

<b>Committee:</b>	<b>Standards Committee</b>		
<b>Date of Meeting:</b>	04 February 2021		
<b>Subject:</b>	Local Government Association - Model Councillor Code of Conduct		
<b>Report Author:</b>	Angela Claridge, Monitoring Officer		
<b>Contact Officer:</b>	Angela Claridge tel: 01582 546291		
<b>Implications:</b>	Legal <input type="checkbox"/>	Community Safety <input type="checkbox"/>	
	Equalities <input type="checkbox"/>	Environment <input type="checkbox"/>	
	Financial <input type="checkbox"/>	Consultations <input type="checkbox"/>	
	Staffing <input type="checkbox"/>	Other <input type="checkbox"/>	
<b>Wards Affected:</b>	All		

## Purpose

1. The Localism Act requires all Councils to have a local Member Code of Conduct. Following a period of consultation, the Local Government Association (LGA) has published a model code, which this Committee is asked to review, and suggest any amendments.

## Recommendations

2. The Committee is recommended to:
  - i. Commend the Model Code, with agreed amendments, to Full Council for adoption
  - ii. Review the Code of Conduct in a year's time.
  - iii. Request a training programme for councillors, officers and relevant stakeholders is developed and presented to the next Standards Committee meeting

## Background

3. On the 23 December 2020, the Local Government Association (LGA) published a model Councillor Code of Conduct (the Model Code). The Model Code attached as Appendix A is described by the LGA as 'designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government'.
4. The LGA describes the development of the 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'. This Committee considered responses on behalf of Luton Council at its meeting on 30 July 2020.
5. All councils are required to have 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.

6. This report presents the Model Code, compares it to the Council's current Code of Conduct (Appendix B), raises specific issues to consider in relation to amendments and offers choices to the Committee.

## Report

7. In its January 2020 report into Local Government Ethical Standards, the Committee for Standards in Public Life (CPSL) included a best practice recommendation for local authorities to the adopt a Code of Conduct based on a model produced by the Local Government Association (LGA).
8. 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.
9. The LGA has produced a model code of conduct, which 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.
10. Discussions with Monitoring Officers from neighbouring authorities in Bedfordshire and Buckinghamshire indicate a collective leaning towards adoption of the Model Code albeit with local variations.
11. Appendix C of the Model Code lists the fifteen 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.
12. One of the CPSL's best practice recommendations is that local 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 consultation recently conducted by the LGA, it is not recommended that consultation is required, should the decision be to the recommendation to Full Council to adopt the Model Code. However, it is recommended that annual reviews should seek wider views as per the best practice recommendation.
13. The Model Code: -
  - Continues to require upholding the Seven principles of public life ( the Nolan Principles)
  - Contains 12 obligations with guidance
  - Sets out legal requirements
  - Defines a councillor as a member or co-opted member of a local authority
  - Is written in the personal tense.
  - Sets out when the Code applies and in addition to 'acting in capacity as a councillor or representative of the Council', adds 'claiming to act', 'giving the impression you are acting' and 'referring publicly to your role as councillor or use knowledge you could only obtain in your role as a councillor'

**14.** The Model Code introduces: -

- concept of 'acting with civility'
- the word 'harassment' and a definition of bullying and harassment
- reference to social media
- specific reference to treating employees of the Council, partners and volunteers for the local authority with respect
- under the Obligation to comply with the Code of Conduct: to undertake Code of conduct training, co-operate with any investigation or determination, not to intimate persons administering or investigating a complaint and to comply with any sanctions
- Requires registration of gifts and hospitality with a value of £50 and over
- Maintains the concept of 'bringing the council into disrepute'
- Codifies the position on declaration and participation in relation to personal interests that already applies in the Council.

**15.** There are several points to bring to the attention of the Committee for its consideration of whether local variations to the Model Code are appropriate.

**16. Social Media** - a tricky and prevalent issue for Luton Council and most local authorities is the application of the Code to councillors' activity on social media. 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'.

**17.** While 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 and the additional three categories of claiming to act as a councillor and/ or a representative of your 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.

**18.** Respondents to the LGA consultation were evenly split about whether there was sufficient reference to the use of social media in the code and 69% (including this Council in its response) said social media guidance should be integrated into the Code.

**19. Gift & Hospitality Threshold** - The monetary threshold of £50 and over for registration of gift and hospitality in the Model Code is less than the £75 threshold in the Council's current Code of Conduct. To assist the Committee in determining the threshold:

(a) the LGA reports that over seven in ten respondents (72%) supported £25 as the threshold for registering gifts and hospitality. 9% of respondents thought that the threshold should be lower than £25 while 16% felt that it should be higher.

- 20. Co-opted or Independent Members** - the Model Code applies to elected members and co-opted members of the Council. The definition of a co-opted member is a statutory one found in s27 (4) Localism Act 2011 and is set out in the Model Code. It does not include members of Council Committees that are not entitled to vote. Therefore, as an example, independent members of this Committee are not caught by the Model Code as they are not entitled to vote.
- 21. Dealing with disrespect** - under the obligation of respect, the Model Code advises councillors to 'report' members of the public who are abusive, intimidatory or threatening to the local authority. Given the jurisdiction of the local authority and the police for example, consideration can be given to whether the word 'report' is amended to 'seek guidance from'.
- 22. Exempt Information** – the Council's Access to Information Rules recite the Schedule 12A to the Local Government Act 1972 Act categories of exempt information.
- 23. Proposal/Options**
- 24.** There are a number of choices open to the Committee:
  - (a) Recommend no change to the current Code of Conduct, resolve to continue with the existing Code of Conduct and ask for a report to come to a later meeting of the Committee
  - (b) Recommend to Full Council the adoption of the Model Code with or without potential amendments;
  - (c) Identify issues and ask for a report to come to a later meeting of the Committee that addresses those issues
  - (d) Resolve to await the outcome of the Government consideration of the Committee for Standards in Public Life recommendations, and in the meantime invite community organisations, and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the Model Code

## Appendix

Appendix A - LGA Model Code of Conduct

Appendix B - Luton Council's existing Code of Conduct

## List of Background Papers - Local Government Act 1972, Section 100D

LGA Model Member Code of Conduct: Consultation response analysis, November 2020  
<https://www.local.gov.uk/lga-model-member-code-conduct-consultation-response-analysis-november-2020#methodology->

## Implications

Item	Details	Clearance Agreed By	Dated
<b>Legal</b>	Every local authority is obliged, under the Localism Act 2011, to maintain its own Code of Conduct for elected Members	Angela Claridge, Monitoring Officer	24.01.2020
<b>Finance</b>			
<b>Equalities</b>			
<b>Environment</b>			
<b>Community Safety</b>			
<b>Staffing</b>			
<b>Consultations</b>	As set out in the body of the report.	Angela Claridge, Monitoring Officer	24.01.2020
<b>Other</b>			