

## Report of City Solicitor

### Report to General Purposes Committee

Date: 8<sup>th</sup> March 2021

### Subject: Adoption of the Local Government Association Model Councillor Code of Conduct and Amendments to the Procedure for Considering Complaints Alleging a Failure to Comply with the Members' Code of Conduct

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## Summary

### 1. Main issues

- Following extensive consultation the Local Government Association (LGA) Executive approved a Model Councillor Code of Conduct (Code) in December 2020. The Standards and Conduct Committee consider that there is considerable benefit to the Council from adopting in full the LGA's Model Code and thus the council playing its part in achieving consistency across the Country in this important area.
- The Standards and Conduct Committee have also reviewed the Procedure Considering Complaints Alleging a Failure to Comply with the Members' Code of Conduct and recommend amendments to ensure it remains up to date and fit for purpose.

### 2. Best Council Plan implications (see the [latest version of the Best Council Plan](#))

- The LGA Code provides a framework compatible with the Council's Values of being open, honest and trusted and treating people fairly.

### 3. Resource implications

- Whilst there are no specific implications arising from this report, the Monitoring Officer will need to assign resources to deliver training on any amended Code of Conduct.

### Recommendations

General Purposes Committee is asked to recommend to Full Council:

- a) Adoption of the Councillor Code of Conduct as set out at Appendix 1 with effect from the Annual Council Meeting;
- b) Approval of the amendments to the Procedure for Considering Complaints Alleging a Failure to Comply with the Members' Code of Conduct set out at Appendix 2

#### 1. Purpose of this report

- 1.1 The purpose of this report is to present recommendations from the Standards and Conduct Committee in respect to the Council's ethical framework – specifically the adoption of a new Code of Conduct for local councillors and amendments to the procedure for considering code of conduct complaints.

#### 2. Background information

- 2.1 The Localism Act 2011 placed a duty on the council to promote and maintain high standards of conduct by members and co-opted members of the authority and in discharging that duty adopt a code dealing with the conduct that is expected of those members when they are acting in that capacity.
- 2.2 In January 2019 the Committee on Standards in Public Life (CSPL) published a report following their review of local authority standards. The report directed a series of recommendations to Government and to the local government sector.
- 2.3 Leeds made changes to the Code of Conduct at that time in order that the arrangements in Leeds continued to meet best practice requirements.
- 2.4 A key recommendation of the CSPL was directed to the Local Government Association "**The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.**"
- 2.5 The CSPL review concluded that a model code of conduct would create consistency across England, and reflect the common expectations of the public regardless of geography or tier. It would also reduce the potential for confusion among dual-hatted or triple-hatted councillors.
- 2.6 CSPL also considered that matters such as gifts and hospitality, social media use, and bullying and harassment had all increased in salience, and were perhaps not regularly reflected in local authority codes of conduct and a model code of conduct would help to ensure that they do so.
- 2.7 Following extensive consultation the Local Government Association (LGA) Executive approved a **Model Councillor Code of Conduct** ('Code') in December 2020. The Model Code provides a template for councils to adopt in whole and/or with local amendments.

- 2.8 The LGA have committed to undertake an annual review of the Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.
- 2.9 The LGA will also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils will be offering advice and support to town and parish councils.

### **3. Main issues**

- 3.1 The Standards and Conduct Committee's role is to advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- 3.2 The committee met on the 5<sup>th</sup> February 2021 and considered both the LGA Model Councillor Code of Conduct and the Procedure for Considering Complaints Alleging a Failure to comply with the Members' Code of Conduct. This report presents recommendations arising from the committee's deliberations.

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

- 3.3 The Code (attached at Addendum 1) contains much of the existing Leeds' Code of Conduct although provides welcome guidance to explain the rationale for the obligations and how Members should follow them.

#### Application of the Code

- 3.4 The Code provides clarity that the requirements of the Code apply as soon as a councillor signs their declaration of acceptance of office or, in the case of a co-opted member, attends the first meeting, and continues to apply until a member ceases to be a councillor.
- 3.5 Additional clarification is also provided as to the types of interactions that amount to duties of a Members' elected office and that would so be captured under the Code's remit and application – these are when a councillor is;
- Acting in their capacity as a councillor and/or a representative of the council;
  - Claiming to act as a councillor and/or as a representative of the council;
  - Giving the impression of acting as a councillor or a representative of the council;
  - Referring publically to their role as a councillor and using knowledge that could only be obtained in that role.
- 3.6 The Code also provides clear guidance as to the forms and type of communication that are within scope;-
- at face-to-face meetings;
  - online or telephone meetings;
  - in written communication;
  - in verbal and non-verbal communication;

- in electronic and social media communication, posts, statements and comments.

#### Use of local authority resources

3.7 This is a new provision and is not currently contained in the Leeds' Code.

#### Confidentiality and Access to Information

3.8 Specific requirements in relation to confidentiality and access to information have been incorporated. This clause sets out standards of conduct relating to the proper use of information by Members.

#### Gifts and Hospitality

3.9 The provisions extend those set out in the Leeds' code in two ways:

- by specifically referencing a requirement to not accept gifts or hospitality that could give rise to real or substantive personal gain or a suspicion of influence, and;
- by placing a responsibility on Members to register any significant gift or hospitality that has been offered but refused.

#### Protecting the reputation of members and the local authority

3.10 This section primarily relates to the registration and declaration of interests. Importantly the section references a separate Appendix 1 (Appendix B) that, if adopted, would place additional requirements on Members in certain circumstances.

3.11 An example being where a matter arises (which is not a pecuniary interest) at a meeting and that matter directly relates to a financial interest or wellbeing of a relative or close friend a Member – extract below.

8. Where a matter arises at a meeting which *affects* –
- a. your own financial interest or well-being;
  - b. a financial interest or well-being of a friend, relative, close associate; or
  - c. a body included in those you need to declare under Disclosable Pecuniary Interests you must disclose the interest.

3.12 Members of the Standards and Conduct Committee were concerned that this requirement, if left unqualified, would place an unreasonable and unfair obligation on Members which goes beyond the legal requirements of the Localism Act 2011.

3.13 Members commented that having an obligation to declare interests of friends, relatives or close associates that are not known, would be somewhat vague and does not provide a reasonable framework within which to ask Members to conduct themselves. The Standards and Conduct Committee were also concerned that 'friend', 'relative' and 'close associate' was not sufficiently defined within the model code – also accepted this was difficult to do within the confines of the code.

- 3.14 The Standards and Conduct Committee did acknowledge that a qualification on the declaration requirements by, for example, insertion of the word '**known**', would provide greater certainty and comfort to Members – but expressed caution in incorporating the requirements for declaring interests of friend, relative or close associate highlighted at para 8 b) above as proposed by the LGA.
- 3.15 The draft Councillor Code of Conduct presented at Appendix 1 incorporates the qualification referenced above and provides a basis for General Purposes Committee to consider whether this is acceptable approach or whether any recommendation for adoption of a revised code of conduct should rather be on the basis of removal of any requirement relating to declaration obligations concerning friends, relatives or close associates.

#### Training

- 3.16 A programme of training, based on LGA learning and guidance modules, will be co-ordinated by the Monitoring Officer and her staff from April-May with new Members being trained prior to the Annual Council Meeting.

#### **Procedure for Considering Complaints Alleging a Failure to Comply with the Members' Code of Conduct**

- 3.17 The Standards and Conduct Committee routinely review the operation of the complaints procedure to ensure it remains up to date and fit for purpose. The review is informed by issues that arise during the year and feedback received by complainants and Members who have been the
- 3.18 The Complaints Procedure requires the Monitoring Officer, at Stage 1, to assess complaints to determine whether they are valid or invalid. In seeking to establish the circumstances and reach an assessment conclusion, the Monitoring Officer routinely accesses readily obtainable information; this includes requesting observations and recollections from the Member who is the subject of the complaint.
- 3.19 Currently Paragraph 7 of the Complaints Procedure sits at odds with this necessary engagement with Members in that it stipulates the following:
- “In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint. If the Monitoring Officer decides that the complaint is ‘invalid’, this notification is made for information only.”
- 3.20 For the purposes of transparency, openness and clarity, the Standards and Conduct Committee recommend that an amendment is made to Paragraph 7 of the Complaints Procedure, to remove the second sentence of that paragraph to make clear that the comments of Members will be routinely sought as part of the assessment process.
- 3.21 The Standards and Conduct Committee also recommends that further consideration be given to the criteria used at Assessment listed at Paragraph 6 of the procedure.
- 3.22 These amendments enable the Council to efficiently and effectively filter out those complaints that are trivial or which have little or no impact on the public. It also provides a clear framework to avoid engaging or carrying out investigations that are disproportionate to any outcome that can be achieved or sanction imposed and focus resources on matters of substance and that are in the public interest (i.e. are serious, such as corruption, bullying and misuse of power in public office).
- 3.23 The amendments recommended by the Standards and Conduct Committee are set out as tracked changes at Appendix 1, and General Purposes Committee are asked to consider these and recommend them to Full Council for approval.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 The LGA consulted widely on the content of the Model Code, receiving in excess of 1500 submissions from the local government sector and stakeholders. The LGA has committed to review the content of the Model Code on an Annual basis.
- 4.1.2 In advance of Standards and Conduct Committee considering the proposal to adopt the Model LGA Code the Chair of the Standards, Cllr Nash, consulted with Political Group Leaders and Whips. The Labour, Conservative, Liberal Democratic, Garforth and Swillington and Green Group whips have both advised that their groups are supportive of adoption of the LGA Model Code by the Council.
- 4.1.3 Parish and Town Councils in Leeds have been provided with details of the LGA Model Code. In response a number of councils have indicated that they have either adopted the LGA Model Code or are exploring doing so.
- 4.1.4 The Head of Democratic Services has also approached the Committee on Standards in Public Life for their views on the LGA Model Code. The secretariat has confirmed that the CSPL views the model code of conduct as a welcome step, helping to set clear standards and avoid confusion for both councillors and members of the public alike.
- 4.1.5 The views of the Standards and Conduct Committee are incorporated in this report.

### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 The Code specifically incorporates requirements in relation to equalities and discrimination.

### **4.3 Council policies and the Best Council Plan**

- 4.3.1 The Code provides a framework compatible with the Council's Values of being open, honest and trusted and treating people fairly.

#### Climate Emergency

- 4.3.2 There are no specific implications arising from this report.

### **4.4 Resources, procurement and value for money**

- 4.4.1 Whilst there are no specific implications arising from this report, the Monitoring Officer will need to assign resources to deliver training on any amended Code of Conduct.

### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 The Model Code is compliant with the requirements of the Localism Act 2011 and adoption of it will be compliant with the duties placed on the council.
- 4.5.2 Additional amendments to the Code, and to the conduct regime more generally, may emerge when the recommendations from the CSPL report concerning local authority standards directed to Government are responded to.

## **4.6 Risk management**

4.6.1 There are no specific implications arising from this report.

## **5. Conclusions**

- 5.1 The LGA consulted widely with the local government sector and other stakeholders and the approved attached “Code” has benefitted from that scrutiny being substantially improved from the draft which the Standards and Conduct Committee commented on last summer.
- 5.2 The LGA Code is similar to the adopted Leeds Code and there is considerable benefit to the Council from adopting in full the LGA’s Model Councillor Code of Conduct.
- 5.3 The proposed amendments to the Procedure for Considering Complaints Alleging a Failure to comply with the Members’ Code of Conduct will ensure the arrangements remains up to date and fit for purpose.

## **6. Recommendations**

- 6.1 General Purposes Committee is asked to recommend to Full Council:
- a) Adoption of the Councillor Code of Conduct as set out at Appendix 1 with effect from the Annual Council Meeting;
  - b) Approval of the amendments to the Procedure for Considering Complaints Alleging a Failure to Comply with the Members’ Code of Conduct set out at Appendix 2

## **7. Background documents<sup>1</sup>**

7.1 There are no background documents associated with this report.

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<sup>1</sup> The background documents listed in this section are available to download from the council’s website, unless they contain confidential or exempt information. The list of background documents does not include published works.