

REPORT TO AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 10 March 2021

REPORT TO COUNCIL

Date of Meeting: 20 April 2021

Report of: The Monitoring Officer

Title: Model Code of Conduct

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

This report considers the model Code of Conduct as recently published by the Local Government Association, and seeks to establish whether the Council wishes to adopt it in part or in full, and with or without alterations.

2. Recommendations:

It is **RECOMMENDED THAT COUNCIL**

1. Approve the Model Code of Conduct appended to this report, with effect from the Annual General Meeting scheduled to take place on 18th May 2021;
2. Approve the inclusion of a section in the constitution which allows for the Monitoring Officer to grant dispensations to members as appropriate;
3. Authorises the Monitoring Officer to amend the following areas of the Constitution (if appropriate) where reference to the members' code of conduct is also made:-
 - a. The General Principle of Good Conduct (section 5(b) of the Constitution);
 - b. Protocol on Member/Officer Relations (section 5(e) of the Constitution);
 - c. Local Planning Code of Conduct (section 5i of the Constitution)

3. Reasons for the recommendation:

- 3.1 In accordance with Section 27 of the Localism Act 2011, each local authority has to adopt a Members' Code of Conduct which aims to promote and maintain high standards of behaviour by its members, and any co-opted members, whenever they conduct the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.
- 3.2 The Local Government Association has recently undertaken a review of its model code of conduct, which, following a detailed consultation exercise, included the draft Code being presented to this Committee in 22 July 2020, has now been agreed for local authorities to consider for adoption.

3.3 The Monitoring Officer, and Deputies, have considered the Model Code and are recommending its adoption, as they feel the new model code helps to maintain the openness and accountability necessary to reinforce public confidence in the way members perform their public duties.

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

None.

5. Section 151 Officer comments:

There are no financial implications for Council to consider.

6. What are the legal aspects?

Section 27 of the Localism Act 2011, requires each local authority has to adopt a Members' Code of Conduct.

7. Monitoring Officer's comments:

Please see paragraph 3.3 above.

8. Report details:

8.1 The Local Government Association (LGA) recently consulted on a revised Model Code of Conduct, with that being presented to this Committee at its meeting on 22 July 2020 (minute 23 refers).

8.2 This Council submitted comments as part of the consultation exercise, basically welcoming the new Code of Conduct which it felt clearly identified the obligations placed on all councillors.

8.3 Following this consultation exercise, the LGA has now published its new model code of conduct and this is attached at Appendix A to this report.

8.4 The Monitoring Officer, and Deputies, have considered the Model Code and are recommending its adoption, as they feel the new model code helps to maintain the openness and accountability necessary to reinforce public confidence in the way members perform their public duties.

8.5 In particular, they raise the following points:-

- The new model code of conduct is much more user friendly than the existing, and very much through its wording, puts the onus on the Councillor themselves to understand what they are signing up for.
- This Council previously included "Part 2 interests (those which relate to the financial or well-being of the councillor, or a relative or close associate)" in its adopted code of conduct. This was not previously included in the model code. This forward thinking action of the Council has now been vindicated, as the new model code of conduct, does include reference for councillors to declare such interests – this is contained in paragraphs 6 and 7 of Appendix B of the attachment to this report.

- There is no reference within the model code to the previous ability for Members to ask the Monitoring Officer for a dispensation to participate in a discussion and vote thereon. Officers feel that this is an important element, and are suggesting that the following words are included in the Council's constitution alongside the model code of conduct:-

DISPENSATIONS

On a written request, the Council's Monitoring Officer may grant to a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest, where the Monitoring Officer believes that:-

- the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or
- it is in the interests of the inhabitants in the Council's area to allow a member to take part; or
- it is otherwise appropriate to grant a dispensation.

- 8.5 In all cases of an interest being declared, the Member will be required to leave any meeting they are attending where such a matter is being discussed, before any discussion commences, as well as not taking part in any vote thereon.
- 8.6 It is intended that when the Council approves the new Code of Conduct, all councillors will submit a new declaration of interests form, and that such be updated on at least an annual basis, or within 28 days of the Member becoming aware of any new interest they may have.
- 8.7 The adoption of the new model code now, also ensures that all councillors elected in May 2021, will be bound by its contents.
- 8.8 Once Council approval has been given to adopt the new code, officers will also go through the existing Constitution and amend appropriately.

8.9 GIFTS and HOSPITALITY

Members' attention is also drawn to section 10 of the new model code, which introduces a new requirement upon them, with regards to the acceptance of gifts and hospitality that they may be offered (even if they have been refused in the case of one deemed of a significant value). Whilst there is the presumption that all such offers not be accepted, it accepts that this may not always be possible. This new section also sets a requirement that any such gift or hospitality which they accept, and is of at least £50 in value, must be registered with the Monitoring Officer.

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

- 9.1 The new model code helps to maintain and indeed enhance the openness and accountability necessary to reinforce public confidence in the way members perform their public duties.

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

- 11.1 There are no risks associated with this proposal.

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: there are no equalities impacts that are identified.

12. Carbon Footprint (Environmental) Implications:

12.1 No direct carbon/environmental impacts arising from the recommendation.

13. Are there any other options?

13.1 The Council could agree to remain with its existing Code of Conduct, although it is felt that this could lead the Council open to criticism for not following national guidance.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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