

<b>Title of Report</b>	<b>MEMBERS' CODE OF CONDUCT</b>	
<b>Presented by</b>	Elizabeth Warhurst – Head of Legal and Commercial Services and Monitoring Officer	
<b>Background Papers</b>	<a href="#">Audit and Governance Committee Report – Review of Model Member Code of Conduct</a>  <a href="#">Current Member Code of Conduct</a>	<b>Public Report:</b> Yes
<b>Purpose of Report</b>	To ask the Committee to consider work of the Standards Working Group on developing the new Members' Code of Conduct, to provide comments on the draft Code ahead of its consideration by Council on 24 February 2022 and to note progress on the on the best practice recommendations arising from the report from the Committee for Standards in Public Life.	
<b>Recommendations</b>	<b>THAT AUDIT AND GOVERNANCE COMMITTEE:</b> <ol style="list-style-type: none"> <li>1. <b>NOTE THE WORK OF THE WORKING GROUP IN RESPECT OF MEMBERS' CODE OF CONDUCT</b></li> <li>2. <b>RECOMMEND THE NEW MEMBERS' CODE OF CONDUCT (AS DETAILED IN APPENDIX A) TO COUNCIL AT ITS MEETING ON 24 FEBRUARY 2022 FOR ADOPTION WITH EFFECT FROM 1 APRIL 2022</b></li> <li>3. <b>RECOMMEND THE CHANGES TO THE COUNCIL'S ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT MEMBER CONDUCT (AS DETAILED IN APPENDIX B) TO COUNCIL AT ITS MEETING ON 24 FEBRUARY 2022 FOR ADOPTION</b></li> </ol>	

## 1.0 BACKGROUND

- 1.1 This Committee considered a report at its meeting on 22 July 2020 regarding the Committee for Standards in Public Life (CforSPL) Report published in 2019. The report made a series of recommendations that required consideration by Government (and potentially legislative changes) and the Local Government Association (LGA) along with 15 best practice recommendations for consideration by local authorities.

- 1.2 One of the recommendations from the CforSPL report was that the LGA produce a new model Members' Code of Conduct that reflected the outcomes of the research and work that the CforSPL had undertaken. The LGA ran a consultation process on their draft new model code and each council was asked to respond to that consultation. Following that consultation the LGA has worked on the model code and produced a number of versions. The final version was published on 17 May 2021.
- 1.4 At the meeting on 22 July 2020, Members agreed to establish a small working group, drawn from the Audit and Governance Committee, to work on and finalise the response to the LGA consultation on the new model Members' Code of Conduct and to work through the best practice recommendations from the CforSPL report.
- 1.5 Following the meeting, Cllrs Benfield, Clarke, Merrie and Sheahan agreed to be part of the Standards Working Group (SWG). The Group has met on the following dates:
- 28 August 2020
  - 25 September 2020
  - 30 October 2020
  - 27 November 2020
  - 16 December 2020
  - 11 November 2021
- 1.6 In addition to the meetings above, the Working Group have been kept up to date on progress following the publication of the LGA Model Code and development of the new draft Code via regular email updates. The terms of reference of the SWG are attached at Appendix C. The Monitoring Officer is grateful for the time and contribution of the Working Group to this work.

## **2.0 WORK WITH LEICESTERSHIRE AUTHORITIES**

- 2.1 Following discussions with the SWG, the Monitoring Officer has collaborated with other Leicestershire MOs, including the County Council to work on a common Leicestershire Code. It was felt this would be beneficial for dual hatted members.
- 2.2 The model code is a significant departure from the current codes of the authorities. The standards of the model code are much more detailed and descriptive but have also been brought up-to-date to cover new elements such as social media. The interests section is the most significant change. It introduces different tests and further types of interests that would need to be disclosed.
- 2.3 The MO working group identified that some aspects of the model code weren't particularly clear. It therefore worked on a revised version of the model code that did not alter the substance of the code but re-ordered and made minor changes to wording so that it was easier to read. Most of the changes were made to the interests section, where flowcharts have also been introduced to help the reader understand how that section should be interpreted. There is also a separate section on single-member-decision-making which would be removed the Council does not operate single-member-decision-making.

2.4 It was agreed with the other authorities that each Monitoring Officer would discuss the revised draft Code with their own members and ascertain whether members wished to:

1. Adopt the draft code based on the LGA Model Code (as amended by the MO working group) – “locally amended code”;
2. Continue with the authority’s current code ; or
3. Adopting a hybrid (i.e. some elements of the new code and some elements of their current code)

2.5 The MO has sought the views of the Leader, Deputy Leader, all Group Leaders and the Standards Working Group. The consensus was that the locally amended code be taken forward and recommended to this Committee.

### 3.0 OTHER LEICESTERSHIRE LOCAL AUTHORITIES

3.1 The locally amended LGA Model Code will be/has been considered by district councils through their own governance processes as set out below:

Charnwood BC	At 17 January 2022 meeting, Council is being asked to adopt the locally amended code
Oadby and Wigston BC	Council agreed on 21 December 2021 to adopt the locally amended code as of 1 April 2022
Hinckley and Bosworth BC	Being considered by Committee and Council in February 2022.
Blaby DC	Council agreed on 14 December 2021 to adopt the locally amended code as of 1 April 2022
Harborough DC	Audit and Standards Committee recommended approval of locally amended code - Council on 13 December 2021.
Melton BC	Council agreed on 16 December 2021 to adopt the locally amended code
Leicestershire County Council	Approved for adoption on 1 December 2021

### 4.0 LIAISON WITH THE LEICESTERSHIRE & RUTLAND ASSOCIATION OF LOCAL COUNCILS (LRLAC)

4.1 Every Town and Parish Council in Leicestershire is a member of the LRLAC. The MOs have worked with LRLAC in the production of the new draft locally amended code. LRLAC has recently confirmed its intention to recommend that its member parish and town councils adopt the new code following adoption by their relevant District and Borough Councils. Most Town and Parish Councils adopted the NWL Members Code of Conduct or version thereof in 2011.

4.2 Should Council adopt the locally amended code in February 2022, the MO will contact each town and parish council to encourage them to review their code and consider adopting the new locally amended code. Subject to the views of this Committee, full Council will be recommended to adopt the new Code with effect from

1 April 2022. This will allow some time for Town and Parish Councils to take the Code via their own governance processes.

## **5.0 ARRANGEMENTS FOR DEALING WITH COMPLAINTS**

5.1 The Council is required under Section 28 of the Localism Act 2011 to adopt Arrangements for dealing with Complaints about member conduct. These have been reviewed by the SWG in light of the Committee for Standards in Public Life report and by the MO in light of the locally amended code and guidance published by the LGA.

5.2 When considering the Council's current arrangements for dealing with complaints the SWG noted that they were satisfied with the approach which NWLDC took. They considered that the current approach of assessing complaints against the initial tests, encouraging parties to engage in informal resolution and referring unresolved complaints to the Assessment Sub-committee worked well. It ensured that only complaints which were covered by the Code of Conduct were dealt with and the informal resolution process allowed parties to work towards a pragmatic solution which was agreeable to both complainant and subject member. Only complaints which were not able to be resolved informally would be considered by the Assessment Sub-committee who could make a decision on whether to take further action or not based on clear criteria and an assessment of the public interest. The SWG recommended that the arrangements be updated to reflect the current approach and their suggestions to enhance compliance with the best practice recommendations. The Arrangements have been reviewed against the LGA guidance and the revised Arrangements are at Appendix B

5.3 The revised Arrangements do not show the tracked changes in different colours as feedback from members has indicated that presenting changes to these documents in this way can be difficult to read and therefore this paragraph summarises the main changes in instead. The main changes proposed to the Arrangements are as follows:

- Details have been included in relation to what information the complainant may be asked to provide (section 3)
- Clarification has been included regarding the difference between confidential and anonymous complaints (section 3)
- Clarification has been added as to when informal resolution may be appropriate and why (section 4)
- Clarity as to when a complainant and/or Subject Member may be able to attend committee hearings that are in private session (sections 5 and 6)
- A paragraph has been added to address what happens if a Subject Member sits on multiple authorities (section 5)
- A paragraph has been added to make it clear that there is no right to appeal but complaints can be made to the LGO (section 13)
- A timescales section has been added to make it clear when different parts of the process will take place (section 14)

- Repetitive references to the Independent Person have been removed (throughout)

5.4 The SWG also identified other improvements which could be made to operational procedures and documents used by the MO, when dealing with complaints, which would improve clarity for those involved in the process. These included ensuring that the Council's website contained up to date information regarding the complaints process, the role of the Independent Person and the current practice of appointing independent external investigators (where a formal investigation is required), reviewing and updating templates and guidance documents used in the complaints process and updating guidance on the Members' Code of Conduct to members. These operational and procedural matters have been put into an action plan which will be implemented by the Monitoring Officer. A number of actions have been completed and some await the consideration and adoption of the new locally amended code. Once the action plan is completed, this will ensure compliance with the best practice recommendations from the 2019 report referred to at para 1.1 above.

## **6.0 LGA GUIDANCE**

6.1 The LGA has produced guidance to sit alongside its model code. Whilst that guidance was being prepared, the Deputy Monitoring Officer was part of a small group of officers from various authorities who had sight of early drafts and an opportunity to input into its layout and content. Various comments were fed back as part of that process. Links to the final version of the guidance will be made available on the Member Hub.

## **7.0 TRAINING**

7.1 Training will be offered to District and Town and Parish Councillors should Council adopt the new Code. Given the uncertainties in relation to the COVID 19 pandemic and feedback which has been received from members regarding the convenience and flexibility of virtual training, it is likely that a combination of in person and virtual training will be offered. Training on the new Code will be mandatory for District Councillors. Given that the County Council have adopted the same locally amended code, it will be acceptable for dual hatted members to demonstrate that they have attended the County Council training.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	NA
Policy Considerations:	It is a legal requirement to have a Members' Code of Conduct. It forms part of the Council's Constitution
Safeguarding:	NA
Equalities/Diversity:	NA
Customer Impact:	The Councils website will be updated with details of the new Code and Arrangements for Dealing with Complaints should the code be adopted by Council in February 2022. The MO provides advice to members and the public on the operation and interpretation of the Code
Economic and Social Impact:	NA
Environment and Climate Change:	NA
Consultation/Community Engagement:	LGA consulted nationally on the model code. This was open to the public, members and LAs. Engagement with LRALC.
Risks:	It is a legal requirement to have a Members' Code of Conduct. Having a compliant code which follows, in large part, the LGA Model may reduce the risk of any challenge to NWL processes.
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