

# **Audit and Standards Committee**

**25 March 2021**

## **Member Code of Conduct**

### **Recommendation**

That the Committee decides what observations or recommendations it would wish to make to Cabinet and Council on the proposals for a revised code of conduct as set out in Appendix 1.

### **1. Executive Summary**

- 1.1 The LGA published in December 2020 its new model code of conduct (Appendix 2). The new model code is guidance only and Councils are free to adopt any part or all of its content.
- 1.2 The Council adopted its current Code of Conduct in 2012 based on the then model code published by the LGA. Officers have reviewed the new model code of conduct published by the LGA against the Council's existing code and against the current legislative framework.
- 1.3 The legislation underpinning the Code remains unchanged. The Government response to the recommendations by the Committee on Standards in Public Life (CSPL) are still awaited. Some of the changes recommended by the CSPL can only be given effect by legislation. The Committee considered and endorsed a report at its November meeting on how the Council had responded to the recommendations made by the CSPL. This report formed the basis of a response to CSPL in relation to progress with implementing the recommendations.
- 1.4 The proposed changes to the Council's existing code are contained in Appendix 1. In making the proposed changes, officers have worked from the premise that our existing Code has provided a sound platform for both promoting high standards of conduct amongst members and enabling us to deal effectively with the very few complaints about members' conduct that the Council receives. The proposals therefore include some of the new additions from the model Code but do not propose that we adopt the new LGA Code on a wholesale basis.
- 1.5 In addition, there are some areas of the new model Code which we would not recommend implementing as they cannot be enforced under current legislation. Further analysis of these issues is addressed later in this report.
- 1.6 The LGA new model is attached as Appendix 2. A copy of our current code is attached for reference as Appendix 3.

- 1.7 The proposals have been shared with the Group Leaders of the political parties and the feedback received has been incorporated in Appendix 1. Due to the Council's quadrennial elections taking place in May 2021 proposals for changes to the existing code will be considered by the new Council. The observations from this Committee and any other feedback received will be considered for inclusion in the final proposals presented to Council for approval.

## **2. Financial Implications**

- 2.1 There are no direct financial implications arising from this report.

## **3. Environmental Implications**

- 3.1 None

## **4. Supporting Information**

- 4.1 The new model Code is a mix of guidance as well as 'promises' by the member concerned. It is therefore much lengthier than our current code. Officers are recommending retaining a code which is short and concise and focuses on the specific obligations of members and providing any guidance separately.
- 4.2 It should be noted that the new Model Code has had a mixed reception from Monitoring Officers nationally with only 20% of Monitoring Officers indicating they will adopt the Code, 25% indicating they may adopt some parts and 55% indicating that they will not seek to adopt the Code.
- 4.3 There are certain elements of the LGA code which we consider would require legislative change before they could be adopted and the additional classifications of other interests brings in our view an unwelcome level of complexity and bureaucracy into Code. These issues are discussed further in the following paragraphs.
- 4.4 Our existing Code has provided a solid platform for both promoting high standards of conduct amongst members and enabling us to deal effectively with the very few complaints about members' conduct that we receive. However, there are some amendments which it would be useful to incorporate into our Code. These are shown in red in Appendix 1.
- 4.5 We have removed the requirement in our current code for each councillor to sign and date the code as the Code automatically binds each member. As indicated above we consider that the guidance is best dealt with separately.

- 4.6 Certain elements of the code would in our view require legislative changes prior to adoption i.e.
- the implication in the wording of the model code that it may be appropriate in some circumstances for members to use council resources for political purposes when there is a statutory bar against doing so
  - including '[any unpaid directorship]' within the statutory pecuniary interests table as this is not a Disclosable Pecuniary Interest. Only DPIs are subject to criminal sanctions and this is likely to confuse.
  - the concept of bringing the Council into 'disrepute' as this may extend the code into members private lives and this currently could not be achieved without legislative change and would be misleading to members of the public.
- 4.7 The current Code only applies when a councillor is acting in their official capacity or on council business. It is quite possible that a councillor could commit an offence in their private life which is not actionable under the Code of Conduct. Extension of the code to private life would require primary legislation.
- 4.8 We consider other elements of the Code bring an unwelcome element of bureaucracy. In particular we are concerned about the approach to 'other interests'. These are potentially very wide ranging and cover many different types of circumstances. They also incorporate some of the previous definitions from the pre-2012 code which were difficult to interpret in practice e.g. 'close associate'.
- 4.9 The approach in the model code is to automatically bar members with an 'other interest' from speaking unless members of the public have rights to speak at that meeting and to bar them from voting without a dispensation. Officers do not consider that this approach provides any benefits over our current arrangements. We currently deal with such interests by bespoke advice tailored to the particular circumstances based on the application of the common law of bias and pre-determination. In addition our experience and organisational culture is that members readily declare such interests and readily seek advice on whether such interests prevent them from taking part in council meetings. Officers would therefore not recommend inclusion of
- The definition of 'other registrable interests' and the establishment of an 'other interests register'
  - The definition of 'non-registrable other interests'
- 4.10 The elements that we suggest are incorporated are set out below.
- Reframing the code so that councillors understand it automatically applies and is not a matter of choice.
  - Clarifying that where a member gives the impression s/he is acting as a councillor or misuses their position the Code will apply

- Including a specific requirement not to bully, harass or unlawfully discriminate against anybody or seek to compromise the impartiality of officers
- A requirement to register offers of gifts and hospitality with an estimated value of £50 even if declined
- A requirement not to prevent people from accessing information to which they are lawfully entitled
- Explicit requirements to undergo training, co-operate with investigations and not intimidate those who are involved in investigations.
- Explicit requirement to be truthful.

4.11 The elements that we prefer to leave unchanged in our current code subject to the above changes are

- Retaining the original definitions of the principles of public life
- Keeping the guidance elements separate from the Code itself

4.12 The Committee has previously taken the view that a cycle of 4-yearly reviews of the Code should be sufficient or where there is a need to do so due to local circumstances or statutory changes.

## 5. Timescales associated with the decision and next steps

5.1 It is proposed that the views of the Committee will be forwarded onto to Cabinet and Council.

## Appendices

1. Appendix 1 Revised Member Code of Conduct
2. Appendix 2 LGA Model Code of Conduct
3. Appendix 3 WCC Current Member Code of Conduct

## Background Papers

1. None

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The report was circulated to the following members prior to publication:

Local Member(s): N/A

Other members: Councillors Seccombe, Roodhouse, Adkins and Chilvers

## Appendix 1

### Member Code of Conduct 2021 Warwickshire County Council

This Code applies to all elected and co-opted members of the Warwickshire County Council. The term 'councillor' in this Code means both elected and co-opted members. This Code of Conduct applies when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- 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

#### As a Councillor:

1. I will represent the interests of the whole community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

2. I will behave in a manner that is consistent with the following principles to achieve best value for all our residents and maintain public confidence in the Council, any other body to which I am appointed by the Council and the office of councillor:

**a. SELFLESSNESS:** I will act solely in terms of the public interest. I will not act in such a way as to gain financial or other material benefits for myself, my family, or my friends.

**b. INTEGRITY:** I will not place myself under any financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

**c. OBJECTIVITY:** I will make choices on merit, in carrying out public business, including when making public appointments, awarding contracts, or recommending individuals for rewards and benefits

**d. ACCOUNTABILITY:** I will be accountable for my decisions and actions to the public and to the Council and must submit myself to whatever scrutiny is appropriate to my office.

**e. OPENNESS:** I will be as open as possible about all the decisions and actions I take. I will give reasons for my decisions and restrict information only when the wider public interest or the law clearly demands.

**f. HONESTY:** I will be truthful and I will declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interests.

**g. LEADERSHIP:** I will promote and support these principles by leadership and example.

**3. As a Councillor** I will act in accordance with the principles in paragraph 2 and in particular, I will

- a. Champion the needs of the whole community and all my constituents, including those who did not vote for me and put the public interest first.
- b. Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- c. **Not bully, harass or unlawfully discriminate against anyone or seek to compromise the impartiality of officers of the Council**
- d. Not allow other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Council or the good governance of the Council in a proper manner.
- e. Exercise independent judgement and not compromise my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a **councillor. This includes not accepting gifts or hospitality which could give rise to a perception of influence over the way I perform my duties.**
- f. Take account of all relevant information, including advice from statutory and other professional officers. I will remain objective and make decisions on merit.
- g. Be accountable for my decisions and cooperate when scrutinised internally and externally, including by local residents.
- h. Contribute to ensuring that decision-making processes are as open and transparent as possible to make sure the community understands the reasoning behind decisions and are informed when holding me and other **councillors** to account.
- i. Behave in accordance with all my legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources.

- j. Not disclose confidential information (be that confidential by virtue of legislation or otherwise) without express authority and/ or unless the law requires it. **Nor will I prevent people gaining access to information to which they are lawfully entitled.**
  - k. Value my colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
  - l. Always treat people with respect, including the organisations and the public I engage with, fellow members and those I work alongside.
  - m. **Undertake Code of Conduct training provided by my local authority, cooperate with any Code of Conduct investigation and/or determination. I will not intimidate or attempt to intimidate any person who is likely to be involved with any investigation or proceedings.**
  - n. Provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Council.
4. I will register and disclose those interests that I am required by law to declare. I will complete and submit a signed declaration of my interests to the Monitoring Officer. I will keep the register updated and acknowledge that its contents are open to the public to inspect.
5. **I will register any gifts and hospitality I am offered (even if declined) with an estimated value of £50 or more within 28 days of receipt with the Monitoring Officer.**