

**TITLE** Councillor Code of Conduct

**FOR CONSIDERATION BY** Council on 22 July 2021

**WARD** None specific;

**LEAD OFFICER** Monitoring Officer - Andrew Moulton

## **PURPOSE OF REPORT**

The Council is required to maintain a Councillor Code of Conduct and to publish guidance to advise residents how complaints about Members can be made under the Code. The report sets out an updated Code of Conduct, in line with the LGA's Model Code.

## **RECOMMENDATION**

Council is recommended to adopt for inclusion in the Constitution:

- 1) the LGA's Model Code of Conduct, as amended by the Standards Committee at its meeting of 8 March 2021 (attached at Annex A to the report); and
- 2) the guidance on the use social media by Councillors attached at Annex B to the report.

## **EXECUTIVE SUMMARY**

On 23 December 2020, the Local Government Association (LGA) published a model Councillor Code of Conduct (the Model Code).

All councils are required to adopt a local Councillor Code of Conduct and the Model Code is provided for use by councils as a template to adopt in whole and/or with local amendments should they wish to. It is the role of the Standards Committee to determine whether to recommend the Model Code, amended or otherwise, to Full Council for inclusion in the Council's Constitution.

The Standards Committee considered the Model Code at its meeting on 8 March 2021 and agreed to recommend the Code to Council, subject to the following amendments and clarifications:

- The addition as an appendix of guidance on the use of social media;
- When dealing with disrespect the obligation for councillors to "notify" rather than "report" concerns to the local authority;
- The retention of the current level of registration threshold at £25 for gifts and hospitality;
- An amendment to the section on exempt and confidential information for Councillors to seek advice from the Monitoring Officer before releasing any paper which is marked, or could reasonably be assumed to be, confidential or exempt.

The Model Code of Conduct is set at Annex A, with highlighted amendments as agreed by the Standards Committee.

## **BACKGROUND**

1. The Localism Act requires all Councils to adopt a local Member Code of Conduct. The Council's current Code was adopted in 2012 and is largely based on the Council's Pre-Localism Act code (amended appropriately) taking into account the advice which was in circulation at that time.

### **New LGA Model Code**

2. In its January 2020 report into Local Government Ethical Standards, the Committee for Standards in Public Life (CSPL) included a best practice recommendation for local authorities to adopt a Code of Conduct based on a model produced by the Local Government Association (LGA).
3. When researching the local Codes of Conduct, the CSPL found there was considerable variation in the length, quality and clarity of codes of conduct. They believed that this created confusion among members of the public, and among councillors who represent more than one tier of local government. This is a limited issue in Wokingham BC and for the other Berkshire unitaries. All six councils may have councillors serving on the Royal Berkshire Fire and Rescue Authority and in Wokingham Borough, we have 17 Town and Parish Councils.
4. The LGA has produced a Model Code of Conduct, which is based on the CSPL best practice recommendations and the expectation is that all councils should adopt it as a minimum, but with provision for additional local variations.
5. Discussions with Monitoring Officers from neighbouring authorities indicated a collective leaning towards adoption of the Model Code albeit with some variations.

### **Amendments to the Model Code agreed by WBC's Standards Committee**

#### **Social Media**

6. The Council's current Code does not mention social media and while that has not prevented consideration of code of conduct complaints arising from social media activity, it is helpful that the Model Code states that application of the Code extends to, "all forms of communication and interaction, including ... in electronic and social media communication, posts, statements and comments."
7. Whilst this reference makes it clear that social media activity is covered by the Code, it does not provide any guidance specific to social media on the issue of when a councillor is acting as a councillor, claiming to act as a councillor and/or a representative of the council, giving the impression you are acting that you are acting as a councillor and/or as a representative of your council and public reference to your role as a councillor or use knowledge that you could only use in our role as a councillor.
8. As there is no further guidance in the Model Code, and in response to the Standards Committee's previous noting of an increase in complaints relating to

Councillors' use of social media, the Standards Committee has recommended to Council the inclusion of Guidance on the Use of Social Media – See Appendix B.

### **Gift and Hospitality Threshold**

9. The monetary threshold of £50 and over for registration of gift and hospitality in the Model Code is more than the £25 threshold in the Council's current Code of Conduct. Following consideration, the Standards Committee agreed unanimously to maintain the £25 threshold as per the current Code of Conduct.

### **Dealing with Disrespect**

10. Under the obligation of respect, the Model Code advises councillors to 'report' members of the public who are abusive, intimidating or threatening to the local authority. Given the jurisdiction of the local authority and the police, for example, the Standards Committee agreed to amend the word 'report' to 'notify'.

### **Exempt Information**

11. When explaining the obligation in relation to 'Confidentiality and access to information' the Model Code refers to information that would be contained in what is known as 'Part 2 papers' locally at the Council. This is information that, in accordance with Schedule 12A of the Local Government Act 1972 and the Council's Access to Information Procedure Rules has been deemed to be exempt information and were historically presented on pink paper to councillors in advance of a meeting.
12. In the context of these constitutional Rules and the law, 'confidential' has a restricted meaning: 'information furnished to the Council by a Government Department upon terms which forbid the disclosure of the information to the public and information the disclosure of which to the public is prohibited by law or order of the Court'.
13. In practice, there is limited confidential information whereas exempt information, on the other hand, is in practice the majority of what is contained in pink papers. Exempt information is defined by seven categories which include legal professional privilege and information relating to the financial and business affairs of the Council.
14. The operation of this clause is quite complicated, and it contrasts with the plain English adopted throughout the rest of the document. Following consideration, the Standards Committee agreed to propose to Council to adopt a more straightforward obligation on Councillors when dealing with Exempt and Confidential information, namely to seek advice from the Monitoring Officer before releasing any paper which is marked, or could reasonably be assumed to be, confidential or exempt.

### **TIMETABLE FOR IMPLEMENTATION**

15. If the Council adopts this new Code of Conduct, it will be used as the basis for training for new and existing Councillors during the 2021/22 Municipal Year.

## OTHER IMPLICATIONS (COMMUNICATION)

16. Town and Parish Councils currently have a choice to adopt the Council's Code of Conduct or a model code produced by the National Association of Local Councils (NALC). The model code will apply to all levels of local government and when available, Towns and Parishes will need to decide how to proceed locally. The Monitoring Officer will continue to liaise with Town and Parish Clerks to provide advice on this matter as appropriate.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

***The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.***

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	N/A
Next Financial Year (Year 2)	£0	Yes	N/A
Following Financial Year (Year 3)	£0	Yes	N/A

<b>Other financial information relevant to the Recommendation/Decision</b>
None

<b>Cross-Council Implications</b>
Members are expected to observe the requirements of the Code of Conduct in dealing with internal and external services, stakeholders and customers.

<b>Public Sector Equality Duty</b>
<p>Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> <li>• eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</li> <li>• advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li> <li>• foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ul> <p>These principles have been considered in the drafting of this report.</p>

<b>List of Background Papers</b>
LGA Model Member Code of Conduct: Consultation response analysis, November 2020

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