

READING BOROUGH COUNCIL

REPORT BY EXECUTIVE DIRECTOR OF RESOURCES

<b>TO:</b>	STANDARDS COMMITTEE		
<b>DATE:</b>	10 MARCH 2021		
<b>TITLE:</b>	CODE OF CONDUCT		
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<b>SERVICE:</b>		<b>WARDS:</b>	ALL
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**1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 This report outlines the new recommended Code of Conduct which is published by the Local Government Association. The Standards Committee is asked to review the new Model Code, with a view to adopting it in its entirety or with revisions.
- 1.2 On 23 December 2020, the Local Government Association (LGA) published a model Councillor Code of Conduct (the Model Code). The Model Code, attached at Annex 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.
- 1.3 The LGA describes the development of the Model Code as being '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'.
- 1.4 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.
- 1.5 It is the role of the Standards Committee to determine whether to recommend the Model Code, amended or otherwise to Council for inclusion in the Council's Constitution.
- 1.6 The report presents the Model Code, compares it to the Council's current Code of Conduct, attached at Annex B, raises specific issues to consider in relation to amendments and offers choices to the Committee.

**2. RECOMMENDED ACTION**

**Standards Committee is asked:**

- 2.1 That the Model Code, with agreed amendments, be recommended to Council for adoption.

**2.2 That a training programme for the new adopted Code be developed and presented by the Monitoring Officer after the next Council elections for the benefit of all new and existing councillors.**

### **3. POLICY CONTEXT**

3.1 The Council has established six corporate priorities (which were refreshed in Spring 2019) and cover the period 2018-21. These priorities are:

- Securing the economic success of Reading
- Improving access to decent housing to meet local needs
- Protecting and enhancing the lives of vulnerable adults and children
- Keeping Reading's environment clean, green and safe
- Promoting health, education, culture & wellbeing
- Ensuring the Council is fit for the future

3.2 Full details of the Council's plan and the actions which will deliver these priorities are published on the [Council's website](#). These priorities and the Corporate Plan demonstrate how the Council meets its legal obligation to be efficient, effective and economical. This report concerns good governance in the Council and is relevant to the Corporate Priority, "Ensuring the Council is fit for the Future".

3.3 The Localism Act requires all Councils to have a local Member Code of Conduct. The Council's current Code was adopted on 23 October 2012 is largely based on the Council's Pre-Localism Act code (amended appropriately) and taking into account the advice which was in circulation at that time.

#### **New LGA Model Code**

3.4 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).

3.5 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 a limited issue in Reading and for the other Berkshire unitaries. All six councils may have councillors serving on the Royal Berkshire Fire and Rescue Authority, and whilst some areas like West Berkshire have many parishes, Reading has none. Nevertheless, I have opened discussions with the Monitoring Officers of the other councils to see what approach they are taking.

3.6 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.

3.7 Discussions with Monitoring Officers from neighbouring authorities indicate a collective leaning towards adoption of the Model Code albeit with some variations. Most intend to take the issue to upcoming meetings of their Standards Committees (or equivalent).

3.8 Appendix C of the 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.

3.9 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 consultation recently conducted by the LGA, it is not recommended that consultation is currently required on a local basis should the decision be to recommend to Council adoption of the Model Code.

3.10 The Committee should also consider how frequently the Code is to be reviewed. The annual review recommended by CPSL is best practice and there is clearly merit in ensuring that the Code is current and having an opportunity to deal with any obvious points that need amending. On the other hand, concern has been raised about the practicality and feasibility of annual reviews with consultation built in having regard to the work programme of the Committee generally. If an annual review is not considered feasible, a solution may be an annual light touch health check and a full review as recommended by the Monitoring Officer dependent on the issues which arise from its operation and the complaints received.

3.11 The Model Code:

- Continues to require upholding the Seven principles of public life (the Nolan Principles)
- Contains twelve 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 first person
- Sets out when the Code applies: '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'
- 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

### **Specific Issues for Consideration**

3.12 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.

### **Social Media**

3.13 A tricky and prevalent issue most local authorities is the application of the Code to councillors' activity on social media. The Council's current Code does mention social media and an obligation to abide by the Social Media Protocol. However, this protocol mainly relates to the use of social media by councillors in council meetings, and now appears to be somewhat "dated" guidance. It does not assist with

consideration of code of conduct complaints arising from councillors use of social media, nor dealing with difficult residents who harass councillors on social media. 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'. Councillors may wish to consider if they wish to review their social media protocol at a future meeting.

- 3.14 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, 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.

### **Gift and Hospitality Threshold**

- 3.15 The monetary threshold of £50 and over for registration of gift and hospitality in the Model Code is more than the £25 threshold in the Council's current Code of Conduct. To assist the Committee in determining the appropriate threshold, the LGA reports that over seven in ten respondents (72 per cent) supported £25 as the threshold for registering gifts and hospitality. 9% of respondents thought that the threshold should be lower than £25 while 16 per cent felt that it should be higher.

### **Dealing with Disrespect**

- 3.16 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'. Alternatively, councillors could be encouraged to speak with the Monitoring Officer who is able to advise on such matters.

### **Exempt Information**

- 3.17 When explaining the obligation in relation to 'Confidentiality and access to information' the Model Code refers to information that would be contained in what is known as 'green papers' locally in the Council. This is information, that, in accordance with Schedule 12A of the Local Government Act 1972 and the Council's Access to Information Procedure Rules has been deemed to be exempt information and were historically presented on green paper to councillors in advance of a meeting.
- 3.18 In the context of these constitutional Rules and the law, 'confidential' has a restricted meaning: 'information furnished to the Council by a Government Department upon terms which forbid the disclosure of the information to the public and information the disclosure of which to the public is prohibited by law or order of the Court'.
- 3.19 In practice there is limited confidential information whereas exempt information, on the other hand, is in practice the majority of what is contained in green papers. Exempt information is defined by seven categories which include legal professional privilege and information relating to the financial and business affairs of the Council.
- 3.20 The operation of this clause is quite complicated, and it contrasts with the plain English adopted throughout the rest of the document. It may be that the Committee wishes to adopt a more straightforward obligation on councillors when dealing with Exempt and Confidential information, namely to seek advice from the Monitoring

Officer before releasing any paper which is marked, or could reasonably be assumed to be, confidential or exempt.

#### **4. OPTIONS**

4.1 There are several choices open to the Committee:

- (a) recommend no change to the current Code of Conduct and resolve to continue with the existing Code of Conduct
- (b) recommend to 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, neighbouring authorities and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the Model Code.

#### **5. ENVIRONMENTAL AND CLIMATE IMPLICATIONS**

5.1 The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers).

5.2 There is nothing within this report which is of relevance for the Council's strategic priority of Climate Change.

#### **6. COMMUNITY ENGAGEMENT AND INFORMATION**

6.1 Section 138 of the Local Government and Public Involvement in Health Act 2007 places a duty on local authorities to involve local representatives when carrying out "any of its functions" by providing information, consulting or "involving in another way".

6.2 It is not anticipated that there will be public consultation on the Model Code of Conduct. It will however be in the public domain at Standards Committee and Council (if recommended to approve the adoption of the Model Code).

#### **7. EQUALITY IMPACT ASSESSMENT**

7.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2 An Equality Impact Assessment (EIA) is not relevant to this report.

#### **8. LEGAL IMPLICATIONS**

8.1 The Council is bound to maintain a Councillor Code of Conduct and to publish arrangements to advise residents how complaints can be made under the Code.

#### **9. FINANCIAL IMPLICATIONS**

9.1 There are no direct financial implications arising from this report.

**10. BACKGROUND PAPERS**

10.1 There are none