

Civility in public life – project proposal

Purpose of report

For direction.

Summary

- This report sets out a proposed programme of work entitled ‘civility in public life’ to address the concerns raised by our membership around intimidation of those in public office and also the concerns about the standards of public and political discourse and debate.
- Leadership Board are asked to provide comment on the paper and its proposals.
- Officers are looking for a steer on:
 - the objectives of the programme
 - the elements of the programme and their delivery

Recommendation/s

- That the work programme is endorsed and adopted

Action/s

- Officers will modify the work programme as directed and once agreed
- Officers will deliver the agreed work programme

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Introduction

1. Members of the LGA, WLGA, COSLA and NI have all expressed concerns about the increasing intimidation of councillors, the increasing toxicity of debate and the impact on the democracy of our country, particularly on the decision-making processes that affects our local communities. There are calls for the LGA to coordinate a programme of work, and it is proposed that the LGA takes this on through a programme of work entitled 'Civility in Public Life'. This paper sets out a number of initial outline proposals.
2. So far, the LGA has:
 - Developed a toolkit for enabling women, carers and parents to become councillors, which addresses some of the above issues.
 - Launched a guide for councillors on handling intimidation
 - Discussed the issue at Leadership Board
 - Issues an informal call for evidence through the political groups
 - Submitted evidence to parliamentary debates
 - Held sessions at the 2019 LGA annual conference

Background

1. One of the most pressing concerns facing the conduct of public life at the moment is the increasing incidents of intimidation and abuse by members of the public against councillors. These attacks risk the personal safety of our members, undermine local democracy and decision-making, and can put off prospective candidates from standing. Intimidation and physical threats of violence against councillors are a real and growing concern in every area of the country. Whilst debate and having different views is all part of a healthy democracy; abuse, public intimidation and threats are designed to undermine democratic decision making by generating fear in those who represent it.
2. Intimidation, abuse and harassment of councillors is a crime, as it would be towards any member of the public. However, reports from LGA members indicate that there is not a consistent response from the police across the country and that there is confusion about reporting, support, the legislation, and the broader impacts for our society and democracy.
3. We need a wider discussion with our citizens on how they involve themselves in public debate. We collectively need to be clear that abuse, harassment, intimidation and violence is not the way for anyone to engage in modern-day politics.
4. Concern has also been raised about incidents of intimidation within councils, involving councillors as well as officers. If we expecting decent standards of behaviour from

members of the public when they engage with councillors, then good standards of behaviour need to be modelled within the council.

Purpose

5. The purpose of the programme is:
 - To address the intimidation of local government members and officers
 - To address standards of public discourse
 - To address standards of political discourse and behaviour in public office
 - To provide support and advice to councils and councillors

Objectives

6. The LGA's objectives in embarking on this programme of work are:
 - 6.1. To articulate what local government believes are good standards for anyone engaging in public and political discourse and debate, and what is needed to achieve these standards.
 - 6.2. To show leadership at a local, national, UK-wide and international level in good standards of political debate, engagement and decision-making, demonstrating the positive impact it can have.
 - 6.3. To understand the scale and impact of intimidation and abuse behaviour our membership is experiencing.
 - 6.4. To challenge the 'new-norms' of intimidation, abuse, threats and aggressive behaviour by many engaging in political and public discourse.
 - 6.5. To demonstrate the impact that intimidation and abusive behaviour in our political system and from the general public has on our democratic system, and recommendations for achieving positive debate and public engagement in local decision-making.
 - 6.6. To support its member councils in addressing intimidation and abuse.
 - 6.7. To enhance the reputation of local government and local politicians, and encourage more people to become councillors by addressing the issues of intimidation and abuse.
 - 6.8. To support all democratically elected local representatives in delivering their best on behalf of their local communities.
 - 6.9. To build on the good practice that already exists within member councils.

Scope

7. It is proposed that the scope of this work encompasses local government members and officers, given the increasing reports that those both elected and employed in public office are experiencing intimidation and abuse due to their public-facing roles. As such, it is proposed that the LGA engages with member-led partner organisations as well as officer-led partners organisations such as SOLACE and Lawyers in Local Government.
8. It is also proposed that the LGA works with its counterparts in Wales, Scotland and Northern Ireland, as members of the WLGA, COSLA and NILGA have expressed similar concerns to members of the LGA. This provides the opportunity for a powerful message that local government does not accept that its councillors or staff should accept intimidation and abuse because of their roles in public life, which it is undermining our democratic structures and public services, and that national action is urgently required.

LGA Leadership

9. The LGA is in a position to provide leadership through:
 - Engaging in positive political discourse
 - Challenging poor political discourse
 - The application of consistent and high standards for all public office
 - Emphasising the benefits of becoming a councillor, encouraging prospective candidates to stand for public office and encouraging a diversity in candidates
 - Demonstrating the positive outcomes that can be achieved through civil and respectful debate, discussion and decision-making within and between political parties
 - Accepting and promoting a council duty of care for the wellbeing, safety and security of councillors
 - Facilitating a pan-UK local government response

Opportunities and risks

10. Undertaking this programme of work offers the LGA the opportunity to demonstrate leadership; to central government, to local government and to the public, on standards in public debate and engagement. It also provides the opportunity for the LGA to respond to concerns raised by our membership, our UK colleagues in Wales, Scotland and Northern Ireland, as well as central government.

11. There are increasing opportunities for the LGA to engage and promote our messages with partners and stakeholders in addressing issues of public discourse and intimidation. The Committee on Standards in Public Life has undertaken research in this area and reported a number of recommendations and the Cabinet Office has now developed a 'defending democracy' work programme. Parliament has debated the toxicity of debate in the House of Lords and the House of Commons, and the APPG on Women in Parliament is specifically addressing the issue of intimidation and threats against politicians. The Jo Cox Foundation is working with the political parties on a joint approach to tackling intimidation, and the LGA has approached them to work at the local level as well as the national level.
12. There is also the opportunity to utilise the potential within the review of the member model code of conduct to address issues of public intimidation, care and support of councillors, and the promotion of good standards of political and public debate for all those in public office.
13. However, there is a risk that the LGA will receive criticism from those who feel their political culture is being threatened. In addition, addressing issues of intimidation, especially on social media, and raising the profile of the LGA as leaders in this area may draw the attention of the people who undertake such activity. The LGA will need to acknowledge this risk, determine if it is willing to draw the attention of those who post abuse on social media sites and apply appropriate safeguards. The nature of any public-facing communication will need to be carefully considered.

Components of the proposed programme of work

14. It is proposed that the LGA focuses on three elements – prevention, support and challenge:

Prevention

- 14.1. Improvement support and guidance for our member authorities, building on our existing improvement and leadership programmes and the guide for councillors on handling intimidation
- 14.2. Desktop research into the prevalence, impact, good practice and international action on the intimidation of those in public office.

Support and intervention

- 14.3. The development of policy and legislative proposals with partners, government and stakeholders that address intimidation and standards of public discourse, particularly with a view to gaining a more consistent and robust response from the police and Crown Prosecution Service (CPS). This includes the proposal

for a new criminal offence for intimidating a person in public office and engagement with Police Crime Commissioners (PCCs).

- 14.4. Exploring the potential for an informal council 'duty of care' towards its councillors as good practice.
- 14.5. A revision of the local government model code of conduct (appendix 1) with a view to promoting it as standard for all in public office.

Challenge

- 14.6. The development of a pan-UK commitment and public statement for discussion at the UK Forum for the leaders of all the UK local government associations taking place in November 2019.
- 14.7. Exploring opportunities for a public and political-facing campaign.

Oversight

15. It is proposed that a small member-led steering group oversees the civility in public life work programme to provide ongoing insight and commentary and where operational decisions can be made. Significant decisions and updates will be brought back to Leadership Board. It is proposed that this group consists of one nominated representative from each of the political groups.

Prevention - improvement and support

16. There is the opportunity, through the LGA's existing improvement and support programme for councillors, to include issues relating to intimidation and standards of public and political discourse.
17. This could be extended to include more specific support and training for members around safety, security and utilisation of social media. We have had reports of members being advised to come off social media if they are experiencing intimidation and abuse, but social media is an increasingly important and relevant way of engaging residents, voters and the general public on important issues. The focus should be on empowering members to be savvy on social media and creating a safe and positive online environment rather than restricting the ability of councillors to engage in this important form of communication. This will also link across the policy work stream.
18. This support could include a statement for websites and social media indicating the standards of communication expected and the consequences should engagement fall short. This has been adopted by some MPs, including Harriet Harmon, as well as the Royal Family.

Prevention - research

19. It would be useful, in terms of supporting our messages and providing support to our members, to improve our understanding of the experiences our councillors are having and the impact on both them as individuals and on our democratic systems. The sessions at the LGA Annual Conference in July 2019 revealed a worrying level and intensity of intimidation and abuse, with experiences shared by both newly appointed councillors as well as long serving councillors; from both men and women, from across backgrounds, cultures and political party.
20. It would also be useful to establish more examples of good practice from our member councils, and also across the UK and in other countries.

Support and intervention - policy development and stakeholder engagement

21. The Cabinet Office has recently consulted on changes to electoral law so that individuals who intimidate candidates during a local election would lose their right to stand for election. The same consultation also highlighted that there is existing legislation that should apply to incidents of intimidation. However, evidence from our members indicate that there is a varied approach being applied by police across the country. Statements such as being 'fair game' for abuse, for it 'not being in the public interest' to prosecute and that it is acceptable for individuals to be abusive to those who take on public office is undermining the ability of our local councillors to carry out their public duties and feel protected.
22. As such, the LGA will develop further proposals, including exploring the potential for an offence in criminal law for intimidating a person in public office. This would extend the offence currently proposed by Government within electoral law that simply restricts a person from standing for election as a penalty for intimidating a candidate. Addressing these issues would be a priority for the work programme.
23. The Cabinet Office has developed a 'defending democracy' programme and the Home Office is also exploring the issue of intimidation on social media. Government has also recently consulted on an 'online harms' white paper which seeks to address online intimidation and the Jo Cox Foundation is working across government on a joint approach to tackling intimidation. It will be important that the experiences and views of local politicians is also considered in this work.
24. Another issue that has been raised by councils is the cost associated with increased security for members. Whilst national politicians receive funding from parliament for their personal security, and can have security advisers to review their household arrangements, there are no such provisions for local politicians, many of whom will have a similar profile or levels of engagement with the general public. In some cases the

police have paid for security arrangements, and in others the council has paid, but the landscape is not clear. The issue of responsibility and funding for personal safety and security also needs to be addressed and clarified.

25. It is proposed that the LGA convene a working group to help develop proposals around addressing the intimidation of councillors, and all those in public office. This would include stakeholders such as MHCLG, the Home Office, PCCs, SOLACE, Lawyers in Local Government, SOLACE, etc.

Support and intervention - exploring an informal council 'duty of care' for councillors

26. Alongside confusion about paying for personal safety and security, there has been confusion about the degree of support councils should and can give their councillors in instances of intimidation and abuse, particularly as they are not employees and as such don't fall within employment law – and whether the provision of support crosses the line into political interference. Some councils do open up their employee support packages to members, and others do not, and there will be a cost implication for councils.
27. The WLGA has had a conversation with its members regarding this issue and they have informally agreed to provide support to their members alongside the support they give to their employees.
28. Discussions with members has resulted in the proposal for an informal 'duty of care' that councils could adopt to make clear the support they can and will give their members, and to encourage such provision of support.
29. Endorsing an informal duty of care would require:
- A clear commitment from the LGA that they support an informal 'duty of care' to councillors as good practice.
 - Engagement with the sector regarding the implications of such an approach.
 - A recognition that there may be a cost implication and engagement with the sector on this.
 - Engagement with representative organisations such as SOLACE and Lawyers in Local Government to better understand the implications and gain support.
 - The provision of guidance to help councils differentiate between political intervention and the provision of support to councils who may be experiencing intimidation.

Support and intervention - a revision of the member model code of conduct

30. Please see section 2 on reviewing the model code of conduct for more detailed proposals.

Challenge - pan-UK local government initiative

31. The UK Forum for the leaders of all the UK local government associations taking place in November 2019 provides the opportunity to develop and launch a powerful message that local government does not accept that its councillors or staff should accept intimidation and abuse because of their roles in public life, which it is undermining our democratic structures and public services, and that national action is urgently required. This could be in the form of a commitment and/or public statement.
32. We could then encourage other organisations and representative groups to support the public statement.

Challenge - a public and political facing campaign

33. The LGA could explore the appetite and opportunity for public-facing media-based resources to help councils communicate the best ways to engage with councils and councillors. For example, short videos to encourage people to think about how best to communicate their issues to councils rather than, for example, sending abusive communications via twitter.
34. The LGA could also promote its messages around good standards in political discourse and local impact of intimidation of councillors, any joint pan-UK statement and its revised model code of conduct to national politicians and political parties.

Section 2 - Civility in Public Life - the review of the model code of conduct

Why is the model code of conduct being reviewed?

35. The LGA is undertaking a review of the member model code of conduct in response to the recommendations made by the Committee on Standards in Public Life, but also in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement.
36. The LGA aims to develop a code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It will set out the duties and expectations of persons in public office as well as their rights, particularly their right to be protected from abuse and intimidation resulting from their undertaking of public office.
37. The LGA's objectives in reviewing the model code of conduct are to:
 - Articulate what local government believes are good standards for all in public office

- Show leadership in good standards of conduct for those in public office, both elected and as employees
- Achieve consensus between the stakeholders affected by local government conduct
- Support its member councils and partners in achieving good standards of conduct
- Produce a code that is fit for purpose, useful and held in high regard
- Enhance the reputation of local government and local politicians
- Support the good running of councils
- Support all democratically elected local representatives to deliver their best on behalf of their local communities
- Build on the good practice that already exists within member councils

Why the LGA?

38. The LGA is well placed to lead on the review and renewal of the model code of conduct because, as set out in the articles of association of the Local Government Association, the LGA's objects are:

- to support, promote and improve local government in England and Wales
- to represent, wherever possible by consensus, the interests of Member Authorities to national governments, to Parliament, to political parties, to European and other international institutions and to other bodies, and to negotiate on behalf of local government
- to formulate policies to support the improvement and development of local governance, effective management in local authorities and the enhancement of local democracy in England, Wales and elsewhere
- to provide forums for discussion of matters of common interest and/or concern to Member Authorities, including groups of Member Authorities, and a means by which **joint views may be formulated and expressed**
- to endeavour to give democratically elected local representatives from different political groups the opportunity to contribute to the Association's work and to the development of policies which represent, as far as possible, **consensus between the political groups and between groups of Member Authorities**
- to support all democratically elected local representatives of Member Authorities

39. The LGA also has the responsibility to speak for all Member Authorities in matters of local government in general or which concern all Member Authorities.

40. In this way, the LGA is well placed to bring together the different stakeholders under the umbrella of local government to achieve understanding and consensus, which will be vital for the adoption and success of any reviewed and renewed code of conduct. It will be important to understand, respect and bring together the range of views on the code of conduct if it is to be successful.

How will the LGA review the model code of conduct?

41. The LGA aims to work collaboratively with a range of officer and member stakeholders in a spirit of co-production. As such, the LGA will engage with the representative organisations set out in section 4 and also with officers and members across the country.
42. The LGA is using the existing model code of conduct (Appendix 1) as baseline and seeking to achieve the objectives set out in section 43 of this paper.
43. The LGA will gather evidence and opinion on what is needed in an updated and fit-for-purpose code, including considering the review into local government ethical standards undertaken by the Committee on Standards in Public Life and the evidence submitted to the review. The LGA will research the existing local bespoke codes currently used by councils across the country and will work with elected members and officers to consider and evaluate good practice.
44. The LGA will seek to identify good practice codes from the range of tiers of government, other sectors, and organisations that address important issues for local government and public office.
45. The LGA will hold a workshop with members, officers and representative organisations during this period as part of the broader LGA Civility in Politics work. This workshop will also present an opportunity for an exchange of ideas, developing an understanding of the different stakeholders' views with the aim of co-production, collaboration and consensus.
46. From this exercise a collection of suggested propositions for inclusion in the final model code will be presented to the LGA Leadership Board. Following the outcome of the Leadership Board consideration, a draft model code will be prepared for consultation.
47. The form of consultation will need further discussion and will be determined by how the model code develops. The LGA will use its existing methods of research, communication and engagement with its membership, partners and stakeholders. This could include conferences, round tables, regional meetings, online forums, etc, with the aim of achieving as wide a sector engagement as is possible.
48. It is proposed that the consultation period should be a minimum of 8 weeks.
49. The outcome of the consultation and a draft final model code will be presented to the LGA Leadership Board for final discussion and approval. It is recommended that Leadership Board put forward the final model code, as part of its broader work on Civility in Politics, to the LGA General Assembly, held at the LGA annual conference in July, for adoption.

Who will the LGA work with to review the model code of conduct?

50. It will be important, if the review of the model code of conduct is going to result in a consensus about good standards in public office and the generation of a code that members and officers consider attainable and workable, that organisations that represent smaller family groupings within local government form part of the creation, adoption and promotion of the code, in a spirit of co-production. As such, the LGA will seek to engage with:

- The National Association of Local Councils (NALC)
- County Council's Network (CCN)
- District Council's Network (DCN)
- SOLACE
- Lawyers in Local Government
- Association of Democratic Services Officers
- Society of Local Councils Clerks
- Monitoring Officers Network

51. The LGA will also seek the views of MHCLG, the Home Office and the Committee on Standards in Public Life.

How will a final renewed code of conduct be agreed?

52. The structures of the LGA mean that the final sign-off of the code on behalf of the LGA and its member authorities will be the responsibility of the LGA's Board of Directors / Leadership Board, which they will do on behalf of all member authorities in local government. The LGA will also seek, in a spirit of consensus and collaboration, for NALC, CCN, DCN, SOLACE, Lawyers in Local Government, the Association of Democratic Services Officers, the Society of Local Councils Clerks, Monitoring Officers Network, and MHCLG to also endorse the revised model code of conduct. It is also proposed to take the updated model code of conduct to LGA General Assembly at the July 2020 annual conference.

53. The LGA's work on the model code of conduct will provide an opportunity for the LGA to review its own procedures.

Developing consensus in the development and adoption of a renewed model code of conduct

54. For the model code of conduct to have traction with the sector, it will need to address the expectations, views, opinions and experiences of members and officers, recognise the value of good political discourse and how trust in local government is affected by conduct. The LGA's organisational structures mean that agreement is on behalf of local government, rather than a single interest group within the local government structure and family.

55. Members at the LGA have expressed their view that, as individuals whose behaviour is being modelled in the code of conduct, it is essential that they oversee and are fully involved in its development and can sign up to it. The LGA has championed the value of peer-to-peer review and support, and we will embrace those principles in the review of the code. It is in the interests of the LGA and all elected members that the office of local councillor is imbued with trust and a high degree of ethics so that their role and decisions can be robustly defended. It is also important in the continued recruitment of future councillors.
56. Members at the LGA want to ensure that the code will be compatible with upholding the country's democratic principles and structures, and on-going political representation for their residents. They want to see an equal expectation of conduct between members and officers, between members, with the general public, and with others in public office such as Police Crime Commissioners and MPs, so that all are clear about the expected behaviour and the procedures should their behaviour fall short.
57. Members at the LGA also want to ensure that the code is not used as a tool that could remove members on grounds that may not follow natural justice or that it is abuse for personal or political gain by members, officers or the general public. The code needs to provide safeguards for both members and officers.
58. We want to achieve a shift in attitudes that sees the code of conduct as a tool to support members in achieving good standards in public office, rather than a tool that simply penalises poor behaviour. The code should be a way of supporting members who have been subjected to poor behaviour by members and/or staff and/or the general public.
59. It is also important that the impact on staff and the running of the council, should a member's behaviour fall short of what is expected of public office, is given due weight in any review, and that the code provides the tools to address such behaviour.
60. For the code to be successful we need to seek to build consensus, with the primary objective that the code articulates the standards that are expected for anyone in public office or working for the public.
- 61. Outline timetable**
- September 2019 – discussion with Leadership Board
 - October 2019 – research begins
 - November/December 2019 – research and engagement with stakeholders and councils including LGA workshop
 - January 2020 – creating of proposal draft code and discussion with Leadership Board on 22 January
 - February/March/April 2020 – consultation with member authorities and stakeholders

- May 2020 - bringing together draft code
- June 2020 – draft code to Leadership Board on 3 June for final discussion and approval
- July 2020 – final code launched at LGA General Assembly

Implications for Wales

62. The LGA has worked jointly with the WLGA in the development of its ‘guide for councillors on handling intimidation’ and in the associated session at the LGA 2019 annual conference. The WLGA is keen to work with the LGA on the issue of intimidation, and its Chair, Cllr Debbie Wilcox, has been active on the issue.
63. Cllr Wilcox has set up a diversity in local government group with the leaders of all councils in Wales. Part of its remit is to look at culture in councils and political respect.
64. The WLGA has also engaged with its monitoring officers and all have agreed informally that their councillors will be supported and have the same access to support as employees.
65. The WLGA is hosting the UK Forum for lead members of the UK local government associations on 2nd and 3rd November in Cardiff.

Financial Implications

66. This work programme would be met from existing budgets.

Next steps

67. Officers will take on board the comments and direction and revise the programme accordingly.

Appendix 1

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member - You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, including your membership of any Trade Union, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register or which you consider should be included if you are to fulfil your duty to act in conformity with the Seven Principles of Public Life. These non-pecuniary interests will necessarily include your membership of any Trade Union.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.