

West Suffolk Council

Statement in response to the LGA Draft Code of Conduct

Introduction

Firstly, we would like to take the opportunity to thank the LGA for the development of a model Code of Conduct for members. We recognise it is important that there is a clear framework, setting out the expectations placed upon Councillors that members of the public rely upon.

In responding to your consultation on the Code of Conduct, we felt that there are some aspects of the questionnaire that do not provide the proper opportunity for us to express our views on the proposals, and therefore have provided a written statement to accompany our response.

Statutory Framework

For many, the overriding concern with the current standards framework is not the Code of Conduct, but the fact that the current regime lacks effective sanctions where there are serious breaches. We recognise that when Councils were able to suspend Councillors, its use was highly infrequent (as it should rightly be reserved for the most significant breaches); however, the threat that this could happen was the greatest deterrent to poor behaviour.

We recognise, as highlighted by the Committee for Standards in Public Life, that legislative changes would be required to allow for greater sanctions. We would encourage and support efforts by the LGA to work with government on this. However, in the meantime, we are concerned that a Code of Conduct, which potentially requires agreement by some 10,000 organisations, works most effectively where it is stable, lasting and supported by an effective sanctions framework; it could be undermined if a new version had to be issued shortly after due to changes in the legal framework. Ideally, we would hope that the final Code could be issued alongside changes to the law.

Capacity

We recognise that the expectation of the public is that Councillors should uphold high standards of conduct in all forms of life and the issue of capacity can be difficult. We are supportive of the principle that actions by Councillors that clearly are damaging to the authority's reputation should be captured by the Code. However, Councillors do have a private life which should be respected.

We find the current sections on when the code applies confusing. It is not clear whether the LGA intends to include those elements that are in brackets, or not. It is recognised that the current legal framework may not allow for a broader

definition of capacity. In the section "application of the code" there is reference to the Code applying to "all forms" of communication and a Councillor is expected to show "high standards of conduct... at all times". That could be deemed to cover anything said or done by a Councillor, even in a personal capacity.

There is then a separate definition of when a Councillor is expected to comply with the "specific obligations of general conduct". We believe there should only be one definition within the code to avoid confusion.

Principles versus Obligations

We do not have objection to the wording of the general principles outlined in the code nor the specific obligations.

However, we feel it is confusing for Councillors and members of the public that there is a set of principles they are not required to comply with. It would be helpful if there are clearer links between the principles and the specific obligations as this will significantly aid understanding of the code and assist when there are concerns as to whether a Councillor is following the principles within the Code.

LGA Guidance on breaches and resolution

We believe the Code should reflect the principles and behaviours Councillors are expected to abide by. How breaches of the Code are dealt with is a separate issue.

If the LGA wishes to provide guidance to Councils on handling breaches and resolving them, then we would welcome this; however, it is not necessary to include this within the Code.

Declaration of Interest

We welcome the proposal to give greater clarity to members on how they should act when they have an actual, or potential conflict of interest in a matter.

However, we found Appendix B, declarations of interest, particularly confusing.

- This section appears to only apply where a Councillor is making a decision in a meeting. It rightly should also apply when a Councillor is making a decision as an individual (for example, portfolio holder decisions or local member ward budgets).
- We believe it would also be helpful to add guidance in relation to a Councillor's role as a ward member, when they may have an actual or perceived interest in a matter.
- There are no definitions to support some of the language used. For example, what is the difference between something "relating to" and

“affecting” your interest? What is meant by a “financial interest” if it is not a pecuniary interest? What is meant by “wellbeing”? How close an associate or relative before a Councillor should not take part?

- We also note that this section appears to allow members to speak in some situations only when a member of the public can. It is therefore unclear how a Councillor should act if the press and public are exempt from the meeting; there are situations where it would be helpful if Councillors could address meetings in exempt situations (such as if the meeting was considering an item in relation to an organisation, where the Councillor is the Council’s representative on that organisation it would be helpful if they were able to address the meeting)

Errors

We note that there appears to be two errors in the consultation draft and wished to draw these to your attention:

- In the section “application of the code”, the final sentence appears to be misplaced
- In table 2 of Appendix B, there appears to be an error with the header of the table, which seems to have been omitted