

## Response Summary:

Thank you for taking the time to complete this consultation. This Model Member Code of Conduct [[Model Member Code of Conduct.pdf](#)] aims to be concise, written in plain English and be understandable to members, officers and the public. The Model Member Code is 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. Equally, it articulates behaviour which falls below the standards that would be expected of council members. It is designed to help set a framework for public and councillor interaction, emphasising the importance of civility and that councillors should be protected from bullying, intimidation and abuse.

The LGA has reviewed the existing Model Member Code of Conduct and updated it here incorporating the recommendations from the Committee on Standard's in Public Life's recommendations on Local Government Ethical Standards and the representation from its membership. Part of the Committee's recommendations were the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is out of scope of this consultation, as it requires legislative changes by Government, but the LGA has sought to reflect some of the possible changes by using square brackets where legal changes would be necessary. The LGA is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the Committee's recommendations.

This consultation addresses key areas that the LGA would like a view on to help finalise the Code. It is aimed at councillors and officers from all tiers of local government. If you would like a wider discussion about the code, please do sign up to one of the forthcoming Webinars the LGA are holding as part of this consultation. Details will be posted on our [LGA events website](#).

You can navigate through the questions using the buttons at the bottom of each page. Use the 'previous' button at the bottom of the page if you wish to amend your response to an earlier question.

All responses will be treated confidentially. Information will be aggregated, and no individual or authority will be identified in any publications without your consent. Identifiable information may be used internally within the LGA but will only be held and processed in accordance with our [privacy policy](#). We are undertaking this consultation to aid the legitimate interests of the LGA in supporting and representing authorities.

Please complete your response in one go - if you exit before submitting your response your answers may be lost. If you would like to see an overview of the questions before completing the consultation online, you can access a PDF here: [LGA Consultation on Draft Model Member Code of Conduct.pdf](#)

### Q31. Your name

Karen Strahan

### Q42. If you would like to receive a copy of your completed response please provide your email address below (a copy of the survey form is available on the previous page)

#### Email address

karen.strahan@devon.gov.uk

### Q6. Are you...

- Answering on behalf of a whole council (Please provide council name below):  
Devon County Council

### Q7. Please indicate your council type

- County

## Application of the Code

Under the Localism Act 2012, the Code of Conduct applies to councillors only when they are acting in their capacity as a member. The LGA believes that because councillors are elected by the public and widely recognised by the public, it makes sense for them to continue to model these behaviours when they are making public comment, are identifying as a councillor and when it would be reasonable for the public to identify them as acting or speaking as a councillor. The Committee on Standards in Public Life supported this approach in their report into Local Government Ethical Standards. Whilst the LGA is waiting for Government's response to these recommendations the option has been added in square brackets as it would need changes in legislation.

**Q9. Q1. To what extent do you support the proposal 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?**

- To a great extent

**Q32. Q1a. If you would like to elaborate on your answer please do so here:**

It is crucial if holding public office 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.

However, it is not clear as to when the code applies.....whilst it is clear that the code applies when acting as a representative of the Council etc, the Code then goes onto say 'although you are expected to uphold high standards of conduct and show leadership at all times'. Does this mean acting poorly in a private capacity is a breach of the code or not.

Currently there is a lack of clarity around social media, so this is welcomed.

Comment from Chair of Standards - There are many times when councillors act in a way that is disrespectful and unprofessional, including in emails and on social media, especially when addressing officers and members of other councils, i.e. not the council they are elected to, any code of conduct should apply the second they identify themselves as a Councillor or have raised issue with a council having been contacted by a member of the public because they are a known Councillor. Invariably within their communication is a statement that says they are not acting as a member of a council but in a private capacity. Again invariably they finish such comms signing as Cllr Xxxxx and provide their Council name within the signature. The current proposed code does not address this with any hint of censorship or other penalty, identifying as a code issue is not enough. I believe that a Councillor should not be able to abdicate their code of conduct by such means.

**Q39. Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?**

- No

**Q10. Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?**

- Passive tense ("Councillors should")

## Specific obligations

The Code lists 12 specific obligations – these set out a minimum standard councillors are asked to adhere to.

Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.

**Q12. Q4. To what extent do you support the 12 specific obligations?**

<b>1. Treating other councillors and members of the public with civility.</b>	To a great extent
<b>2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with</b>	To a great extent

<i>civility and respecting the role that they play.</i>	
<b>3. Not bullying or harassing any person.</b>	To a great extent
<b>4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.</b>	To a great extent
<b>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.</b>	To a great extent
<b>6. Not preventing anyone getting information that they are entitled to by law.</b>	To a great extent
<b>7. Not bringing my role or council into disrepute.</b>	To a great extent
<b>8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.</b>	To a great extent
<b>9. Not misusing council resources.</b>	To a great extent
<b>10. Registering and declaring my interests.</b>	To a great extent
<b>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, licence or other significant advantage.</b>	To a great extent
<b>12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.</b>	To a great extent

**Q13. Q5. If you would like to propose additional or alternative obligations, or would like to provide more comment on a specific obligation, please do so here:**

No comment

**Q14.**

**Q6. Would you prefer to see the obligations as a long list followed by the guidance, or as it is set out in the current draft, with the guidance after each obligation?**

- Each specific obligation followed by its relevant guidance

**Q15. Q7. To what extent do you think the concept of 'acting with civility' is sufficiently clear?**

- To a small extent

**Q16. Q7a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

We would say the above is to a small / moderate extent (somewhere in the middle).

The word respect has not been used and doesn't come through. As a Council we would prefer the word respect to Civility. The word respect is more widely understood and we believe is stronger.

The comments that 'you should not subject individuals, groups of people or organisations to unreasonable or excessive personal attacks'. Again, this is confusing. Does it mean some personal attacks are OK as long as not excessive? The words reasonable and excessive are also subjective.

Comment from Chair of Standards - Civility is taken by many Councillors to be their own view of what civility is. Many claim it is plain speaking language and / or see their role as a superior or as 'the boss' especially when addressing officers. I have witnessed a divide between female and male officers, seeing male officers allowing themselves to be addressed in an disrespectful way as they think there is no recognisable sanction.

**Q40. Q8. To what extent do you think the concept of 'bringing the council into disrepute' is sufficiently clear?**

- To a moderate extent

**Q41. Q8a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

We would say the above is to a small / moderate extent (somewhere in the middle).

Bringing the Council into disrepute is wider than simply behavior which is dishonest and / or deceitful. Whilst the code refers to 'your actions' .... It is not very clear what these might be.

**Q17. Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?**

- To a great extent

**Q18. Q9a. If there are other definitions you would like to recommend, please provide them here.**

No, but we are glad to see the definition includes a one off incident as well as a pattern of behaviour.

**Q19. Q10. Is there sufficient reference to the use of social media?**

- Yes

**Q20. Q10a. Should social media be covered in a separate code or integrated into the overall code of conduct?**

- Separate code

**Q33. Q10b. If you would like to make any comments or suggestions in relation to how the use of social media is covered in the code please do so here:**

Whilst social media should be referred to within the code, separate guidance would be helpful.

## **Registration and declarations of interests**

The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' - that is matters which directly relate to the councillor and their partner if applicable.

The LGA is proposing that all councillors are required to declare interests where matters also relate to or affect other family members or associates. The LGA has broadened the requirement to declare interests beyond this current statutory minimum in line with a recommendation from the Committee on Standards in Public Life. These specific provisions are set out in **Appendix B** of the Code.

### **Q22. Q11. To what extent do you support the code going beyond the current requirement to declare interests of the councillor and their partner?**

- To a moderate extent

### **Q34. Q11a. If you would like to elaborate on your answer please do so here:**

We have always advised members to be cautious, for example, your brother could have a planning application being determined by the Council, yet there is no requirement to declare this. We would take the view, this of course is a matter of public interest and should be declared in the spirit of transparency and openness. We are pleased this point is addressed (Point 5 of appendix B)

However, we are concerned about point 4 of Appendix B which would significantly affect a member's ability to take part in discussions and vote e.g. what about twin hatter Members? There may be circumstances where a member cannot take part in a debate at either or both authorities, this maybe this should be determined on a case by case basis and subject to a public interest test.

### **Q23. Q12. Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model code currently references it?**

- In the appendix

### **Q36. Q12a. If you would like to make any comments or suggestions in relation to how the requirement to declare interests is covered in the code please do so here:**

Whilst it is agreed that members should declare and register interests as set out in Table we are concerned about point 4 of Appendix B .....this would significantly affect a member's ability to take part in discussions and vote e.g. what about twin hatter Members? There may be circumstances where a member cannot take part in a debate at either or both authorities, this maybe this should be determined on a case by case basis and subject to a public interest test.

It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in **Table 2 of the Appendix** and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.

**Q25. Q13. To what extent do you support the inclusion of these additional categories for registration?**

<b><i>Any organisation, association, society or party of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council</i></b>	To a great extent
<b><i>Any organisation, association, society or party that exercises functions of a public nature of which you are a member or in a position of general control or management</i></b>	To a great extent
<b><i>Any organisation, association, society or party directed to charitable purposes</i></b>	To a great extent
<b><i>Any organisation, association, society or party of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</i></b>	To a great extent

**Q37. Q13a. If you would like to propose additional or alternative categories for registration, please provide them here:**

Does this need to be that the person is in control? For example, what about simply membership of things such as community organisations, outside bodies.

**Q26. Q14. To what extent do you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?**

- To a great extent

**Q38. Q14a. If you would like to elaborate on your answer please do so here:**

Nothing to add – this is imperative, except I think there should be an obligation for Members to report any significant gift offered, even if it was declined (page 6).

**Q27. Q15. The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?**

- Yes, but the amount should be reviewed annually with the code's review

**Q28. Q16. The LGA will be producing accompanying guidance to the code. Which of the following types of guidance would you find most useful? Please rank 1-5, with 1 being the most useful.**

<b><i>Explanatory guidance on the code</i></b>	1
<b><i>Supplementary guidance that focuses on specific areas, e.g., social media</i></b>	2
<b><i>Case studies and examples of good practice</i></b>	3
<b><i>Improvement support materials, such as training and e-learning packages</i></b>	4
<b><i>Regularly updated examples of case law</i></b>	5

**Q29. Q16a. If you would like to suggest any other accompanying guidance please do so here:**

Nothing at present

**Q30. Q17. If you would like to make any further comments about the code please so here:**

- We welcome a model Code and ideally would like to see all authorities adopt it in its entirety. This will be more simple and provide greater clarity for those who are twin or even triple hatted.
- We are not clear as to when the code applies..... clarity would be welcomed. It is clear that the code applies when acting as a representative of the Council etc, but then goes onto say 'although you are expected to uphold high standards of conduct and show leadership at all times'. Does this mean acting or behaving badly in a private capacity is a breach of the code or not.
- Page 3 – this refers to a minimum standard of member conduct. If the idea is to have a standard code, there is a danger LA's will bolster up the code to make it more robust ... meaning everyone will be operating with different codes again.
- The same issue applies where the code refers to 'all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, [including where you could be deemed to be representing your council or if there are potential implications for the council's reputation' ....again , Does this mean that Council's / MO's will be required to consider complaints about conduct where not acting in capacity, but their behaviour impacts on reputation of the Council?
- There is no reference to co-opted members?
- Will the public (and officers / members) understand the difference between Principles (guidance), as opposed to specific obligations.
- I would like the code to make reference to Members needing to have regard to the Authorities other policies as well as in the resources section .....for example, when using Council resources, Councillors must act in accordance with the Council's reasonable requirements and policies. .... It is also unclear regarding any dual use of equipment such as PC's / Phones.
- In the section - – 'Example LGA guidance and recommendations', LA's have to have procedures to deal with breaches. I appreciate the comments at the webinar regarding sanctions (needing legislative changes which was outside of the scope of the code), but there is nothing new in terms of this section.
- Would welcome –duty to comply with investigations/sanctions. |Whilst we amended our process to include this (CSPL best practice recommendation 2.), it would be good to see it in the new code.
- Please explain the square brackets earlier (items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life and may be part of a future Government consultation. This includes possible future sanctions and appeals processes)
- Breaches of Code – page 6 ..... the bit relating to having a mechanism in place for dealing with complaints should be a separate section.
- Gifts – it should be requirement to notify the MO of any significant gifts offered, but again, there term significant may mean different things to different people.
- DCC would like to reiterate our concern about point 4 of Appendix B .....referred to earlier. To not be able to debate and vote when it is a personal interest seems an overkill. Secondly, what is the difference whether Members of the public are allowed to speak at the meeting or not. Surely the issue is transparency and good decision making.
- It almost appears that the Code has been further weakened rather than strengthened. As an example, on page 7 it mentioned a bar from attending Committees for 2 months. Is this sufficient in the event of a serious breach of the Code.

Additional Comments from Chairman and Members of the Standards Committee

- agree wholeheartedly with bringing in “respect, far better than “civility”- you can show that without respect.
- Social media is a huge risk area .....agree about the need for separate guidance.
- Gifts and hospitality.... but much better to have to report everything rather than the dated £25 limit e.g If meals/gifts of £24.99 were frequently given then this should be noted.
- Independent Members not considered.
- Declaring interests and speaking. Not clear with the ability of the public to speak here. As to extending to other people, very difficult with “family” life these days!
- The major omission is on sanctions, or rather lack of. These are no more than a gentle tap on the wrist and not what we were looking for.
- Clarification on whether Councils’ existing procedures be assumed: the way complaints are made, the processes to be followed, appeals against a ruling, and so on.
- Writing style is difficult .....e.g early parts are written so that a Councillor is addressed: ‘you are expected ...’ but then says ‘I will act with integrity ...’.yet ‘Breaches of the Code of Conduct’, is written like a policy document.
- Assume the Code will be edited (e.g in the text under Application of the Code, ‘Model conduct and expectations’ is referred to, whereas the actual heading of the section is ‘Model member conduct’).
- This code isn’t suitable for a tiny parish council: upper tier authorities and districts; town councils perhaps. For example, a small Parish with a small number of Councillors, they sometimes feel it is unreasonable to tell all what they own.
- It would be helpful to have minimum set of rules enshrined in law and therefore cannot be amended / dropped by Councillors voting in any particular authority. If there are not universally applied rules then there is bound to be a black hole in the public understanding..... they would have to look up the decisions of each council. It also allows issues to be applied in one area or another which is prevalent in two tier areas. My experience is that District members are less conformist - how can the public understand if a Councillor can say or do something under one council but not another that represents the same area for different services?
- A big issue is continuing to use the word guidance in any context of Member conduct as guidance is not consistent with the application of rules - anyone has a defence if there isn't legislation but only guidance. All councillors of any type should be subject to the same rules and sanctions.
- Regarding Q6 - Comment from Chair of Standards - whilst this identifies what might be a breach of the code but the government's specific proposal around this aspect is silent on the potential penalties for such a breach. A comprehensive CoC should include against each potential offence the sanctions open to a council. The lack of clarity in this area encourage councillors to breach the code as many say there is nothing you can do about my approach. The sanctions need to be spelled out with great clarity against each issue.

Once you press the 'Submit' button below, you will have completed your response.

Many thanks for taking the time to respond to this consultation. You are in control of any personal data that you have provided to us in your response. You can contact us at all times to have your information changed or deleted. You can find our full privacy policy here: [click here to see our privacy policy](#)

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