

MEMBERS' CODE OF CONDUCT

Executive Summary

This report recommends that the Council adopts the Local Government Association's Model Code of Conduct, with effect from the start of the 2021/22 Municipal Year (20 May 2021).

Recommendations

The Committee is requested to:

RECOMMEND TO COUNCIL That

- (i) **the Local Government Association's Model Code of Conduct appended to this report be adopted with effect from the start of the 2021/22 Municipal Year (20 May 2021);**
- (ii) **Council notes the intention to grant dispensations to Members to participate in items where they have an interest arising from being appointed, by the Council, to the body concerned; and**
- (iii) **Council resolves that compliance with Standards Protocols shall be deemed to be a requirement of the Local Government Association's Model Code of Conduct, as adopted by the Council.**

The item(s) above will need to be dealt with by way of a recommendation to Council.

Background Papers: Local Government Association documents.

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1.0 Introduction

- 1.1 The Localism Act 2011 requires Councils to publish a Members' Code of Conduct that sets out the standards of behaviour expected of a Member when acting as a Member of their Council. The Code of Conduct also deals with the registration of pecuniary and non-pecuniary interests.
- 1.2 The Members' Code of Conduct adopted by the Council is appended at Appendix 1 (pages 11 – 17).
- 1.3 Last year, the Local Government Association ("LGA") consulted on a new Model Members' Code of Conduct that could be adopted by Councils. This was part of the LGA's work on supporting the local government sector to continue to aspire to high standards of leadership and performance. The LGA stated:-

"The role of councillor in all tiers of local government is a vital part of our country's system of democracy. In voting for a local councillor, the public is imbuing that person and position with their trust. As such, it is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to and want to participate with. We want to continue to attract individuals from a range of backgrounds and circumstances who understand the responsibility they take on and are motivated to make a positive difference to their local communities."

- 1.4 The consultation process allowed Councillors to respond to the LGA on an individual basis. To facilitate this, the Monitoring Officer (i) presented a report to the Standards and Audit Committee on 23 July 2020 and (ii) advised all Members of the consultation process and how they could respond to it.
- 1.5 In December 2020, the LGA published the new Model Code of Conduct which it had adopted following consideration of the consultation responses.
- 1.6 This report recommends that the Council adopts the LGA Model Code of Conduct with effect from the start of the 2021/22 Municipal Year (20 May 2021).

2.0 LGA Model Code of Conduct

- 2.1 A copy of the new LGA Model Code of Conduct is appended as Appendix 2 (pages 19 – 33).
- 2.2 The Model Code builds upon the Seven Principles of Public Life, also known as the Nolan Principles. These are selflessness; integrity; objectivity; accountability; openness; honesty and leadership.
- 2.3 In the Model Code, the general principles (which flow from the Nolan Principles) are phrased in the first person. This emphasises the fact that the Code of Conduct "belongs" to Members. It is they who should own, champion and comply with it.
- 2.4 Helpfully, the section of the Model Code entitled "Application of the Code of Conduct" makes it clear that it applies to "*all forms of communication and interaction*" including "*electronic and social media communication, posts, statements and comments*". Given the increasing use of social media by Members, this is to be welcomed.
- 2.5 Although the underlying provisions of the Council's existing Members' Code of Conduct are incorporated in the Model Code, the Model Code does go further in some respects. These are referred to in paragraphs 2.6 – 2.8 of this report.

- 2.6 A Member with a “disclosable pecuniary interest” in a matter cannot normally take part in discussing or determining that matter. The Model Code provides an option to extend the definition of “disclosable pecuniary interest” to cover unpaid directorships (as opposed to just paid directorships, which are already covered). As a general principle, this approach is supported. However it should not apply to unpaid directorships where the Member is a Council-appointed director of a Council company. This is on the basis that these companies have been set up by the Council to deliver its objectives, i.e. things that the Council would otherwise do for itself, but which can be better undertaken through a company structure. In short, the companies are vehicles to deliver service outcomes for the Council’s residents. The Monitoring Officer is authorised, under Section 33 of the Localism Act 2011, to grant a dispensation to Members to participate in an item of business in which they would otherwise have a disclosable pecuniary interest. Dispensations can last for a maximum of four years. Council-appointed directorships to Council companies, could, therefore, be excluded from the prohibition on participation in this way.
- 2.7 The Model Code provides that a Member may only speak on an item which directly relates to a matter in which he/she has a registerable personal (i.e. non-pecuniary) interest if members of the public are also allowed to speak at the meeting concerned. Otherwise, the Member cannot speak or vote on the item. This goes further than the Council’s existing Code of Conduct which permits Members to participate fully in items in which they have a registerable personal interest. It is considered that the wider approach recommended by the LGA should be followed. As with unpaid directorships, appropriate dispensations could be given to Members who have been appointed to bodies by the Council.
- 2.8 The Model Code introduces the concept of disclosing non-registerable interests and prescribes the circumstances in which a Member may participate in an item in which they have such an interest. This codifies the common law principles which apply to such matters, so it is helpful to have them set out in the Code of Conduct.
- 2.9 The Council’s existing Members’ Code of Conduct imposes an obligation on Members to comply with Standards Protocols adopted by the Council (see paragraph 2.6 of the existing Members’ Code of Conduct). The Council has a Standards Protocol which covers “Member on Member” complaints. The effect of paragraph 2.6 is that a breach of a Standards Protocol can also be a breach of the Members’ Code of Conduct. This should continue to be the case if the Model Code is adopted. This can be achieved by Council resolving that compliance with Standards Protocols shall be deemed to be a requirement of the Model Code.

3.0 Implications

Financial

- 3.1 None.

Human Resource/Training and Development

- 3.2 Training on Standards issues and the Code of Conduct will be provided early in the new Municipal Year. It should be mandatory for Members to attend this training.

Community Safety

- 3.3 None.

Risk Management

- 3.4 None.

Sustainability

3.5 None.

Equalities

3.6 None.

Safeguarding

3.7 None.

4.0 Conclusions

4.1 The LGA Model Code of Conduct represents a fair balance between protecting the public interest and the rights/responsibilities of individual Members. It should be adopted by the Council without amendments.

REPORT ENDS