

STANDARDS COMMITTEE

6 April 2022

REPORT OF THE MONITORING OFFICER

A.1 ADOPTION OF THE LOCAL GOVERNMENT ASSOCIATION (LGA) MODEL MEMBERS' CODE OF CONDUCT

(Report prepared by Karen Townshend)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

For the Standards Committee to review part of the elected Members' Model Code of Conduct (the Model Code) as authored by the Local Government Association (LGA), in comparison to Tendring District Council's Members' Code of Conduct (the Code), for eventual determination as to whether to recommend the Model Code to Full Council for adoption.

EXECUTIVE SUMMARY

In 2018 the Standards Committee recommended to Full Council that the Council adopted the Members' Code of Conduct (the Code) as detailed within Part 6 of The Constitution and attached as Appendix A. The Code sets out the standards, values and rules of conduct that elected Members are expected to abide by.

In May 2021, a final version of the Members' Model Code of Conduct was authored and released by the LGA (after two amended versions had previously being issued). The aim of the Model Code is to provide consistency for Members across Parish, Town, District and County Councils, especially for those Members representing two or more electorates (also known as 'dual or triple hatters').

As part of its work programme, the Standards Committee is requested to review the Code in comparison with the Model Code, together with associated guidance, and recommend to Full Council as to whether the Model Code should be adopted or whether to review and keep the Tendring District Council Code. Should the Committee wish to recommend that the Model Code be adopted, it has previously been proposed that implementation would not take effect until the new municipal period following the 2023 elections.

The LGA plan to undertake an annual review of the Model Code to ensure it continues to be fit for-purpose, incorporating advances in technology, social media and changes in legislation. Therefore this authority will be required to review its Code, if adopted, to ensure consistency.

In addition to the publication of the Model Code, the LGA, in consultation with Monitoring Officers and associated Officers nationally, is compiling a training package for Members and Officers which can be utilised upon election or for refresher training. The training package, which is currently in draft form, allows to be either completed in a single session or broken down into multiple sessions focussing on specific areas, whichever caters to Members' needs at that time, allowing for questions throughout.

The training package may be conducted in person or virtually and there is supporting material available for Members' reference.

The training is broken down into 'bite size' sections following the Model Code with relevant scenarios and case studies. Due to the training package still being in draft form, a further report will be presented for discussion to the Committee at its next meeting, together with a more detailed consideration of the differences relating to registration and declaration of interests.

The Model Code is attached as Appendix B.

RECOMMENDATION(S)

That the Standards Committee:

- (a) notes the contents of this report and its Appendices;**
- (b) confirms its satisfaction of the comparison of the Tendring District Council's Members' Code of Conduct and the LGA Model Code of Conduct or whether there are any matters for concern; and**
- (c) requests the Monitoring Officer to present in more detail the implications of the differences in Declarations and Registration of Interests, for the Committee to consider prior to agreeing its recommendations to Full Council.**

PART 2 – IMPLICATIONS OF THE DECISION

BACKGROUND INFORMATION, CODE OF CONDUCT and LEGAL CONSIDERATIONS

The current Code was adopted in 2018 and has served well to uphold and promote the high standards of conduct in public life for all elected Members, voting co-opted Members and appointed members. Trust and confidence in public office holders and institutions are important for the functioning of local authorities and it is each Members' responsibility to comply with the provisions of the Code.

In January 2019, the Committee on Standards in Public Life published a report which recommended that the Local Government Association (LGA) in consultation with representative bodies of councillors and officers of all tiers of local government, should produce a new Model Code of Conduct for Councillors.

This Model Councillor Code of Conduct ("the Model Code") was approved by the LGA on 3 December 2020 and then a final version was approved in May 2021 and made available to all Local Authorities shortly thereafter.

The Code covers three main areas:

Part 1 sets out some general obligations regarding the behaviour of elected and co-opted Members ("**Rules of Conduct**")

Part 2 explains how Members should behave if they have a personal/code interest in an item of Council business ("**Members' Interests**")

Part 3 sets out rules requiring registration of interests for public inspection ("**Register of**

Members' Interests")

The Principles of Public Life, also referred to as The Nolan Principles, are set out as Appendix B.

The Code covers the following areas:

- Duties and Responsibilities
- Information
- Conduct
- Use of the Position
- Registration of Interests
- Sensitive Information
- Decision Making
- Compliance with the Law and the Authority's Rules and Policies
- Disclosable Pecuniary Interests
- Declaration of Members' Interests
- Declaration of Personal Interests generally
- Effect of Disclosable Pecuniary Interests on participation
- Effect of Personal Interests on participation

The Model Code has been written in the first person, to make it more personal to individual Councillors and covers the following areas:

- General Conduct
- Respect
- Bullying, harassment and discrimination
- Impartiality of officers of the council
- Confidentiality and access to information
- Disrepute
- Use of position
- Use of local authority resources and facilities
- Complying with the Code of Conduct

- Interests
- Gifts and Hospitality

Although the Code and Model Code state slightly differing titles for the areas covered within them, the content is extremely similar within each document and the Model Code covers each area in more detail giving some explanatory text. The main differences between the Code and Model Code are detailed below:

The Code

3.4 Conduct

Members must:

- (a) not conduct themselves in a manner which could reasonably be regarded as bringing their office or Authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other Members or anyone who works for, or on behalf of, the Authority.
- (c) comply with any request of the Authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted on accordance with their respective statutory powers.

The Model Code

8 Complying with the Code of Conduct

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

The Model Code also includes a definition of bullying, something which the Code does not have. The Committee on Standards in Public Life recommend that local authorities include such a definition within their code.

The Code

3.7 Decision Making

Members must:

(a) when participating in meetings or reaching decisions regarding the business of the Authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the Authority's officers, in particular by –

- (i) the Authority's Head of Paid Service
- (ii) the Authority's s.151 Officer / Chief Financial Officer
- (iii) the Authority's Monitoring Officer / Chief Legal Officer

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

Decision making in this form is not referred to in the Model Code, however Article 13 within the Council's Constitution, sets out the responsibilities and principles for decision making in detail, including reference to the Statutory Officers, therefore in the view of the Monitoring Officer, this would be sufficient were the Model Code to be adopted.

The Code

3.6 Registration of Interests

In accordance with and subject to Part 2 of the Code, Members are required to register details of their Disclosable Pecuniary Interests and their Personal Interests within 28 days of becoming a Member (or being re-elected or reappointed) or a change in those details, in the Authority's Register of Interests.

The Model Code

9.1 I register and disclose my interests

Section 29 of The Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interest of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

Should the Model Code be adopted then particular attention will need to be given to training for Members in this area. Further research into the differences between the Interests sections will be conducted by Officers, with a report compiled, to be presented in further detail for discussion by the Committee at its next meeting.

From initial conversations between Monitoring Officers across the County, there does appear to be an eagerness for the majority of the authorities to consider and subsequently

adopt the Model Code, subject to approval from Full Council. At the time of writing, both Essex County Council and Southend-on-Sea City Council have received reports recommending adopting the Model Code. If all Essex Authorities adopt the Model Code, this does achieve the aim of bringing consistency across the county.

LEGAL CONSIDERATIONS

The Localism Act 2011 requires the Authority to have a code of conduct which is consistent with The Nolan Principles determined by the Committee on Standards in Public Life. These principles are set out within the Code. Both The Code and The Model Code are consistent with The Nolan Principles but any breach of the principles is not by itself a breach of either code. Members of Tendring District Council along with Town and Parish Councils shall have regard to the Seven Principles of Public Life as it is these principles which underpin the Rules of Conduct.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder/Equality and Diversity/Health Inequalities/Area or Ward affected/Consultation/Public Engagement.

The Model Code and supporting Guidance emphasises the importance of Councillor responsibility to ensure those with protected characteristics are protected from discrimination

Prior to the Model Code being produced by the LGA, extensive consultation was undertaken nationally, to which the District Council via consideration by the Standards Committee responded to. The first version of the LGA Model Code, was amended following feedback and a third version was produced in response to concerns around the Members' interests section. Prior to the third version being issued, Essex Monitoring Officers were not comfortable recommending the LGA Model Code for adoption, these concerns have now been reduced. However, it is worth noting that the LGA Model Code is not being recommended for adoption at this stage and the Standards Committee may wish to undertake more local consultation in this regard.

Wards Affected: All

APPENDICES

Appendix A: Tendring District Council Members' Code of Conduct (The Code)

Appendix B: The LGA Model Code of Conduct (The Model Code)