

AUDIT AND GOVERNANCE COMMITTEE

16th March 2022

CODE OF CONDUCT

Report by Director of Law and Governance

RECOMMENDATION

- 1. The Audit and Governance Committee is RECOMMENDED to adopt the revised Councillors' Code of Conduct at Appendix (1) for implementation from 1 May 2022.**

Summary and Background

2. Section 27(2) of the Localism Act 2011 requires local authority must adopt 'a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
3. Oxfordshire County Council adopted the Members' Code of Conduct on 10 July 2012 and it forms part of the Constitution. All Oxfordshire local authorities are covered by a single, jointly-agreed Code of Conduct which ensures that councillors who are members of multiple authorities within the area are covered by a single code, providing clarity and consistency. The same Members' Code of Conduct has been adopted by many town and parish councils in Oxfordshire.
4. In 2018 the Committee on Standards in Public Life ("the CSPL") undertook a review of local government ethical standards. CSPL considered that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. A consultation period ran from 29 January to 18 May 2018.
5. The terms of reference for the review included to examine the structures, processes and practices in local government in England for:
 - 5.1. maintaining codes of conduct for local councillors
 - 5.2. investigating alleged breaches fairly and with due process
 - 5.3. enforcing codes and imposing sanctions for misconduct
 - 5.4. declaring interests and managing conflicts of interest
 - 5.5. whistleblowing
6. The CSPL published the Local Government Ethical Standards report ("the Report") on 30 January 2019.

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

7. The Local Government Association (“the LGA”) then released a draft Model Member Code of Conduct on 8 June 2020 and sought views on it. The LGA published a Model Member Code of Conduct in December 2020 which was updated in January and May 2021. The LGA issued some accompanying guidance in July 2021.

<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020>

<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

LGA Model Code of Conduct

8. The LGA Model Code is said to “have been designed to protect our democratic role, encourage good conduct, and safeguard the public’s trust and confidence in the role of councillor in local government. While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage councillors to model the high standards expected of councillors, to be mutually respectful even if they have personal or political differences, to provide a personal check and balance, and to set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of councillors and in breach of the code. It is also to protect councillors, the public, local authority officers and the reputation of local government.
9. The LGA Model Code does not differ significantly in content from the local code already in operation in Oxfordshire, although some of the language used is different. The Oxfordshire authorities have worked collaboratively to consider whether to adopt the model code from the LGA, to keep the current Members' Code of Conduct or to adopt an amended Members' Code of Conduct.
10. The Monitoring Officers working with the Oxfordshire Association of Local Councils have drafted an amended Councillors' Code of Conduct which will be considered by each of the Oxfordshire Authorities for approval. The proposed draft is contained in Appendix 1 to this report and it is intended that all of the Oxfordshire Authorities adopt the Code for implementation from May 2022 onwards.
11. The draft Code sets out general principles of conduct expected of all Councillors as well as specific obligations in relation to standards of conduct. The fundamental aim of the draft Code is to create and maintain public confidence in the role of the Councillor and in Local Government. The Code of Conduct will apply to each Councillor as soon as they sign the declaration of acceptance of the office of Councillor or attend their first meeting as a co-opted member and continues to apply until the role as a Councillor ceases.

The Draft Oxfordshire Code

12. The draft Oxfordshire Code applies to members acting in their capacity as a Councillor which may include when:

- the position as a Councillor is misused; or when
- the impression is given to a reasonable member of the public with knowledge of all the facts that an individual is acting as a Councillor.

Members are expected to uphold high standards of conduct and show leadership at all times.

13. The draft Oxfordshire Code applies to all forms of communication and interaction, including at face-to-face meetings, at online or telephone meetings, in written communication, in verbal communication, in non-verbal communication and in electronic and social media communication, posts, statements and comments.

14. The draft Oxfordshire Code includes the following standards/obligations, with guidance given for each obligation to help explain the reasons for the obligations and how they should be followed:

14.1. **Respect** - A Councillor:

Shall treat everyone, including other Councillors and members of the public with respect and shall treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word.

14.2. **Bullying, Harassment and Discrimination** – A Councillor:

Shall not bully or harass any person and shall promote equalities and not discriminate against any person.

Bullying is described as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age,

disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

14.3. **Impartiality of Officers of the Council** – A Councillor:
Shall not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

14.4. **Confidentiality and access to information** – A Councillor:
Shall not disclose information either given to them in confidence by anyone or acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless:

- they have received the consent of a person authorised to give it; or
- they are required by law to do so; or
- 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
- the disclosure is reasonable and in the public interest; and also made in good faith and in compliance with the reasonable requirements of the local authority and consultation with the Monitoring Officer has taken place prior to its release.

Shall not improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of themselves, their friends, family members, employer or business interests. Shall not prevent anyone from getting information that they are entitled to by law.

When making decisions on behalf of, or as part of, the Council shall have due regard to any professional advice provided by the Council's Officers.

14.5. **Disrepute** - A Councillor:
Shall not bring their role or local authority into disrepute.

14.6. **Use of position** - A Councillor:
Shall not use, or attempt to use, their position improperly to the advantage or disadvantage of anyone.

14.7. **Local authority Resources and Facilities** - A Councillor:
Shall not misuse council resources. Shall, when using the resources of the local authority or authorising their use by others, act in accordance with the local authority's requirements; and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which they have been elected or appointed.

14.8. **Compliance with the Code of Conduct** - A Councillor:

Shall undertake Code of Conduct training as required by the local authority. Shall cooperate with any Code of Conduct assessment, investigation, hearing and/or determination. Shall not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings. Shall comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.

14.9. **Gifts and Hospitality** - A Councillor:

Shall not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage. Shall register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt. Shall register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept. Sets out the obligations for councillors in relation to **the registration/declaration of interests** including Disclosable Pecuniary Interests (DPI) and other registrable interests. It also contains guidance on the steps that must be taken if a councillor has an interest in a matter that is under consideration by the Council, including when it relates to a non-registrable interest. Where a matter arises at a meeting which directly relates to a councillor's financial interest or wellbeing (and does not fall within the definition of disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, it is a non-registrable interest.

Financial Implications

15. There are no financial implications associated with this report.

Legal Implications

16. Section 27(2) of the Localism Act 2011 says that a local authority must adopt 'a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. The adoption of the draft Code of Conduct will ensure continued statutory compliance.

Comments checked by: Sukdave Ghuman, Head of Legal Services

Staff Implications

17. There are no staffing implications

Equality & Inclusion Implications

18. There are no equality and inclusion implications.