

REPORT TO Audit & Governance Committee
Date 22 July 2020
Report of: City Solicitor
Title: Model Member Code of Conduct

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1.1 What is the report about?

- 1.1 This report brings Members' attention to a Model Member Code of Conduct, on which the Local Government Association is seeking comments during a consultation exercise which concludes in mid August 2020.
- 1.2 The report highlights the additional elements contained in the model code, particularly when compared to the existing code adopted by this Council.
- 1.3 It was worth remembering that whilst the LGA has issued this model code of conduct, it is offered as a template for councils to adopt in whole and/or with local amendments.

2. Recommendation:

- 2.1 That the Audit & Governance Committee consider the Model Code of Conduct and comment accordingly, delegating the City Solicitor in consultation with the Chair of this Committee, to submit any comments on behalf of the Council.

3. Reasons for the recommendation:

- 3.1 The timetable given for comments on the model code of conduct is 13 August 2020

4. What are the resource implications including non financial resources.

- 4.1 None.

5. Section 151 Officer comments:

- 5.1 There are no financial implications for Council to consider.

6. What are the legal aspects?

- 6.1 It is important that the Council operates a Code of Conduct for its councillors, which creates and maintains public confidence in the role of a member and local government.

7. Monitoring Officer's comments:

- 7.1 This report raises no issues for the Monitoring Officer.

8. Report details:

- 8.1 The Council has adopted a Code of Conduct which follows the previous model code, albeit adapted for local circumstances, with this forming part of the Constitution.
- 8.2 The Local Government Association has recently issued, for consultation, a revised Model Member Code of Conduct, and this is attached as Appendix A to this report for the Committee's information.
- 8.3 It is seeking the views of local authorities on this Code with a deadline of 13 August 2020 being given for such comments to be submitted.
- 8.5 The purpose of the Code 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. It is also to protect councillors, the public, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of members and local government.
- 8.6 The draft Model Code goes on to set out the following specific obligations of general conduct, which, it is suggesting, must be observed in all situations where as Councillor is acting (or claiming or giving the impression of acting) as a councillor, including representing the Council on official business or when using social media.
- 8.7 These are:-
 - Treating other councillors and members of the public with civility;
 - Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play;
 - Not bullying or harassing any person;
 - Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the Council;
 - Not disclosing information given in confidence or disclosing information acquired which is believed to be of a confidential nature, unless consent has been received from a person authorised to give it, or if required to do so by law;
 - Not preventing anyone getting information that they are entitled to be law;
 - Not bringing the role or council into disrepute;
 - Not using, or attempting to use, the position improperly to the advantage or disadvantage of myself or anyone else;
 - Not misusing council resources;
 - Registering and declaring interests;
 - Not accepting significant gifts or hospitality from person seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage;
 - Registering with the monitoring officer, any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

- 8.8 Whilst implicit in the current Code of Conduct by this authority, not all of the above are as explicitly included in the code. It is therefore for the Committee to consider whether the inclusion of these points, together with the explanatory text which supports these points in the draft model code, if adopted by this Council, better explains the role and conduct expected of those taking up the position of councillor in Exeter.
- 8.9 The draft model code also goes on to give examples of an internal resolution procedure, together with potential actions which could be taken in cases of breaches of the code. Again, these are not explicitly included in the current code, as any such breaches are dealt with deemed appropriate by the Monitoring Officer in conversation with the Independent Person.
- 8.10 The Council's current code of conduct, extends from the previous model code insofar as it includes additional responsibilities in relation to the disclosure of part 2 interests (other registerable interest), where members are required to absent themselves from meetings where matters on which they have disclosed such interests are discussed. This is a local decision and the ability to do so again, remains with the latest draft model code.
- 8.11 Officers' views are that the inclusion of these more implicit procedures, will extend transparency in the process for the conduct of Members, as well as what happens when there are alleged breaches in the conduct of Members. As such, officers are supportive of the new model Code of Conduct.
- 8.12 However, the timescale for commenting on this prevents the matter being reported to Council for approval, so it is suggested that the Monitoring Officer (the City Solicitor), in consultation with the Chair of this Committee, be authorised to make comments to this effect.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 This decision will help promote the City as one which sets defined guidelines for the conduct of its Members, as well as transparency in the process which will be adopted in how alleged breaches in Members conduct will be dealt with.

10. What risks are there and how can they be reduced?

- 10.1 There are no risks associated with the proposals

11. Equality Act 2010 (The Act)

- 11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:
- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
 - advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
 - foster good relations between people by tackling prejudice and promoting understanding.
- 11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the

authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

- 11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.
- 11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because the report is suggesting a new model code of conduct for those who are elected to the position of councillor, which is open to all.

12. Carbon Footprint (Environmental) Implications:

There are no direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

- 12.1 The Council could decide not to follow the model code of conduct, and continue with its existing one, which may then lead it to be out of line with other local authorities.

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Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-

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