

CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 4
8 FEBRUARY 2021	PUBLIC REPORT

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Fiona McMillan, Director of Law and Governance and Monitoring Officer	Tel. 452409

LGA MODEL CODE OF CONDUCT

RECOMMENDATIONS	
FROM: <i>Director of Law and Governance and Monitoring Officer</i>	Deadline date: <i>N/A</i>
<p>It is recommended that the Constitution and Ethics Committee considers the new Model Code of Conduct published on 23 December 2020 by the Local Government Association and provides early comment.</p>	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Constitution and Ethics Committee following a referral from the Monitoring Officer.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to provide the Committee with an opportunity to consider and provide initial comments on the new model code of conduct published by the the Local Government Association (LGA) on 23rd December 2020.
- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.2

Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members of the Council including:

- Promoting and maintaining high standards of conduct by Members and coopted members;*
- Assisting the Members and co-opted members to observe the Code of Conduct;*
- Advising the Council on the adoption or revision of the Members Code of Conduct and Officer Code of Conduct;*
- Monitoring the operation of the both Codes of Conduct;*
- Advising, training or arranging to train Members and co-opted members on matters relating to the Code of Conduct.*

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. BACKGROUND AND KEY ISSUES

- 4.1 The LGA wrote to all Councils on 18th February 2020 to provide an update on progress with revising the Model Code of Conduct. The background to this review was the report by the Committee on Standards in Public Life on Local Government Ethical Standards which was published on 30 January 2019 <https://www.gov.uk/government/publications/local-government-ethical-standards-report>. One of the recommendations of this report was that "The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of Councillors and officers of all tiers of local government". The proposed update to the Model Code of Conduct is the first major review since the new standards regime was introduced in the Localism Act 2011.
- 4.2 The LGA agreed in September 2019 to commence a review of the Code ahead of Central Government's response to the recommendations of the CSPL report. This work was part of a wider programme of work on Civility in Public Life, 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. Some of the recommendations in the CPSL report, for example the power to suspend councillors (recommendation 16), require legislation which meant that such provisions could not be included in the Code.
- 4.3 The original consultation timetable was postponed due to Covid-19. An online consultation on the draft code of conduct ran for 10 weeks between June and August 2020. Consultation responses were considered and a final version of the new model code finally published on 23rd December 2020 and is attached as **Appendix 1**. The LGA is currently creating a guidance document on how the provisions on the new Code should be interpreted and applied and it is anticipated that this will be published in March 2021.
- 4.4 The new model Code is non-statutory and can be adopted in whole or in part by local authorities. The current Peterborough City Council code (**Appendix 2**) was adopted following the Localism Act 2011 when local authorities were given the choice of what code of conduct to adopt. Prior to that there was a national code of conduct along with a national oversight body, Standards for England, and complaints processes and a range of potential sanctions were contained in law. Under the Localism Act 2012 all local authorities had to adopt a code of conduct which needed to contain the Nolan Principles of standards in public life along with the statutory provisions on Disclosable Pecuniary Interests (DPIs) which were set out in the 2012 Act. At this time many local authorities adopted a code that was very similar to the previous national code of conduct and others, such as Peterborough, opted to adopt the minimum required under the Act, although some amendments have been made since then
- 4.5 The main provisions of the new model Code of Conduct are:
- a) General principles specific to local government member conduct, building on the Nolan Principles, which are set out in an Appendix to the model Code.
 - b) Application to both elected and co-opted members (who are defined in the Localism Act 2011). The model Code applies when a member is acting in their capacity as a councillor and the model Code clarifies that this can include when a member of the public could reasonably have the impression a member was acting as a councillor. It encompasses all forms of communication and interaction, including conduct on social media.

c) Standards setting out expected behaviour, with examples. These cover treating people with respect, not bullying, harassing or unlawfully discriminating, promoting equality, impartiality, confidentiality and access to information, not bringing the council into disrepute, use of a member's position and use of council resources, compliance with the Code, including participating in training, registration of interests and disclosure of gifts and hospitality. The standards are set out in the first person ("I ...") so a member reads the Code as a personal commitment to behave in accordance with the standards. The majority of these provisions on behaviour are not currently in the Council's code of conduct.

d) The model Code specifies declaration of gifts and hospitality in excess of £50 following consultation with local authorities. The Council's current Code specifies gifts and hospitality in excess of £100.

e) The model Code sets out what members must do to register, declare and behave in meetings where they have a disclosable pecuniary interest under the Localism Act 2011, another registrable interest and a non-registrable interest. "Non-registrable interests" are a new introduction to the Code of Conduct to cover situations where a matter affects a member's financial interest or wellbeing, or that of a friend, relative or close associate. This provision recognises the limits of the statutory provisions to fully encompass interests that could reasonably be seen to affect a member's judgement of the public interest. It re-introduces to the Code interests that were described as "prejudicial interests" prior to 2012. The Council's current Code was amended in July 2018 to include "non-statutory disclosable interests" to incorporate requirements to declare, and in some circumstances take no part in discussion or voting, where a matter affects a member's financial interest, or that of a friend, relative or close associate so this provision is not new to the Council.

4.6 The Constitution and Ethics Committee is invited to provide early comment on the new Code. It will also be circulated to the leaders of each of the council's political groups, the Task and Finish Group on equality & diversity and senior officers prior to returning to the Constitution & Ethics Committee to consider recommendations to full Council, alongside the guidance to be published by the LGA. The Code of Conduct needs to be approved by full Council and incorporated into the Council's Constitution.

4.7 **Committee of Standards in Public Life**

On 20th July 2020 a letter was sent to all Local Authorities Chief Executives (**attached as Appendix 3**) as a follow up the 15 best practice recommendations made in 2019 Local Government report, representing a benchmark for ethical practice and which they expect any local authority should implement. The Committee intends to review the implementation of best practice in 2020 and will be writing to authorities later this year to seek their implementation progress. The council's response to the Committee on Standards in Public Life is attached as **Appendix 4**.

5. **CONSULTATION**

5.1 At PCC all members and parish councils were circulated the details of the consultation with an invitation for them to individually take part in the consultation exercise and details were also included in the weekly briefing to all staff inviting them to do the same.

6. **ANTICIPATED OUTCOMES OR IMPACT**

6.1 The Committee considers and provides initial comment to the new model code.

7. **REASON FOR THE RECOMMENDATION**

7.1 The Council needs to consider introducing a new Code of Conduct to update its current arrangements to address the concerns highlighted by the LGA in its report on Civility in Public Life and the recommendations of the CSPL. In its role of promoting and maintaining member standards in the Council, the Constitution and Ethics Committee can make an effective contribution to the adoption of a new Code.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 None at this stage.

9. IMPLICATIONS

Financial Implications

9.1 There are none.

Legal Implications

9.2 There are none at the current stage.

Equalities Implications

9.3 There are none.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10. LGA Model Code of Conduct

11. APPENDICES

11. Appendix 1 – new LGA model Code
Appendix 2 – current PCC code of conduct
Appendix 3 – Letter from CSPL
Appendix 4 – Response to CSPL