

Division(s):

AUDIT & GOVERNANCE COMMITTEE - 22 July 2020

MODEL CODE OF MEMBER CONDUCT - CONSULTATION

Report by the Monitoring Officer

RECOMMENDATION

1. **The Committee is RECOMMENDED to:**
 - (a) **Consider the Local Government Association's potential Model Code of Member Conduct;**
 - (b) **Determine if the Committee wishes to respond to the national consultation on behalf of the Council; and if so**
 - (c) **Establish a cross-party task and finish group of the Committee to reply on behalf of the Council via the Monitoring Officer; and to**
 - (d) **Ask the Monitoring Officer to liaise with his colleagues in Oxfordshire's District Councils, and with the Oxfordshire Association of Local Councils, to share any comments made in response to the consultation.**

Introduction

2. The Local Government Association (LGA) is consulting nationally on a Model Code of Member Conduct. The LGA drafted the Code in response to a call to do so from the Committee on Standards in Public Life (CSPL). The consultation also links to the LGA's own programme to promote 'Civility in Public Life'.
3. The Committee's role includes ethical governance for the Council including member conduct. The Committee is invited to consider responding to the consultation on behalf of the Council.
4. This report outlines the extent of the consultation and the Council's own recent comments on member ethical governance. It also suggests how the Committee might wish to formulate comments ahead of the consultation deadline of 14 August 2020.
5. It is important to note that this is a consultation about the potential content of a national Model Code of Member Conduct. The Committee is not currently being asked to adopt any new Code for this Council. That may well follow once a Model Code has been published.

Background to the Potential Model Code of Member Conduct

6. In 2018, the CSPL undertook a survey of the ethical governance framework for members in local government. Its report was published in January 2019.

7. The CSPL concluded that a model code of conduct should be created for English authorities across all tiers. It felt that such a model code should better reflect the importance of good behaviours in countering bullying and intimidation, as well as in promoting responsible use of social media. It also advocated a presumption that members should always be regarded acting in their official capacity when conducting themselves in public. The CSPL recommended that the LGA should be invited to create such a Model Code of Member Conduct following consultation.
8. The LGA has produced a draft Model Code of Conduct in response to this call. It has also been carrying out its own programme of activity under the title '[Civility in Public Life](#)'. This programme aims to improve the "standard of public...and political discourse...and behaviour in public office".

County Council's previous comments on member ethical governance

Code comments:

9. In 2018, the Council formally responded to the CSPL's review of ethical standards. This Committee led that response. A small, cross-party group of members came together to consider the consultation and responded via the Monitoring Officer. A [report was produced](#) by the group, summarising that response.
10. In that report, the Council made some comments about Code of Conduct matters. Members said:

“Consideration should be given to creating a model code which refers not just to ‘bullying’ in general but to other specific ethical areas such as abuse, exploitation, sexual harassment and discrimination. Greater clarity on what can constitute unacceptable behaviour would benefit councillors as well as complainants. In addition, it would be helpful to provide guidance on protocols for dealing with complaints under each of those areas.”
11. The Committee may want to bear these comments in mind in reviewing the Model Code. Paragraphs 14-18 summarise the key content.

Commitment to inclusive public debate

12. In December 2017, Full Council agreed a statement setting out a commitment to respectful public debate: “We...pledge that as elected members and representatives of our political parties we will:
 - not ourselves misuse social media;
 - seek out and stop any personal attacks by our own political parties, the elected members of our parties, paid up members and activists of our political parties; and
 - show due respect to the people we represent and to our elected colleagues.”

Proposed Model Code of Member Conduct – purpose and content

13. The draft Model Code is included at Annex 1. The LGA will offer the finalised Model as a template for councils to adopt in whole or with local amendments. It has been designed to “protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.”

14. Its purpose is:

“To assist councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken. It is also to protect yourself, the public, fellow councillors, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.”

15. The key content is:

- a new set of ‘principles’ which members/co-opted members would follow
- the headline principle being ‘civility’
- higher profile for non-disclosable pecuniary interests
- slightly more stringent sanctions
- implication that the registration of gifts and hospitality shall be formally recorded (currently for this Council, among others, it’s voluntary)

16. The new principles in the draft Model Code are as follows (expanded upon in the Model). It is implied that these principles should be followed and complaints that a member has breached the Code could be alleged against these headings.

Principles Under Draft Model Code	
Civility	treating councillors, officers and the public with ‘civility’
Bullying and harassment	not bullying any person
Impartiality of officers	not compromising officer impartiality
Confidentiality and access to info	respecting the former, not preventing the latter
Disrepute	not bringing the role and council into disrepute
Your position	not using it for improper advantage of self or anyone else
Use of resources	not misusing council resources
Interests	registering and declaring
Gifts and hospitality:	not accepting or seeking; registering offers of £25 or over

17. Currently, the County, District and Parish Councils across Oxfordshire have each adopted a Code based on a local Oxfordshire model. It is the aspiration of the Model Code that such an arrangement would continue.

Brief analysis of the Model Code of Member Conduct

18. The 'principles' of the Model Code are effectively a merger of two strands of the current code: its principles and its 'obligations'. The Model Code effectively amplifies these rather than adding any significant change – except in one key respect.
19. The draft Model Code introduces the principle of Civility. However, it is rather ill-defined. It may be difficult therefore for the public, members and officers to understand where the boundaries lie between robust public debate and civility. It would not afford clarity for members in what the principle envisages in practice, nor for the public who may wish to challenge members on their conduct by means of a complaint.
20. The LGA's consultation is set out in Annex 2. The consultation specifically asks, for example, whether this definition is helpful and sufficiently clear. Given this Council's wish in paragraph 9 above, for a model code with clear examples, reviewing the Model with an eye to its practical usefulness will be important.
21. The Model would effectively require the registration of gifts and hospitality. It would not however go as far as this Council wished in terms of sanctions for breaches of the Code. For example, this Council had wished to see a read-across from one authority to another; that is, that a sanction applied by one council should apply to the member in another council, if a member serves on both.

Way forward

22. If the Committee is minded to make comments in response to the Model Code, it may not be practical to do this in a whole Committee setting. The deadline for comments (14 August) might also make this impractical. So, the Committee may wish to set up a cross-party 'task and finish group' to make comments which the Monitoring Officer can send on behalf of the Council. This is how the Committee responded previously to the CSPL. The recommendation also invites the Committee to endorse the sharing of respective views between Oxfordshire's principal authorities and parish councils, via the Monitoring Officers.

Legal, financial and other procedural implications

23. This report raises no direct legal, financial or other implications. Each Council is required to adopt a Code of Conduct for Members. Oxfordshire County Council has done this. Responding to this consultation now does not alter the currently adopted Code and does not commit the Council to any line of action.

There will be a further opportunity for the Committee to consider a finalised Model Code and whether to recommend Council to revise its own accordingly.

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