

## **COUNCIL MEETING – 13 JULY 2021**

### **ADOPTION OF MODEL MEMBER CODE OF CONDUCT**

#### **1.0 Purpose of Report**

- 1.1 To consider the adoption of the Local Government Association's (LGA) Model Member Code of Conduct.

#### **2.0 Background Information**

- 2.1 The Councillors' Commission, at its meeting in January, considered the Model Member Code of Conduct published by the LGA following a lengthy consultation period with the local government sector.
- 2.2 The LGA developed the Model Code as a template for Councils to consider adopting in whole and/or with local amendments. It has undertaken to complete a review of the Code annually to ensure that it continues to be fit for purpose, particularly with respect to advances in technology, social media and any relevant changes to legislation.
- 2.3 A main objective of the redraft by the LGA is for the new Model Code to be written in plain English understandable to members, officers and the public alike. This has been achieved in that it now helpfully sets out, in much clearer terms than the existing Model Code, what the obligations mean and how they should be followed, giving examples of required behaviour.
- 2.5 There are a number of differences between the Council's existing adopted Code of Conduct for Members (attached to the report as **Appendix B**) and the new Model Code. These are highlighted in section 3 of this report for Members' ease of reference.

#### **3.0 Differences between existing and model Member Codes of Conduct**

- 3.1 **General Principles** – The Council's existing Code refers to the seven principles of public life, known as the Nolan Principles. However the Model Code also sets out general principles that have been developed from these to demonstrate how these specifically apply to the role of councillors.
- 3.2 **Application of the Code** – Both the Council's existing and the new Model Codes apply when acting in the capacity of a councillor and/or claiming to act or giving the impression of so acting. This goes beyond what is strictly required under section 27(2) of the Localism Act 2011, which only requires the Code to apply when Members are acting in their capacity as a councillor. However the Committee on Standards in Public Life (CSPL) in its review recommended that section 27(2) should be amended to include this broader applicability. In the Model Code, it helpfully expresses it as applying when, "*your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor*"

- 3.3 **Standards of councillor conduct** – The new Model Code sets out ten ‘obligations’ the majority of which are included in the Council’s existing code but they are set out more clearly in the new version and with a narrative that explains what they mean in practice:-
- 3.3.1 Respect – Under the existing Code this is coupled under the same bullet point as bullying. Under the new code it is set out separately, together with a helpful clarification that it means politeness and courtesy in behaviour, speech and the written word. It is also stated within the new code that in return councillors have a right to expect respectful behaviour from the public;
- 3.3.2 Bullying, harassment and discrimination – Whilst the existing Code includes an obligation not to bully, the new code extends this to include harassment and discrimination and give a definition of all three;
- 3.3.3 Impartiality of officers of the council – The existing Code obliges councillors to recognise that officers are employed by and serve the whole authority. The new model version clarifies that this means that councillors should not compromise, or attempt to compromise, the impartiality of officers;
- 3.3.4 Confidentiality and access to information – In essence this obligation is much the same under both the existing and the new model codes, however there are additional requirements to consult with the monitoring officer prior to disclosure in certain circumstances and not to improperly use knowledge gained as a councillor for personal advantage;
- 3.3.5 Disrepute – This obligation is the same under both the existing and model codes, but the new version clarifies that this doesn’t mean that a councillor cannot hold the council and fellow councillors to account, constructively challenge and express concern about decisions and processes - as long they adhere to other aspects of the code;
- 3.3.6 Use of position – The Council’s existing code requires councillors to use their position in the public interest and not for personal advantage. The new model code has a slightly different emphasis, focussing on not using their position improperly to the advantage or disadvantage of themselves or anyone else;
- 3.3.7 Use of local authority resources and facilities – This obligation is essentially the same under both codes, albeit that the new model code contains more clarification as to what this entails;
- 3.3.8 Complying with the Code – this is a new set of obligations under the model code which require councillors to
- Undertake code of conduct training provided by the council;
  - Co-operate with any code of conduct investigation and/or determination;
  - Not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings;
  - Comply with any sanction imposed upon them following a finding that they have breached the code of conduct.

3.3.9 Registration and declaration of Interests – The provisions relating to disclosable pecuniary interests are the same under the two codes as these are set out in legislation. The new model code also sets out ‘other registrable interests’ that must be disclosed. These relate to where a councillor has been appointed (by the Council) to a body of which they are in general control or management. Where these apply the Councillor must disclose the interest and not speak on the matter unless members of the public are allowed to speak at the meeting.

**N.B. Given the fact that the Council does not provide for members of the public to speak at its committees the proposed Code as set out in Appendix A has been adapted to take account of our local circumstances in respect of ‘other registrable interests’.**

Both the Council’s existing and the new model codes refer to ‘non-registrable/non-disclosable pecuniary interests’ or ‘personal interests’ in a similar way, As with the Council’s existing code, the model code specifies that if the matter affects their financial interests or well-being to a greater extent than those of the majority of inhabitants of the ward affected by the decision etc., the councillor must not then vote on the matter and must not remain in the meeting. It is suggested that the reference in this section, to only permitting councillors to speak on such a matter if members of the public are also allowed to speak at the meeting, should be retained as it adds a useful check and balance where such circumstances apply.

3.3.10 Gifts and hospitality – This obligation is different between the two codes. In the Council’s existing code there is a provision requiring gifts of over £100 to be notified to the Monitoring Officer and for these to be recorded on a public register. Within the model code, the emphasis is upon councillors NOT accepting gifts or hospitality irrespective of value which could give rise to a reasonable suspicion it would lead to securing influence with them. There is also a requirement to register, with the Monitoring Officer, any gift where the estimated value is over £50.

#### **4.0 Obligations in the Council’s existing Code but not in the Model Code**

4.1 There are three obligations that are currently within the Council’s Code of conduct that do not specifically appear within the Model Code. These are requirements for councillors to:

- exercise their own independent judgement, taking decisions for good and substantial reasons;
- account for their actions, particularly by supporting the authority’s scrutiny function; and
- ensure that the authority acts within the law.

#### **5.0 Proposals**

5.1 The Councillors’ Commission considered the Model Code of Conduct at its meeting in January and agreed to recommend to full Council that it be adopted, with the added inclusion of the obligations in the Council’s existing Code but not in the Model Code (as set out in paragraph 4.1 of the report). These have been included in the draft Code attached at **Appendix A.**

5.2 If the Council decides to adopt a new Member Code of Conduct, in accordance with the provisions of the Localism Act 2011, it will apply to all Members who have signed their declaration of acceptance of office. There is no requirement for Members to sign a revised Code. Training to all Members will be provided on the provisions of the new Code.

## **6.0 RECOMMENDATION**

**That Members approve the adoption of the Member Code of Conduct for the Council, as set out in Appendix A of the report, to apply with immediate effect.**

### Background Papers

Local Government Association Model Councillor Code of Conduct 2020 – published 23 December 2020

For further information please contact Karen White on Ext 5240.

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