

CONSTITUTION AND STANDARDS COMMITTEE

Wednesday, 23 June 2021

REPORT TITLE:	PROPOSED MEMBERS' CODE OF CONDUCT 2021
REPORT OF:	DIRECTOR OF LAW AND GOVERNANCE

REPORT SUMMARY

The Local Government Association (LGA) published a model Councillor Code of Conduct (Model Code), with corrections 19th January 2021. The nine authorities across the City Region have previously had differently worded codes of conduct, creating the potential for confusion and differing interpretation when acting in a shared capacity. The authorities have therefore been working, involving the advisors producing the LGA Model Code, to produce a shared version of the Model Code. The Code, as adapted for the committee system of Wirral, is proposed for adoption.

Assistance has also been provided in relation to the associated Guidance, expected to be published by the LGA shortly.

RECOMMENDATIONS

That the Constitution & Standards Committee recommends to Council the adoption of the Members' Code of Conduct as attached at Appendix A.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The Local Government Association (LGA) has developed the Model Councillor Code of Conduct (Model Code), in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. The Model Code is a template for local authorities to adopt in whole and/or with local amendments developed for English local authorities in response to one of the recommendations of the Committee for Standards in Public Life (CSPL) to the LGA and Government.
- 1.2 All local authorities are required to have a local Code of Conduct that is consistent with the principles as published by the CSPL in January 2013.
- 1.3 Further to the meeting of 24th February 2021, a local version of the LGA model code Model Councillor Code of Conduct has been developed for the authorities within the Liverpool City Region so as to ensure Members and officers working alongside one another or within the joint committees of the councils or one of the combined authorities all operate according to the same understanding and Code. This has already been adopted by some of the authorities, with others likewise being recommended to follow in July 2021.
- 1.4 The LGA is producing supporting guidance to be published shortly. It has stated it will undertake an annual review of this Code, to ensure it continues to be fit- for- purpose, incorporating advances in technology, social media and changes in legislation.
- 1.5

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Not updating the Code would result in Wirral Council's Code not remaining up to date with best practice.
- 2.2 Not updating the Code in association with City Region authorities may result in difficulties in shared interpretation and for councillors who were also a member of one or more of the combined authorities or joint committees.

3.0 BACKGROUND INFORMATION

- 3.1 The Localism Act requires all Councils to have a local Member Code of Conduct. The Council's previous Code was adopted on 11 July 2012, which was largely based on the Council's Pre-Localism Code (amended appropriately) and was amended to marry up to the LCR CA code for use across the city-region in September 2020.
- 3.2 As reported to the Committee's meeting of 24th February 2021, the Committee for Standards in Public Life (CPSL) in its January 2020 report into Local Government Ethical Standards included a best practice recommendation for local authorities to the adopt a Code of Conduct and recommended that it be based on a model to be

produced by the Local Government Association (LGA). This sat alongside other recommendations, including some to Government that require primary legislation.

- 3.3 Appendix C of the LGA Model Code lists the CPSL's 15 Best practice recommendations and notes that the Government is yet to respond to the recommendations made by CPSL, some of which require legislative changes. It should be noted that the Government's response, when it comes, may require a change to the Council's adopted Code. The date of the response is unknown.
- 3.4 When researching the local Codes of Conduct, the CPSL 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 an issue for Wirral MBC councillors who may also sit on one or more of the combined authorities and on joint committees with neighbouring authorities, such as the Police and Crime Panel or the Joint Health Scrutiny Sub-Committee(s). In September 2020, Wirral Council adopted a revised Code to match that of the LCR Combined Authority as a first step.
- 3.5 The LGA produced a draft model code of conduct, which was subject to a 10 week consultation in the summer of 2020 and to which Members and officers made comment. Considering the comments then made it is worth noting that this led to changes being made, including:
 - All references to "civility" have been replaced with "respect"
 - Discrimination has been added to the bullying and harassment section
 - More wording has been added relating to access to information
 - Gifts and hospitality threshold of £50 confirmed
 - More detail has been added to Appendix B relating to Declaring Interests.
- 3.6 An error was contained in an earlier publication and the final version was published on 19th January 2021. It is based on the CPSL best practice recommendations and the expectation is that all councils should adopt it as a minimum, but with provision for additional local variations.
- 3.7 Discussions with Monitoring Officers from the City Region authorities indicated a collective leaning towards adoption of the Model Code albeit with local variations. All intend to take the issue to the upcoming meetings of their standards committees. This has led to the production of a revised common Code, which is attached as Appendix A.
- 3.8 It was considered that there may be the opportunity for further engagement but some councils wished to adopt the Code early and so was submitted directly. The remainder are submitting the Code at the same time as at this meeting and are therefore intending to adopt the Code in July 2021.
- 3.9 The differences between the LGA Model Code and the LCR recommended is primarily three issues:
 - (a) A change in the introduction to reflect local circumstance and the LGA explanation.

- (b) A re-ordering of the interests that require disclosure and to leave the chamber or meeting room. The LGA Model Code makes only oblique reference to the concepts of personal and prejudicial interests. This is because, at the ending of the mandatory code of conduct and the development of templates in 2012 to accompany the introduction of the Localism Act, there was a marked difference between those parts of the country that kept the concept of personal and prejudicial interests and those who abandoned those definitions. The LGA Model Code is, therefore, designed to 'cater for all tastes' in the way it is set out. All of the authorities in the City Region retained the definitions of personal and of prejudicial interests, however, and the concepts are thus well understood. For that reason, it was felt to make the Model Code more intelligible and flow better to continue with that approach. The changes made were discussed with those engaged to write the LGA Model Code (Hoey Ainscough as supported by Wilken Chapman Solicitors) who was supportive of the LCR drafted changes.
- (c) The introduction of a set of standard dispensations, which was left out of the LGA Model Code for local consideration. Those set out are reflective of the current standard dispensation and the model used in the previous mandatory code and the current Welsh Code.

3.10 It is considered that there remains some issues with the LGA model Code, not least is definitions and application. Since publication of the Model Code in January 2021, the LGA has commissioned Guidance to be drafted to assist in this process. The Monitoring Officer is one of those supporting Hoey Ainscough in their drafting of the Guidance to the Model Code. At the time of writing the draft guidance was not yet submitted to the LGA for approval and publication. As soon as this set of Guidance documents is available it will be brought to the Committee's attention.

3.11 One of the CPSL's best practice recommendations is that principal authorities should review their Code of Conduct annually and regularly seek, where possible the views of the public, community organisations and neighbouring authorities. Given the wide-reaching and extensive consultation conducted by the LGA, it is not recommended that further consultation is currently required. Likewise, the LGA has committed to an ongoing and at least annual review of their Model Code. On that basis, it is suggested that this Committee carries out an annual light touch health check upon the publication of the LGA annual review and continue to encourage that such a review also takes place at a City Region level.

4.0 FINANCIAL IMPLICATIONS

4.1 There are no specific financial implications arising out of this report.

5.0 LEGAL IMPLICATIONS

5.1 Under the Localism Act 2011 all councils must adopt a code of conduct dealing with the conduct that is expected of members and co-opted members when that are acting in that capacity. There is no national prescribed version of a code in England and no obligation to adopt a particular model. The code must be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Councils must also ensure that their codes include appropriate provisions about declaring pecuniary and other interests.

- 5.2 The Committee is responsible for Standards functions as set out in the Constitution. This includes advising the Council on codes of conduct and making arrangements under which allegations may be investigated. Changes to the Code of Conduct and the Constitution are, however, decisions reserved to full Council.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 There are no significant implications for the Council in changing its Members Code of Conduct.

7.0 RELEVANT RISKS

- 7.1 Considering best practice and implementing improvements will help maintain sound corporate governance and the integrity of local authority decision making, minimising risk of challenge, corruption, improper conduct and standards complaints.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Considering best practice and implementing improvements will help maintain sound corporate governance and the integrity of local authority decision making, minimising risk of challenge, corruption, improper conduct and standards complaints.

9.0 EQUALITY IMPLICATIONS

- 9.1 Extensive consultation was undertaken with all relevant stakeholders by the LGA for 10 weeks from Monday 8 June until Monday 17 August prior to publication of the new model Code of Conduct.
- 9.2 The comments of the Governance Review Working Group in response to the consultation were submitted to the LGA in August 2020.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are no environmental and climate implications arising directly out of this report.

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APPENDICES

Appendix A – Recommended Members Code of Conduct 2021
Appendix B – LGA Model Code (January 2021)
Appendix C – Best Practice Recommendations of the Committee on Standards in Public Life (Annexe C to LGA Document)

BACKGROUND PAPERS

- 1) Notes arising from meetings of the Governance Review Working Group

- 2) Report of CSPL on “Local Government Ethical Standards”
- 3) LGA Model Code of Conduct,
- 4) LGA draft and consultation questionnaire
- 5) Wirral Council response to LGA consultation

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Constitution and Standards Committee	24 February 2020