

READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

TO:	Council		
DATE:	18 October 2022		
TITLE:	CODE OF CONDUCT		
LEAD COUNCILLOR:	Cllr Liz Terry	PORTFOLIO:	Corporate Services and Resources
SERVICE:	Legal and Democratic	WARDS:	Boroughwide
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 On 23 December 2020, the Local Government Association (LGA) published a model Councillor Code of Conduct (the Model Code). The Model Code is described by the LGA as 'designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.
- 1.2 The Standards Committee at its meeting on 10 March 2021 (Minute 3 refers) considered the Model Code and agreed two amendments in principle to be carried into a final revised document.
- 1.3 The first amendment was regarding the monetary threshold for gifts and hospitality of £50.00 in the Model Code which was above the £25.00 in the current Code of Conduct. Therefore, the Committee recommended that the current £25.00 was an appropriate figure and the Model Code should be amended to reflect this in relation to Reading Borough Council's Code of Conduct.
- 1.4 The second amendment was in respect of exempt information. The Committee noted that the operation of the clauses set out in paragraph 4.1 of the Model Code was complicated. These were in relation to matters a councillor was required to take into account when dealing with exempt and confidential information. The Committee therefore agreed that Councillors should seek advice from the Monitoring Officer before releasing any paper which was marked, or could reasonably be assumed to be, confidential or exempt.
- 1.5 The Code sits under the remit of the Standards Committee in Article 9 of the Constitution. This is now reviewed as Appendix 1. The revised Model Code with the proposed amendments is now attached at Appendix 2.
- 1.6 The Committee also requested that a revised set of Arrangements for dealing with complaints be considered and these are attached at Appendix 3 for consideration.
- 1.7 The Committee met on 10 October 2022 to review the final revised Code of Conduct and the associated documents and make recommendations to Council for their adoption (see section 2 below).

2. RECOMMENDED ACTION

The Standards Committee recommend:

- 2.1 That the proposed Revision to Article 9 of the Constitution (as shown in Appendix 1), be adopted.
- 2.2 That the proposed Member Code of Conduct (as shown in Appendix 2), be adopted.
- 2.3 That the proposed Arrangements for Dealing with Allegations of Misconduct (as shown in Appendix 3), be adopted.
- 2.4 That the proposed Policy for Unreasonable and Unreasonably Persistent Complaints, (as shown in Appendix 4) be adopted.
- 2.5 That the proposed Hearing Procedures (as shown in Appendix 5), be adopted.

3. POLICY CONTEXT

- 3.1 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 considering the advice which was in circulation at that time.
- 3.2 A new Model Code of Conduct was produced by the Local Government Association (LGA) following a report of the Committee for Standards in Public Life (CSPL) recommending local authorities to adopt a standard Code of Conduct.
- 3.3 At the meeting on 10 March 2021, the Committee considered the Model Code of Conduct and requested that amendments be made to two areas:
 - That the monetary threshold relating to gifts or hospitality received of £50.00 be reduced to £25.00 as they considered that the current amount of £25.00 was an appropriate figure.
 - Regarding exempt information, the LGA Model Code of Conduct states:
 - *As a Councillor -*
 - 4.1 *I do not disclose information:*
 - a. *given to me in confidence by anyone*
 - b. *acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless*
 - i. *I have received the consent of a person authorised to give it;*
 - ii. *I am required by law to do so;*
 - iii. *the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or*
 - iv. *the disclosure is:*
 1. *reasonable and in the public interest; and*
 2. *made in good faith and in compliance with the reasonable requirements of the local authority; and*
 3. *I have consulted the Monitoring Officer prior to its release.*
- 3.4 The Committee considered that the above clauses above were complicated and recommended to amend this so that councillors should seek advice from the Monitoring

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

- 3.5 The Model Code of Conduct has been amended to reflect the above changes by the Standards Committee and is being proposed at this meeting
- 3.6 In addition to the duty under the Localism Act 2011 to maintain a Code of Conduct, the Council is also under a duty have in place:
 - (a) arrangements under which allegations can be investigated, and
 - (b) arrangements under which decisions on allegations can be made.
- 3.7 At present all these arrangements are contained in Article 9 of the Constitution. Whilst this is a public document, it is not easily accessible by members of the public and it is submitted that the arrangements would be somewhat difficult to find for the reasonable person on the orange bus. It is therefore proposed to take the “arrangements” out of the Constitution and publish them separately on the Council’s website along with a copy of the Code. This would more easily permit any person with a concern to be signposted to the right documents to understand what the relevant standards are, and what the process is for making a complaint.
- 3.8 Alongside this, it is proposed that the remit of the Standards Committee is expanded to take responsibility for the Arrangements, so that they can be kept under review by the Committee and amended based on experience.
- 3.9 The proposed Arrangements document is enclosed for members to consider. Thereafter, if Council endorses the amended Article 9, the Committee would be responsible for future revisions of the Arrangements document.
- 3.10 The proposed Arrangements document is also supplemented by an assessment criteria which guides the Monitoring Officer in the initial disposal of complaints which may not warrant further investigation. This includes a policy for unreasonable and unreasonably persistent complainants.
- 3.11 Finally, a Hearing Procedure is proposed for any matters which need to be considered by the Standards Committee after there has been an investigation, and where local resolution by the Monitoring Officer has not been possible.

4. THE PROPOSAL

- 4.1 That the attached amended Article 9, the amended Code of Conduct for Reading Borough Council, the Arrangements Document, the Policy for Unreasonable and Unreasonably Persistent complaints and the Final Hearing Procedures be approved.
- 4.2 There were two alternative options open to the Committee:
 - (a) recommend no change to the current Code of Conduct and resolve to continue with the existing Code of Conduct: or
 - (b) recommend to Council the adoption of the Model Code without potential amendments
- 4.3 Neither of these alternatives are recommended. The current Code is out of date and is largely based on the previous statutory code promulgated by the now defunct Standards Board for England. The Localism Act guidance recommended a lighter touch Code, but the absence of a single clear model and lack of detail about what “lighter touch” meant, resulted in councils adopting very different Codes.

- 4.4 In areas where councillors belong to more than one local government entity, e.g. county and district; unitary and fire authority, this meant that councillors were following different models.
- 4.5 The review of the Committee for Standards in Public Life reported in 2019:
- “Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes”.*
- 4.6 Adoption of the Model Code in full, without the proposed amendments, is not recommended. This option was previously discussed in 2021 and the Standards Committee agreed that the level of gifts and hospitality was too high and the provisions relating to disclosure of confidential or exempt information were unnecessarily complicated and that greater simplicity was to be preferred. Adopting a Code in the form of Appendix 2 addresses the points made by the Committee for Standards in Public Life in that it offers a Code with greater consistency and quality than our existing Code. It will be substantially in accordance with the recommended Model, and councillors should find it a more helpful model and one which accords with their responsibilities at other organisations such as the Fire Authority.

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 The Council’s new Corporate Plan outlines its vision and priorities for Reading for the next three years (2022/25). The Council’s vision is to help Reading realise its potential and to ensure that everyone who lives and works here can share the benefits of its success. To make this vision happen, the work of the Council is focused around three Corporate Plan themes:
- Healthy Environment
 - Thriving Communities
 - Inclusive Economy
- 5.2 These themes are underpinned by the TEAM Reading principles which explain the way we work at the Council:
- Team
 - Efficiency
 - Ambitious
 - Making a difference
- 5.3 Full details of the Council’s Corporate Plan and the projects which will deliver these priorities are published on the Council’s website [Corporate Plan-2022-25](#).
- 5.4 The Council’s strategic aims are underpinned by the ability of Reading people to participate in local democracy through effective consultation and communication. This is only likely to be successful if people have confidence in the integrity of its members. The Members’ Code of Conduct and the local Standards Committee will assist in building and maintaining that confidence.

6. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

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

7. COMMUNITY ENGAGEMENT AND INFORMATION

7.1 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".

7.2 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).

8. EQUALITY IMPACT ASSESSMENT

8.1 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.

8.2 It is not considered that an Equality Impact Assessment (EIA) is relevant to the decisions arising from this report.

9. LEGAL IMPLICATIONS

9.1 The Council is required to maintain a Councillor Code of Conduct and to publish arrangements to advise residents how complaints can be made under the Code. The recommendations of this report are consistent with the Council's legal duties.

10. FINANCIAL IMPLICATIONS

10.1 There are no specific budget lines in the Council's estimates for standards, or the costs of investigating complaints about Councillors. It is not anticipated that this report has any direct financial implications.

11. BACKGROUND PAPERS

11.1 There are none

APPENDICES

- (1) Proposed Revision to Article 9 of the Constitution
- (2) Proposed Member Code of Conduct
- (3) Proposed Arrangements for Dealing with Allegations of Misconduct
- (4) Proposed Policy for Unreasonable and Unreasonably Persistent Complaints
- (5) Proposed Hearing Procedures