

TITLE OF REPORT: Local Government Association, Model Code of Conduct

REPORT OF: Mike Barker, Strategic Director, Corporate
Services and Governance

Purpose of the Report

1. This report sets out the LGA Code of Conduct and seeks further comments from members following officers reviewing the draft code to ensure it meets with best practice and with a view to making recommendations the full Council on adopting the new model code.
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Background

1. The Localism Act 2011 places a duty on the Council to promote and maintain high standards of conduct by Councillors and co-opted Members. It requires the Council to adopt a Code of Conduct in relation to the conduct of its elected members.
2. Gateshead's current Code of Conduct for Councillors was adopted in 2012. In 2019 the Committee on Standards in Public Life (CoSPL) published best practice recommendations in their report into Ethical Standards in Local Government. The Council need to consider amending and updating the code or adopting a new code to ensure that it complies with the best practice recommendations.
3. A new Model Councillor Code of Conduct ('Model Code') has been produced by the Local Government Association. This is designed to protect Councillor's democratic role, encourage good conduct and safeguard the public's trust in local government. A draft new Code of Conduct for Councillors ('the draft new Code') mirroring this Model Code has been produced for consideration and for consultation in order to finalise a new Code for adoption by Council in due course
4. The CoSPL report included best practice recommendations in relation to the standards regime and ethical practice which they expect every local authority to implement. The current Gateshead Code of Conduct requires to be updated to meet certain of these best practice recommendations in relation to strengthening prohibitions on bullying and harassment; a requirement for councillors to comply with any formal standards investigation and a prohibition re trivial or malicious allegations by Councillors.
5. The publication of the Model Code presents the opportunity to both meet the best practice recommendations of the CoSPL and to modernise the Gateshead Code, providing a clear and up to date framework for all members in upholding the ethical values set out in the Model Code and clear guidance on meeting the Seven Principles of Public Life.

6. The stated purpose of the new Model Code is to assist members to make clear the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken under the Code. It also seeks to protect councillors, the public, officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and specific obligations in relation to standards of conduct.

Current Position

7. The current Code of Conduct for Councillors applies to all Members and co-opted Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council.
8. The current Code provides a general list of obligations for all Members of the Council to comply with including treating everyone with respect and not bullying. However, it focusses much more on declarations of interest and the impact of certain interests on the Member's ability to take part in the decision-making process rather than conduct.
9. The CoSPL best practice recommendation requires that the code be focused more on providing clear guidance as well as rules, for example on preventing bullying and harassment. In order to comply with the best practice standards, the code must more positively state the commitment of elected Members as to the standards of behaviour that is expected.

CoSPL Recommendations

10. The recommendation from the CoSPL is that all local authorities should include a prohibition on bullying and harassment in codes of conduct with a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by the definition so that it is very clear what harm this seeks to address.
11. A further recommendation of the CoSPL is that councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.
12. The CoSPL highlighted in their report the danger of drawing too narrow a scope for the application of the Code of Conduct as this make it difficult to effectively deal with some instances of poor behaviour particularly in relation to social media use. The CoSPL recognised the question of public and private capacity raised significant issues about the responsibilities of members. It said that whilst democratic representatives need to have their right to free speech and freedom of expression protected, the public interest demands that they meet certain responsibilities in that role.
13. The CoSPL recognises the widespread use of social media presents a challenge to deciding whether the code of conduct applies to instances of behaviour. The CoSPL consider that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the code of conduct applies.

14. This does not, however, mean that councillors should be censured just because an individual dislikes or disagrees with what they say; standards in public life do not extend to deciding on matters of political debate. Controversial issues must be able to be raised in the public sphere, and councillors should have their right to form and hold opinions respected. Established rights to freedom of expression must be respected by councils when adjudicating on potential misconduct, considering the heightened protection granted to political expression.
15. The Committee on Standards in Public Life accordingly recommended that Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media.

New Model Code

16. The new draft Code maintains, the legal requirement within 28 days of election or re-election to register Disclosable Pecuniary Interests in accordance with The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. There is also a requirement to register the details of other personal interests which are referred to as 'Other Registrable Interests'. A list and description of these types of Interest are contained within tables in the new draft Code.
17. The new draft Code clearly sets out the implications of the existence of such interests in relation to a councillor taking part in any discussion or decision making on a matter in which they have any interest.
18. The new draft Code also simplifies the description and impact of personal interests.
19. The new draft Code simplifies and provides helpful clarification and guidance to members in navigating their role in a time of growing social media use and potential for intimidation and abuse. At the same time the new draft Code seeks to reassure members of the public that those they elect will be accountable in meeting the behaviours set out in the Seven Principles of Public Life and taking decisions in a fair and transparent way.

Members Comments

20. At the last meeting of the committee members requested that officers ensure that members across the council were aware of the proposals and detail of the new code have been circulated. Any additional comments from members of the council will be reported to the committee as part of the officer presentation.

Recommendation

21. To consider the LGA Model Code of Conduct and determine whether to recommend to full Council that it should be adopted in whole or with local amendments.

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