



Northumberland

County Council

COMMITTEE: STANDARDS

DATE: 16TH JULY 2020

Local Government Association Consultation on draft Members' Code of Conduct

Report of Cabinet Member: Councillor Nick Oliver, Cabinet Secretary and Corporate Services

Purpose of report

To inform the Committee of the consultation by the Local Government Association (LGA) on its draft Model Members' Code of Conduct and to seek any response which the Committee might have in response to that consultation.

Recommendations

To consider the draft Members' Code of Conduct and to consider what response should be made to the LGA's consultation process

Link to Corporate Plan

This report is relevant to the "We want to be efficient, open and work for everyone" or "How" priority included in the draft NCC Corporate Plan 2018- 2021.

Key issues

1. The Local Government Association are undertaking an extensive consultation with local government on a new national model members' code of conduct following the Committee on Standards in Public Life's report on the local ethical framework of last year
2. The Committee are asked to consider any response they might wish to make to that consultation exercise.

Background

3. In 2018 the Committee on Standards in Public Life ("the CSPL") undertook a review of local government ethical standards. The Committee on Standards in Public Life considered that robust standards

arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. A consultation period ran from 29 January to 18 May 2018 with which the Council engaged.

4. The terms of reference for the review were to:

- i. examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
- ii. assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- iii. make any recommendations for how they can be improved
- iv. note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

5. The Committee on Standards in Public Life (“the CSPL”) published the [Local Government Ethical Standards report](#) (“the Report”) on 30 January 2019.

6. On 18th April 2019 the Standards Committee considered the Report and responded accordingly accepting all 26 recommendations within the Report.

7. The Local Government Association (“the LGA”) has now released a draft Model Member Code of Conduct and is seeking views on it.

LGA Model Code of Conduct

8. On 8 June 2020 the LGA released a [model code of conduct for consideration](#) (Appendix 1) together with a consultation questionnaire (Appendix 2). The LGA has stated that “the draft Model Member Code of Conduct aims to be concise, written in plain English and be understandable to members, officers and the public. The draft Model Member Code has been designed to aid

members in all tiers of local government model the behaviours and high standards that anyone would expect from a person holding public office. Equally, it articulates behaviour which falls below the standards that would be expected of council members.” The LGA states that the draft is designed to help set a framework for public and councillor interaction, emphasising the importance of civility and that councillors should be protected from bullying, intimidation and abuse.

9. The LGA has drafted a Model Member Code of Conduct incorporating the recommendations from the Committee on Standards in Public Life’s report on Local Government Ethical Standards and the representation from its membership. Part of the CSPL’s recommendations were the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is outside the scope of the LGA consultation, as it requires legislative changes by Government, but the LGA has sought to reflect some of the possible changes *by using square brackets where legal changes would be necessary*. These have been shown within this report in bold type to assist members.
10. A model code would create consistency across England and reflect the common expectations of the public regardless of geography or tier of authority. The draft model code does not differ significantly in content from the Council’s existing code, although some of the language used is different. It is to be hoped that the local authorities in the North East would continue to work collaboratively, as they have previously on this matter, to consider whether to adopt the final model code from the LGA, to keep the current Members’ Code of Conduct or to adopt an amended Members’ Code of Conduct dependent on any statutory requirements at that time.
11. The draft Model Code is attached to this report at Appendix 1. The Standards Committee will note that it:-
 - a) Applies to members when they are acting **[or claiming or giving the impression that they are acting]** in **[public or in]** their capacity as a member or representative of the Council, although members are expected to uphold high standards of conduct and show leadership at all times;
 - b) Applies to all forms of member communication and interaction including written, verbal, non-verbal, electronic and via social media **[where the member could be deemed to be representing the Council or if there are potential implications for the Council’s reputation]**. The Council in its representations to the CSPL considered that any code should be widened in scope with a rebuttable presumption that a councillor’s public behaviour, including on publicly accessible social media was in their official capacity. The Localism Act 2011 may need to be amended to allow for this. The Council has adopted its own Social Media Code for members. The LGA consultation specifically raises the question whether there should be a separate social media code or whether provision for

guidance on the use of social media should be included in the main body of the code;

- c) It introduces the requirement to treat all persons with “civility” which is defined as meaning “politeness and courtesy in behaviour, speech and in the written word”;
- d) Gives a definition of bullying - “Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and not always be obvious or noticed by others.”
- e) Gives a definition of harassment - “The Equality Act 2010 defines harassment as ‘unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual’. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.”
- f) Introduces requirements around gifts and hospitality –“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. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt. You should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify the monitoring officer of any significant gifts you are offered but refuse which you think may have been offered to influence you.” The Council already requires that Councillors declare gifts with a monetary value of £50 and over. The model code proposes a threshold of £25.
- g) States that Councils must have an internal resolution procedure to address any behaviour that is in breach of the Member Code of Conduct. It says “In the case of a non-criminal breach of the Code, the following escalating approach can be undertaken. If the breach is confirmed and of a serious nature, action can be automatically escalated
 - 1) an informal discussion with the monitoring officer or appropriate senior officer
 - 2) an informal opportunity to speak with the affected party/ies
 - 3) a written apology

- 4) mediation
- 5) peer support
- 6) requirement to attend relevant training
- 7) where of a serious nature, a bar on chairing advisory or special committees for up to two months
- 8) where of a serious nature, a bar on attending committees for up to two months.

Where serious misconduct affects an employee, a member may be barred from contact with that individual; or if it relates to a specific responsibility of the council, barred from participating in decisions or information relating to that responsibility.”

The Committee in its representations to the CSPL highlighted that the main weakness in the standards regime is the limited range of sanctions that can be applied, which are not strong enough to provide an effective deterrent. Additional sanctions which would strengthen the standards regime should include the powers to suspend members from office and to suspend members’ allowances for a period of time. The draft Model Member Code of Conduct does not provide any strengthening of the sanctions available and a change to the legislation would be required to allow for suspension from office or suspension of allowances.

h) Introduces two tables in relation to members’ declaration of interests. It states that where a matter arises at a meeting which directly relates to an interest in Table 1 (disclosable pecuniary interests) a member must not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation. If a matter arises at a meeting which directly relates to an interest in Table 2 (other registrable interests) a member must declare the interest and would only be able to speak on the matter if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless granted a dispensation.

i) Describes the action that must be taken where:

- 1) a matter arises at a meeting which directly relates to a member’s financial interest or well-being (and is not a disclosable pecuniary interest) or that of a relative or close associate
- 2) a matter arises at a meeting which affects:
 - a) a member’s own financial interest or well-being;
 - b) a financial interest or well-being of a friend, relative, close associate; or
 - c) a body covered by Table 1
- 3) a matter arises which affects the financial interest or well-being of a member to a greater extent than it affects the

financial interests of the majority of inhabitants of the ward affected by the decision and a reasonable member of the public knowing all of the facts would believe that it would affect that member's view of the wider public interest.

The LGA Consultation

12. The LGA says that it is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the Committee's recommendations.
13. The consultation is expected to address key areas that the LGA would like a view on to help finalise the Code. It is aimed at councillors and officers from all tiers of local government. The consultation on the draft member code of conduct runs for 10 weeks from Monday 8 June until Monday 17 August.
14. Appendix 3 contains a proposed response to the questions raised in the LGA consultation questionnaire. The Committee is asked to consider the proposed response and to indicate whether it is in agreement or wishes to change any of the responses.
15. It is proposed that the Legal Services Manager will submit a response on the Committee's behalf following their consideration of the matter.

Implications

Policy	No significant implications
Finance and value for money	N/A
Legal	None other than reflected in the report
Procurement	N/A
Human Resources	N/A
Property	N/A
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	Issues relating to equalities are reflected, where appropriate, in the report and appendices

Risk Assessment	N/A
Crime & Disorder	None significant
Customer Consideration	It is considered that a model members' code of conduct will provide an increased degree of accountability and transparency
Carbon reduction	N/A
Health and Wellbeing	None significant
Wards	All

Background papers:

Localism Act 2011

The Committee on Standards in Public Life's twentieth report, Local Government Ethical Standards, published 30 January 2019.

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

Local Government Association Model Member Code of Conduct Consultation - June 2020

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

	Full Name of Officer
Monitoring Officer/Legal	LH
Executive Director of Finance & S151 Officer	N/A
Relevant Executive Director	KA
Chief Executive	DL
Portfolio Holder(s)	NO

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