

Report to: Standards Committee

Date of meeting: 14 August 2020

By: Assistant Chief Executive

Title: Consultation on the Local Government Association Model Code of Conduct for Councillors

Purpose: To respond to the consultation on the Local Government Association draft Model Code of Conduct for Councillors

RECOMMENDATIONS

The Standards Committee is recommended to approve the response to the Local Government Association consultation on its draft model Code of Conduct for Councillors.

1 Background Information

1.1 The Local Government Association (LGA) has 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. The model Code of Conduct is used by individual local authorities as a template for councils to adopt in whole and/or with local amendments. In June 2020, the LGA published its draft updated model Code (attached as Appendix 1) for consultation. The consultation period ends on 17 August 2020.

1.2 The LGA intends to create additional guidance, working examples and explanatory text once the Code has been finalised.

1.3 Since 2012 the borough, district and county councils in East Sussex have adopted broadly similar codes of conduct. This level of consistency has worked well and been of particular benefit to dual hatted councillors. It is recommended that if possible we retain this consistency. With this in mind, the district and borough councils have been contacted and asked to share any responses they plan to make to the consultation. The draft response attached as Appendix 2 to this report has also been shared with the local councils. We will continue to work with colleagues in the districts and boroughs in relation to any further proposals that are received from the LGA following the consultation and in advance of bringing recommendations to Members.

1.4 The Council's current Code of Conduct has been attached, for information, as Appendix 3. Three of the main differences between the current Code and the Model Code produced by the LGA include:

- a) The current Code has the following general obligation 'You must treat others with respect'. This has been replaced in the draft model Code with 'Treating other councillors and members of the public with civility'. This is commented on below and in Appendix 2.
- b) The current Code provides that where a councillor considers that the information relating to any of their personal interests is sensitive information, and the authority's monitoring officer agrees, the monitoring officer shall not include details of the interest on any copies of the register of members' interests which are made available for inspection or any published version of the register. The model Code refers to sensitive interests to be declared at meetings but does not make reference to the disclosure of sensitive interests on the Register of interests.

- c) In relation to declarations of interests made at meetings, the model Code states that a declaration should be made where a matter that arises at a meeting affects –
- i) your own financial interest or well-being; or
 - ii) a financial interest or well-being of a friend, relative, close associate.

This goes beyond what is in the current Code.

2 East Sussex County Council response

2.1 The draft response to the consultation is attached at Appendix 2. The main areas of focus are:

- a) In 2019 the Committee on Standards in Public Life published a report that had a number of recommendations. The inclusion in the draft Code of recommendations made by the Committee (to which the Government has not yet responded), which are set out in brackets in the code, will potentially create confusion. These references should either be removed or the publication of the updated Code should be deferred until such time as the Government has responded.
- b) It would be helpful if the draft Code contained information regarding interests which the Member considers to be sensitive including a definition of 'sensitive'. Proposed wording that could be included in the Model Code is set out in Appendix 2 (question 17).
- c) The Code of Conduct should include provisions requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors as proposed by the Committee for Standards in Public Life.
- d) Obligation 1 should be reworded to refer to 'respect' rather than 'civility'. Respect is a fundamental and well understood principle and should not be removed.
- e) The draft Code is unclear on the distinction between principles (which are for guidance) and the specific obligations (that are requirements). This needs to be clarified to minimise any possible confusion for councillors or the public.
- f) The Code should provide that where a member has a personal interest (which is not pecuniary or prejudicial) that where it is already set out in the register of interest that there is no requirement to declare at a meeting unless the Member wants the interest to be expressly recorded in the minutes.

2.2 The important underlying point is in relation to clarity. Whilst accepting there will always be a margin of interpretation, a breach of the Code is potentially significant and so Members are entitled to as much certainty as possible in relation to the rules which govern their conduct so that they do not inadvertently breach the Code.

3 Conclusion and reasons for the recommendations

3.1 The Standards Committee is recommended to approve the response to the LGA consultation on the draft Code of Conduct as set out in Appendix 2 of this report to ensure that the views and practice of the County Council are taken into account.

PHILIP BAKER
Assistant Chief Executive

Contact Officer – Andy Cottell, Democratic Services Manager (01273 481955)

Local Members: All