

**STANDARDS COMMITTEE'S CONSULTATION RESPONSE TO LGA'S DRAFT  
MODEL CODE OF CONDUCT**

**Report of the Monitoring Officer**

**1. INTRODUCTION AND PURPOSE OF REPORT**

- 1.1 To report on the Standard Committee's response to the LGA draft Model Code of Conduct dated 17 August 2020.

**2. BACKGROUND**

- 2.1 The LGA committed to reviewing the current model member code of conduct, as recommended by the Committee on Standards in Public Life's report into Local Government Ethical Standards dated January 2019. The LGA held an event on Civility in Public Life with a range of stakeholders at the end of 2019 and three consultation workshops at the beginning of this 2020; Stockport Metropolitan Borough Council were not involved in these pre-consultation stages.
- 2.2 The LGA's consultants (Hoey Ainscough) have also examined examples of good practice, both in local government and other professions. The LGA consultation draft model member code of conduct is the result of this initial work. It is the LGA's intention to create additional guidance, working examples and explanatory text.
- 2.3 The consultation ran from Monday 8 June 2020 until Monday 17 August 2020 and was facilitated by an online consultation questionnaire. As there was no Standards Committee during that period of time and given that Councillors and senior officers were also engaged in responding to the COVID-19 pandemic during the early part of the consultation, the Standard Committee's views on the consultation were collated by email and the consultation questionnaire responses were submitted by the Monitoring Officer.
- 2.4 The LGA have confirmed that the feedback from the consultation will help them develop a final draft which will be reviewed by the LGA's Executive Advisory Board before being present to the next LGA General Assembly which they anticipate being held in Autumn 2020.

**3. CONSULTATION RESPONSE**

- 3.1 A copy of the draft model code of conduct is at Annex 1.
- 3.2 A copy of a pdf of the questions (without the answers) is at Annex 2.
- 3.3 The response submitted by the Monitoring Officer on behalf of the Standards Committee is set out below.

[Start of Consultation Response]

## Application of the Code

Under the Localism Act 2012, the Code of Conduct applies to councillors only when they are acting in their capacity as a member. The LGA believes that because councillors are elected by the public and widely recognised by the public, it makes sense for them to continue to model these behaviours when they are making public comment, are identifying as a councillor and when it would be reasonable for the public to identify them as acting or speaking as a councillor. The Committee on Standards in Public Life supported this approach in their report into Local Government Ethical Standards. Whilst the LGA is waiting for Government's response to these recommendations the option has been added in square brackets as it would need changes in legislation.

**Q1. To what extent do you support the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media?**

- To a great extent

**Q1a. If you would like to elaborate on your answer please do so here:**

N/A

**Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?**

- Yes

**Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?**

- Passive tense ("Councillors should")

## Specific obligations

The Code lists 12 specific obligations – these set out a minimum standard councillors are asked to adhere to.

Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.

**Q4. To what extent do you support the 12 specific obligations?**

<b>1. Treating other councillors and members of the public with civility.</b>	To a great extent
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<p><b>2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.</b></p>	<p>To a great extent</p>
<p><b>3. Not bullying or harassing any person.</b></p>	<p>To a great extent</p>
<p><b>4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.</b></p>	<p>To a great extent</p>
<p><b>5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.</b></p>	<p>To a great extent</p>
<p><b>6. Not preventing anyone getting information that they are entitled to by law.</b></p>	<p>To a great extent</p>
<p><b>7. Not bringing my role or council into disrepute.</b></p>	<p>To a great extent</p>
<p><b>8. Not using, or attempting to use, my position improperly to the advantage or</b></p>	<p>To a great extent</p>

<i>disadvantage of myself or anyone else.</i>	
<b>9. Not misusing council resources.</b>	To a great extent
<b>10. Registering and declaring my interests.</b>	To a great extent
<b>11. Not accepting significant gifts or hospitality from persons 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.</b>	To a great extent
<b>12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.</b>	To a great extent

**Q5. If you would like to propose additional or alternative obligations, or would like to provide more comment on a specific obligation, please do so here:**

Some descriptions are ambiguous or leave room for wide interpretation of their definitions. Additional care is needed in the drafting of some of the phrases, and in some cases an expansion of the guidance is needed

**Q6. Would you prefer to see the obligations as a long list followed by the guidance, or as it is set out in the current draft, with the guidance after each obligation?**

- Each specific obligation followed by its relevant guidance

**Q7. To what extent do you think the concept of ‘acting with civility’ is sufficiently clear?**

- To a great extent

**Q7a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

Treating the public with civility should be a highlighted item at the beginning of the section. The topic is covered in the text but not at the beginning. Also Councillors should have a more express ability to also discontinue correspondence with people who are overly persistent and wasting time.

**Q8. To what extent do you think the concept of 'bringing the council into disrepute' is sufficiently clear?**

- To a moderate extent

**Q8a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

The text covers dishonest and deceitful but there are other ways of bringing the council into disrepute. Furthermore, the section starts with "dishonest and deceitful" which is obvious but placed here implies the rest of the description is subject to the same test. It should be clear in these notes that this also covers "standards of behaviour which conform with the responsibilities of a representative of the public, which sets an example and provides a role model"

**Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?**

- To a great extent

**Q9a. If there are other definitions you would like to recommend, please provide them here.**

N/A

**Q10. Is there sufficient reference to the use of social media?**

- No

**Q10a. Should social media be covered in a separate code or integrated into the overall code of conduct?**

- Integrated into the code

**Q10b. If you would like to make any comments or suggestions in relation to how the use of social media is covered in the code please do so here:**

This should be expanded to cover the additional pitfalls as well as the nature of some social media e.g. the use of pseudonyms, deliberate provocation, lack of identity and accountability of users. The issue of Councillors using social media within their role should be stressed much more. The misuse and language used on social media can effectively be slotted under 99% of the headings within the Code of a Conduct. Too many complaints that we deal with are to do with social media, from other Councillors and members of the public and are increasing. If it could be expressed in a more

definitive way in the Code itself than it does at the moment and with Councillors being asked to sign up the code of conduct on being selected, the sanctions (albeit limited) for behaving in such a way should be formalised to enable the Monitoring Officer to follow such action (e.g. discuss with Group Leader or Whip, apologies, deletion of posts/comments etc).

### Registration and declarations of interests

The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' - that is matters which directly relate to the councillor and their partner if applicable.

The LGA is proposing that all councillors are required to declare interests where matters also relate to or affect other family members or associates. The LGA has broadened the requirement to declare interests beyond this current statutory minimum in line with a recommendation from the Committee on Standards in Public Life. These specific provisions are set out in **Appendix B** of the Code.

#### **Q11. To what extent to you support the code going beyond the current requirement to declare interests of the councillor and their partner?**

- Not at all / to a moderate extent

#### **Q11a. If you would like to elaborate on your answer please do so here:**

It could be unreasonable to extend declarations of interest to have to cover further members of the councillor's families. It is unlikely that adult children or family members would want their interests made public. Also family members may be estranged and therefore knowledge would not be available to be disclosed; should a councillor be held accountable where the behaviour of a family member falls below reasonable standards and the councillor is inadvertently implicated?

#### **Q12. Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model code currently references it?**

- In the main body of the code

#### **Q12a. If you would like to make any comments or suggestions in relation to how the requirement to declare interests is covered in the code please do so here:**

N/A

It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in **Table 2 of the Appendix** and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.

#### **Q13. To what extent do you support the inclusion of these additional categories for registration?**

<b><i>Any organisation, association, society or party of which</i></b>	To a moderate extent
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<b><i>you are a member or in a position of general control or management and to which you are appointed or nominated by the council</i></b>	
<b><i>Any organisation, association, society or party that exercises functions of a public nature of which you are a member or in a position of general control or management</i></b>	To a moderate extent
<b><i>Any organisation, association, society or party directed to charitable purposes</i></b>	To a moderate extent
<b><i>Any organisation, association, society or party of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</i></b>	To a moderate extent

**Q13a. If you would like to propose additional or alternative categories for registration, please provide them here:**

N/A

**Q14. To what extent do you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?**

- To a great extent

**Q14a. If you would like to elaborate on your answer please do so here:**

N/A

**Q15. The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?**

- No, it should be higher (please specify amount):

**Q16. The LGA will be producing accompanying guidance to the code. Which of the following types of guidance would you find most useful? Please rank 1-5, with 1 being the most useful.**

<b><i>Regularly updated examples of case law</i></b>	1
<b><i>Case studies and examples of good practice</i></b>	2
<b><i>Supplementary guidance that focuses on specific areas, e.g., social media</i></b>	3
<b><i>Explanatory guidance on the code</i></b>	4
<b><i>Improvement support materials, such as training and e-learning packages</i></b>	5

**Q16a. If you would like to suggest any other accompanying guidance please do so here:**

Guidance on social media. Guidance on the “representative” nature of the role e.g. often your opinion/knowledge is secondary to that of those you represent, even if it is in conflict. Your obligations are primarily to those you represent and not to some other body or to your own personal views or interests.

**Q17. If you would like to make any further comments about the code please so here:**

Conflicts of interest is often misunderstood in common parlance and people seek to use it incorrectly. Some clarification would help.

Confidentiality should reference information in the public domain e.g. an individual cannot claim confidentiality if it is already public.

Section 1 - there does not seem to be anything that covers whistleblowing and declaring information in the public interest.

Section 9 re misusing council resources - does not seem to allow using email and web browsers for a reasonable amount of time.

If a sanction includes barring a councillor from some committees, any allowance which attaches to that role must also be lost for the same period.

The guidance should include a more detailed section on the types of gifts and hospitality and declarations of interest and how to ensure that councillors have not been involved in decisions, prior to meetings that they are excluded from; in particular with regard to planning permission.

Guidance on recruitment for Independent Person, what criteria they have to satisfy and how they are chosen. The opinion of the Independent Person is being made too important for a single person to give an opinion on behalf of the rest of the public.

The Independent Person should serve 2 years, with only one extension allowed.



It is important that the Independent Person is efficient in representing the public. At present there is no system for judging the capability of that person.

[END OF RESPONSE]

#### **4. CONCLUSIONS AND RECOMMENDATIONS**

4.1 That the report be noted.

#### **BACKGROUND PAPERS**

There are none

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