

New Model Code of Conduct

Report number:	COU/WS/22/009	
Report to and date:	Council	22 March 2022
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Decisions Plan: **Not applicable as this is not an executive matter**

Wards impacted: **All wards**

Recommendation: **It is recommended that the Local Government Association Model Code of Conduct, as contained in Appendix A to Report number: COU/WS/22/009, be adopted as its new Local Code of Conduct for Councillors, with effect from the Annual Meeting of Council in May 2022.**

1. Context to this report

- 1.1 The Localism Act 2011 places a duty on every council to promote and maintain high standards of conduct by councillors and co-opted members of the authority and, in discharging that duty, adopt a code dealing with the conduct that is expected of those members when they are acting in that capacity. A Suffolk-wide local code of conduct was adopted by the Councils in 2012.
- 1.2 In January 2019, following extensive consultation the Committee on Standards in Public Life (CSPL) published a report following their review of local authority standards. This review concluded that a model code of conduct would create consistency across England and reflect the common expectations of the public regardless of geography or tier. It would reduce the potential for confusion among dual-hatted or triple-hatted councillors.
- 1.3 CSPL also considered that matters such as gifts and hospitality, social media use, and bullying and harassment had all increased in salience, and were perhaps not regularly reflected in local authority codes of conduct and a model code of conduct would help to ensure that they do so.
- 1.4 The report directed a series of recommendations to Government and to the local government sector. A key recommendation of the CSPL was directed to the Local Government Association (LGA) - "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."
- 1.5 Consequently, the Local Government Association (LGA) Executive approved a Model Councillor Code of Conduct ('Code') in December 2020. The Model Code provides a template for councils to adopt in whole and/or with local amendments. During 2021, supplementary guidance was developed by the LGA, alongside sector experts and local authority representatives, to accompany the Code.
- 1.6 The Code (attached at Appendix A) contains much of the existing Suffolk Local Code of Conduct and provides welcome guidance to explain the rationale for the obligations and how councillors should follow them. The LGA has also published more extensive guidance that will assist councillors and the public in understanding the Code and what is included. This guidance is attached at Appendix B.
- 1.7 Moving forwards, the LGA have committed to undertake an annual review of the Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.
- 1.8 The LGA will offer support, training and mediation to councils and councillors on the application of the Code and the National Association of

Local Councils (NALC) and the county associations of local councils will be offering advice and support to town and parish councils.

- 1.9 As outlined above, the current Suffolk Local Code of Conduct has been adopted by Suffolk County Council, West Suffolk Council, Babergh and Mid Suffolk District Councils, Ipswich Borough Council, East Suffolk Council and the majority of Town and Parish Councils across Suffolk. The Suffolk Monitoring Officers group strongly recommends that there continues to be a Suffolk-wide code of conduct to enable clarity and consistency across the county and particularly across the tiers of local government where councillors represent more than one authority. The district council Monitoring Officer is responsible for investigating breaches of the code of conduct by Town and Parish Councillors across the whole district and the ability to apply a single code of conduct to all complaints is desirable. The Suffolk Association of Local Councils is also supportive of a Suffolk-wide code.
- 1.10 The purpose of this report is to outline the key differences in the new model Code before seeking endorsement of the LGA's model code of conduct and to resolve to recommend that the Model Code of Conduct be adopted by Full Council.

Application of the new code

- 1.11 The Code provides clarity that the requirements of the Code apply as soon as a councillor signs their declaration of acceptance of office or, in the case of a co-opted member, attends the first meeting, and continues to apply until a member ceases to be a councillor.
- 1.12 Additional clarification is also provided as to the types of interactions that amount to duties of a councillors' elected office and that would so be captured under the Code's remit and application – these are when a councillor is:
- Acting in their capacity as a councillor and/or a representative of the council
 - Claiming to act as a councillor and/or as a representative of the council
 - Giving the impression of acting as a councillor or a representative of the council
 - Referring publicly to their role as a councillor and using knowledge that could only be obtained in that role
- 1.13 The Code also provides clear guidance as to the forms and type of communication that are within scope:
- at face-to-face meetings
 - online or telephone meetings
 - in written communication
 - in verbal and non-verbal communication

- in electronic and social media communication, posts, statements and comments

1.14 There are new commitments to co-operate with any investigation, should a complaint be received, and to comply with any sanctions that may be imposed if a breach is proven. These are important to protect the integrity of the process.

Bullying, harassment and discrimination

1.15 The new Code includes enhanced provisions relating to bullying, harassment and discrimination. The Code now includes a definition of bullying and harassment and makes it clear that online activity, for example posting on social media, is captured by the Code. The guidance notes which accompany the Code set out the types of behaviour which would constitute bullying or harassment.

1.16 The new Code now includes a requirement for Councillors to promote equalities, in accordance with the statutory duties imposed by the Equalities Act 2010, as well as avoiding any behaviour which would unlawfully discriminate against any person.

Confidentiality and access to information

1.17 Specific requirements in relation to confidentiality and access to information have been incorporated. This clause sets out standards of conduct relating to the proper use of information by councillors.

Gifts and hospitality

1.18 The provisions extend those set out in the Suffolk Code in two ways:

- by specifically referencing a requirement to not accept gifts or hospitality that could give rise to real or substantive personal gain or a suspicion of influence; and
- by placing a responsibility on councillors to register any significant gift or hospitality that has been offered but refused.

1.19 The new Code also increases the value of declarable gifts and hospitality from £25 to £50.

Protecting the reputation of members and the local authority

1.20 This section primarily relates to the registration and declaration of interests. Importantly the section references a separate Appendix 2 that, if adopted, would place additional requirements on councillors in certain circumstances.

An example being where a matter arises (which is not a pecuniary interest) at a meeting and that matter directly relates to a financial interest or wellbeing of a relative or close friend of a councillor – extract below:

8. Where a matter arises at a meeting which affects –

a. your own financial interest or well-being;

b. a financial interest or well-being of a friend, relative, close associate; or

c. a body included in those you need to declare under Disclosable Pecuniary Interests

you must disclose the interest.

Training

- 1.21 A programme of training, based on LGA learning and guidance modules, will be coordinated by the Monitoring Officers within each council. Any opportunities for joint training will be taken, but it is recognised that authorities will be at different stages of their electoral cycles.

Procedure for considering complaints alleging a failure to comply with the Code of Conduct

- 1.22 It will continue to be for each local authority to follow its agreed procedures for managing complaints and deciding upon any action should it be concluded that there has been a breach of the Code.

Adoption of a new Code

- 1.23 The new Model Code of Conduct was considered the West Suffolk Standards Committee and the Constitution Review Group on 31 January 2022 and 16 February 2022 respectively. Both forums considered the new Code in detail and recommend that it be adopted by Council. The new Code will be effective from the Annual Council meeting in May 2022 which will provide sufficient time for training to be rolled out to all councillors.

2. Consultation and engagement undertaken

- 2.1 The LGA undertook a range of consultation activities with various stakeholder groups during 2020 when preparing the new Model Code of Conduct. Further information about the consultation process can be found at: <https://www.local.gov.uk/publications/lga-model-member-code-conduct-consultation-response-analysis-november-2020>
- 2.2 The Council is not required to undertake formal public consultation before adopting its own code of conduct.

- 2.3 Informal consultation has been undertaken by the Monitoring Officer with West Suffolk Council Group Leaders and Cabinet Members.

3. Options considered

3.1 The following options have been considered:

- To retain the existing Suffolk Local Code of Conduct – this option is not recommended as the new model code provides additional clarity, guidance and more up to date provisions for Councillor conduct.
- To adopt an alternative form of local code of conduct – this option is not recommended as the LGA model code reflects the legislative requirements and best practice based on the recommendations of the CSPL and therefore is the most appropriate code to adopt. It would also lead to possible inconsistencies with other authorities and Towns and parishes across Suffolk, which, as outlined at the start of this report could create confusion.
- To adopt the new LGA Model Code of Conduct for Councillors – this is the recommended option and other authorities across Suffolk are considering this proposal too.

4. Recommendation

It is recommended that West Suffolk Council adopts the Local Government Association Model Code of Conduct as their new Local Code of Conduct for Councillors.

5. Risks associated with the proposals

5.1 Key risks are set out in the table overleaf:

5.2

Risk Description	Likelihood	Impact	Mitigation Measures
That the Council fails to adopt a local code of conduct and are unable to fulfil its statutory duty under s.27 of the Localism Act	1 (Highly unlikely)	3 (Bad)	The Council already has an existing code of conduct which would continue to be in effect even if the new model code was not adopted.
The code of conduct adopted by the Council does not promote high standards of ethical conduct	1 (Highly unlikely)	2 (Noticeable)	Adopting the new model code will ensure that the Council's code fulfils the statutory duties placed on the Council to promote ethical conduct
That councillors are not aware of the new provisions and inadvertently breach the code of conduct	2 (Unlikely)	3 (Bad)	A programme of training will be put in place for councillors if the new local code is adopted.

6. Implications arising from the proposals

6.1 Financial

There are no direct financial implications of adopting the new Model Code of Conduct. Officer time will be required to provide training on the Code if adopted, however this will be accommodated within existing resources.

6.2 Legal Compliance

All local authorities are required to adopt a local code of conduct for councillors under section 27.2 of the Localism Act 2011. The Council's current local code of conduct complies with this statutory requirement, however adopting the revised Model Code of Conduct will bring the Council's local arrangements in line with the most up to date government guidance.

6.3 **Equalities**

No impacts on the protected characteristics have been identified, therefore a full Equality Impact Assessment is not required.

6.4 **Changes to existing policies**

This report was previously presented to the Constitution Review Group with a view to amending the Constitution if Council adopts the new Model Code of Conduct.

7. Appendices referenced in this report

7.1 Appendix A – New LGA Model Code of Conduct

7.2 Appendix B – Guidance on LGA Model Code of Conduct

8. Background documents associated with this report

8.1 None