenting implications in this report.

7.2 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

Not applicable.

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 Recommend to Council the adoption of the LGA Model Councillor Code of Conduct.

9.2 Recommend to Council the adoption of the LGA Model Councillor Code of Conduct with amendments.

9.3. Decide that the LGA Model Councillor Code of Conduct with or without amendments not be recommended to Council and that recommendations for amendment of the current Code be made instead.

9.4 Require consultation with Councillors before considering adoption.

10. RECOMMENDATIONS

10.1 Members are invited to comment on whether they are content to recommend adoption of the Local Government Association Model Councillor Code of Conduct 2020 in principle or if they require consultation with Councillors before considering adoption.

10.2 If the former, the Local Government Association Model Councillor Code of Conduct 2020 be recommended for adoption by Council with such amendments as are agreed by this Committee.

10.3 Upon adoption by Council, delegated authority be given to the City Solicitor to make any consequential amendments required to the Council's Constitution including to the Protocols on Member-Officer Relations, Members Gifts and Hospitality and Members Use of Council Resources including Use of E-mail and the Internet in consultation with the Chair of this Committee.

10.4 Upon adoption of the amended Code by Council the City Solicitor write to all Town and Parish Councils within the Bradford District to advise them of adoption of the Code and encouraging them also to adopt the Code.

11. APPENDICES

Appendix 1 Local Government Association New Model Councillor Code of Conduct

Appendix 2 Guidance on the Local Government Association Model Councillor Code of Conduct

Appendix 3 Bradford Council's current Members' Code of Conduct

Appendix 4 Summary of the differences between the Local Government Association's New Model Councillor Code of Conduct and Bradford Council's current Members' Code of Conduct

12. BACKGROUND DOCUMENTS

None