

## **New Model Code of Conduct Update**

Report of the County Solicitor

### **Recommendation:**

- (a) that the process by which the Local Government Association (LGA) Model Code of Conduct was prepared and written be noted;
- (b) that Members note further guidance is awaited and is anticipated towards the end of March;
- (c) that Members' views be sought on the new Local Government Association (LGA) Code of Conduct, attached to the Report; and
- (d) that the Committee note the intention to further review the Local Government Association (LGA) Code, together with the guidance (when received) and the views expressed at this meeting, with a view to bringing a proposed Code of Conduct to the New Council for adoption.

### **Introduction**

1. Members will be aware that this Committee had previously considered the Report of the Committee on Standards in Public Life 'Local Government Ethical Standards - A Review by the Committee in Public Life'. This final Report was published on 30 January 2019.
2. Whilst that Report covered a number of issues surrounding behaviours and governance in public life, there was a recommendation that the Local Government Association should create an updated model Code of Conduct which should be produced in consultation with representative bodies of Councillors and Officers of all tiers of Local Government and representatives thereof.

### **Background**

3. The Board of the Local Government Association on the 11<sup>th</sup> September 2019 agreed to commence reviewing the Code ahead of central Government's response to all the recommendations of the Report and the work was part of a wider programme on civility in public life.
4. As part of the process, a series of workshops were held with national representative bodies (Monitoring and Democratic Services Officers and Elected Members from the main parties), to review what worked and develop some broad principles. There were mutual concerns expressed by both Members and Officers about the current codes, inconsistencies in application and a lack of guidance and sanctions.

## Aim and Purpose of the Code

5. The purpose of the new Code of Conduct is to assist Councillors in modelling the behaviour expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken.
6. The Code sets out general principles of conduct expected of all Councillors and their specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim being to create and maintain public confidence in both the Councillor role and Local Government.

## Consultation and Timeline

7. The original proposed timeline was delayed due to the COVID-19 pandemic, with the original launch planned to coincide with the first day of the Local Government Association conference. The consultation ran between the 8<sup>th</sup> June 2020 until the 17 August 2020.
8. Four webinars were conducted with over 1000 participants and over 1600 written responses to the consultation received. Whilst there was support for the Code, a number of issues were raised nationally such as use of the first person or third person, the use of the word civility, social media issues including confidentiality, thresholds for the declaration of gifts, the need for accompanying guidance with examples, the Equality Act, an obligation to cooperate with investigations, compulsory training for members and sanctions.
9. Devon's response was broadly in support of the aims of the Code, but raised concerns over the lack of sanctions in the new proposals, in line with many other Councillors and Officers.
10. The feedback from the consultation was intended to help the Local Government Association develop a final draft, which was subsequently considered at their Councillors Forum on the 22<sup>nd</sup> October 2020.
11. The final Code was presented to the Local Government Association board on 3<sup>rd</sup> December 2020 and was issued to Local Authorities in early December, but was then withdrawn and reissued on the 23<sup>rd</sup> December, citing editing issues.
12. A copy of the final Model Code is attached and a summary overleaf.

## Contents of the New LGA Code

13. The Code contains a number of general principles of Councillor conduct, based on the Seven Principles of Public Life, also known as the Nolan Principles (outlined in full at appendix A of the Code), which Members will no doubt be familiar with.
14. The Code of Conduct applies as soon as a Member signs their declaration of acceptance of the office of Councillor and continues to apply until they cease to be a Councillor. It also applies when acting in the capacity as a Councillor and applies to all forms of communication and interaction including electronic and social media communication. It clarifies that this can include when a member of the public could reasonably have the impression a member was acting as a Councillor.
15. The Standards of Councillor Conduct section sets out obligations, which are the minimum standards of conduct required of a Councillor. These cover treating people with respect, not bullying, harassing or unlawfully discriminating, promoting equality, impartiality, confidentiality and access to information, not bringing the Council into disrepute, use of a Member's position and use of Council resources, compliance with the Code, including participating in training, registration of interests and disclosure of gifts and hospitality.
16. The standards are set out in the first person ("I ...") so a Member reads the Code as a personal commitment to behave in accordance with the standards.
17. The model Code specifies declaration of gifts and hospitality in excess of £50, following consultation with local authorities. The Council's current Code specifies gifts and hospitality in excess of £25.
18. The model Code sets out what Members must do to register, declare and behave in meetings where they have a disclosable pecuniary interest under the Localism Act 2011, another registrable interest and a non-registrable interest. "Non-registrable interests" are a new introduction to the Code of Conduct to cover situations where a matter affects a member's financial interest or wellbeing, or that of a friend, relative or close associate.
19. The new model Code is non-statutory and can be adopted in whole or in part by Local Authorities.
20. It is anticipated guidance will be issued by the Local Government Association to support the application of the new Code and clarify some of the current queries raised by colleagues on interests, when and how they might apply or need to be declared, and what constitutes close family members.

## Devon County Council Code of Conduct

21. The current Code of Conduct for the Council is attached for ease of reference but as the Committee will know has been adapted on numerous occasions.
22. The Report 'Local Government Ethical Standards - A Review by the Committee in Public Life' which led to the new Local Government Association Code also contained a number of other recommendations (26 in total), and many of these involved legislative change which would be a matter for Government to implement, including sanctions.
23. This Report also identified a number of 'best practice' recommendations. Members will recall that much of this was already in train, for example, regular meetings with leadership officers and compliance with the best practice suggestions regarding Independent Persons; consultation mechanisms; publication timescales of decision notices / minutes; and accessible guidance on the website regarding the complaints process.
24. However a number of additional suggestions were made that the Council adopted, for example amending the Code of conduct to require Councillors to comply with any formal standards investigation, including prohibitions on bullying and harassment in the current Code of conduct, agreeing to review the Code of conduct annually, ensuring a Member who had been the subject of an investigation was consulted on both drafts and final copies of investigation reports, publishing a gifts and hospitality register (which soon afterwards became available on Members individual profile pages) and the writing of a public interest test which was also available on the website.
25. Members can therefore see that the current Code has been thoroughly reviewed to ensure it is fit for purpose.

## Summary

26. The anticipated additional guidance to support the application of the new Local Government Association Code is expected in late March.
27. Whilst many of the additions to the new Code are welcomed, for example the inclusion of social media and other electronic communications, the lack of sanctions is still a cause for concern, although it is acknowledged these require primary legislative changes.
28. Some feel the new Code misses an opportunity to strengthen current Standards regimes. One of the overriding reasons for a new Code was for all Local Authorities to adopt it, ensuring consistency across many tiers of Local Government, especially for those who represent at both County and Districts levels and even Parish, where different Codes could apply. This of course is a cause of confusion for those Members and also the public.

29. Whilst the Local Government Association is promoting the new Code for adoption, there is no statutory requirement to do so.

30. Early conversations with colleagues are already showing a mixed picture, with some proposing to adopt the new Code but with local tweaks and others in its entirety and others proposing to adopt parts of the new Local Government Association Code into their own Code which they feel is more robust than the new offering.

## Conclusion

31. This is the first significant rewrite of a new model Code for a number of years.

32. In light of additional guidance being awaited, it is proposed that Members give their views on the new Code and that the feedback from this meeting is reviewed alongside that new guidance (when received) and recommendations made to a new Council on the proposals for a Code of Conduct to then be approved and adopted.

33. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed.

JAN SHADBOLT  
[Electoral Divisions: All]

### **Local Government Act 1972: List of Background Papers**

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<b><u>Background Paper</u></b>	<b><u>Date</u></b>	<b><u>File Reference</u></b>
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Nil