



CORPORATE GOVERNANCE COMMITTEE – 5 NOVEMBER 2021

REPORT OF THE DIRECTOR OF LAW AND GOVERNANCE

REVISED MEMBERS' CODE OF CONDUCT AND PROTOCOL ON MEMBER/OFFICER RELATIONS

Purpose of Report

1. The purpose of this report is to present to Members a revised Members' Code of Conduct for consideration prior to it being submitted to full Council on 1st December 2021 for approval. The revised Code is based on the new model code recently produced by the Local Government Association (LGA) following the recommendations made by the Committee on Standards in Public Life.
2. The report also presents a revised Protocol on Member/Officer Relations, which has been updated to reflect current practice and to provide greater clarity on the respective roles of Members and Officers.

Background

3. The Localism Act 2011 ('the Act') places the Authority under a duty to promote and maintain high standards of conduct. In discharging this duty, the Authority is required to adopt a Code dealing with the conduct that is expected of its members and co-opted members. The Act abolished the previous national model Code and instead imposed a simple requirement that each authority put in place a Code which, when viewed as a whole, is consistent with the 7 principles of public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership), and which includes provisions in respect of the registration and disclosure of pecuniary interests and interests other than pecuniary interests.
4. The County Council's current Members' Code of Conduct was adopted by full Council on 4th July 2012. At the same time the Council gave this Committee responsibility for dealing with matters relating to the Code. It is therefore the body responsible for ensuring the Council fulfils its duty to promote high standards of conduct and to make recommendations to the full County Council on the form of the Council's Members' Code of Conduct.
5. In January 2021, the LGA issued a new draft model Code of Conduct. This was followed in July 2021 with detailed guidance on that model Code. This model Code has been developed by the LGA following a report by the Committee on Standards in Public Life which made various recommendations

to strengthen the code, details of which were presented to this Committee on 10th May 2019.

6. As Leicestershire is a two-tier authority area, many Members of the County Council serve on two or more local authorities (i.e. are dual-hatted County and district councillors). Discussions have therefore taken place between the Monitoring Officer and the Monitoring Officers of the district councils within Leicestershire with a view to identifying areas of commonality to achieve, as far as possible, a common code between the County and district councils. It is believed that this will assist those members who are 'dual-hatted' and avoid the need to apply two different codes. At the same time, it is important to recognise that district councils have responsibility for conduct related issues in respect of parish councils which inevitably will entail some limited differences between the County Code and District Codes.
7. A working group was established of Monitoring Officers and minor revisions were made to the LGA Model Code to reflect local issues, creating a locally amended Model Code. Consideration was given to more extensive redrafting, but it was decided not to proceed with this, as there was a wish to avoid significant changes that would impact on the integrity of the LGA model.
8. The locally amended Model Code was subsequently considered on 6th October by a subgroup of the Corporate Governance Committee. A representative from the Labour group currently not represented on the Committee was also invited, to consider the revised Code of Conduct.

The Model Code

9. The draft locally amended Model Code is attached as Appendix A to this report. The main points to highlight are:

General

- (a) The application of the code (page 2) which is expressed to apply 'when you are acting *or are claiming to act* in your capacity as a councillor'. This may include when you misuse your position as a councillor, or your actions give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.
- (b) The section on behaviours is largely as per the County Council's current code except that it has been redrafted by the LGA to be expressed in the first person rather than the third person, as per the current County Council Code.
- (c) There is a new section requiring members to cooperate with an investigation and confirming that members will comply with any sanction imposed (para 9).

- (d) For the first time there is guidance (not part of the Code) dealing with social media issues. This is an area which generates a number of complaints and so guidance on this issue may be welcome.

Interests

10. The section on interests contains the most differences. The LGA Model Code refers to three types of interest as follows:

- (a) *Disclosable Pecuniary Interests* - Disclosable Pecuniary Interests (or 'DPIs') were introduced by s30 of the Localism Act 2011. They are a category of interests which relate to the member and/or their partner, such as financial interests of you or your partner, such as your house or other property, or if you have a job or own a business. The categories are set out in regulations made under the Act and knowing non-compliance is a criminal offence.
- (b) *Other registrable interests* - These are categories of interest which have been identified by the LGA as requiring registration as an aid to transparency. These relate to:
- Details of any body of which you are a member or in a position of general control or management and to which you are appointed by your local authority.
 - Details of any body of which you are a member or in a position of general control or management and which exercises functions of a public nature, is directed to charitable purposes, or has the principal purpose of influencing public opinion or policy.
 - Details of any gifts or hospitality with an estimated value of more than £50 received in connection with your official duties.
- These interests are personal to you only and do not apply to your spouse /partner etc.
- (c) *Non- registrable interests* - These are your own interests or those of your family/relative/close associate etc. which are not required to be registered but will need to be declared as and when they arise.

Declarations at meetings

11. The requirement to declare an interest at a meeting is as follows:

- (a) *DPI* - Where you have a Disclosable Pecuniary Interest in any matter to be considered at a meeting you must disclose the interest, not participate in any discussion or vote on the matter and you must not remain in the room unless you have been granted a dispensation.
- (b) *Other Registrable Interests* - Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests, you must disclose that interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise must not take part in any discussion

or vote on the matter and must not remain in the room unless you have been granted a dispensation. Where a matter simply **affects** such an interest, then the test detailed in paragraph (c) below applies.

(c) *Non-registrable interests* -

- Where a matter arises at a meeting which **directly relates** to your financial interest or well-being or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.
- Where a matter arises at a meeting which **affects** your own financial interest or well-being, a financial interest or well-being of a relative or close associate, or a financial interest or wellbeing of a body included under Other Registrable Interests, you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing that interest the following test should be applied.

The test

Where a matter **affects** a financial interest or well-being:

- (i) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- (ii) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

There are various allowances for sensitive interests etc.

12. The table below is extracted from the LGA guidance to assist in understanding how the various interests will apply in practice:

No.	TYPE	SPEAK*	VOTE	STAY	EXAMPLE	COMMENTS
1	DPI	N	N	N	Awarding a contract to your own company Planning application for your property Resident parking zone includes your house	<i>Directly relates to DPI-foreseeable-narrow-criminal</i>
2a	ORI	If public allowed to	N	N	Awarding/withdrawing grant funding to a body of which you are a member e.g. village hall Granting planning permission to a body of which you are a member	<i>Directly relates to finances-foreseeable-narrow-can "address" meeting if public can do, but not take part in discussion.</i>
2b	ORI	Test	Test	Test	Awarding grant funding to a body other than the body of which you are a member e.g. competitor to village hall	<i>Affects finances or wellbeing-test (1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
3a	NRI	If public allowed to	N	N	Determining an application submitted by your sister or your neighbour for a dog breeding licence Partner with free parking permit and policy review decision to be made Councillor objects in private capacity to neighbours planning application cannot sit on PC as statutory consultee	<i>Directly relates to finances of you, partner (not a DPI)-a relative or close associate- Unforeseeable- can "address" meeting if public can do, but not take part in discussion.</i>
3b	NRI	Test	Test	Test	Application for housing development on land near to partners business property Your neighbour applies	<i>Affects finances or wellbeing-test 1) greater than majority of inhabitants and (2) reasonable public-affect view of</i>

					for planning permission	public interest
2b/3b	NRI	Test	Test	Test	Road works noise outside your house Odours from nearby refuse tip ASB from rough sleepers housed in B+B's nearby	<i>May not affect finances but Well-being=quality of life – apply 2-stage test</i>

Other Leicestershire local authorities

13. The locally amended LGA Model Code will be/has been considered by district councils through their own governance processes as set out below:

Charnwood BC	Its Member Conduct Committee decided to wait to see the approach agreed by the County Council – it felt it was important to have a shared Code if possible, for the benefit of dual-hatted Members.
Oadby and Wigston BC	Constitutional Committee recommending approval by full Council in December 2021.
Hinckley and Bosworth BC	Being considered by Committee in October and full Council in November 2021.
Blaby DC	Officers recommending change to the model LGA code with the local amendments.
Harborough DC	Being considered by committee in October.
Melton BC	tbc
North West Leicestershire DC	A strategy group of members has considered the LGA model code with local amendments and are awaiting information in relation to the approach to be adopted by the County Council.

Comments of the Corporate Governance Committee Subgroup

14. A small group of Members drawn from the Corporate Governance Committee met on 6th October (including a representative from the Labour group) and their views and guidance were sought on the locally amended Model Code. The group were supportive of taking this forward to the Committee and thereafter to the County Council for approval of the adoption of the revised Code of Conduct for Members into the Council's constitution.

Protocol on Member/Officer Relations

15. The Protocol on Member/Officer Relations forms Part 5C of the Constitution. Article 15 of the County Council's Constitution gives the Chief Executive a duty to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. It requires that changes to the document should only be approved by the full County Council after consideration of the proposal by the Chief Executive and the Constitution Committee or, the Corporate Governance Committee. Given the Protocol's close relationship with the Code of Conduct, it is considered appropriate that the Corporate Governance Committee considers the proposed changes to it.
16. The revised Protocol is attached as Appendix B to this report. The key changes that have been made are:
 - (i) Strengthening the links between the Protocol, the Member and Officer Codes of Conduct and the Media Relations Protocol (paragraphs 2 and 11);
 - (ii) Providing greater clarity about the distinct roles and responsibilities of members and officers (paragraphs 4 – 7);
 - (iii) Expanding on the principle in the previous Protocol that Members and Officers should treat each other with mutual trust and respect (paragraphs 8 – 11 of the revised Protocol);
 - (iv) Providing guidance on how information relating to local issues should be shared with members (paragraphs 26 – 31).
17. Other minor changes have been to improve the clarity of language and to reflect current practice.

Conclusion and next steps

18. If the Committee resolve to change the Code and accept the proposed revisions to the Protocol on Member/Officer Relations, these documents will be presented to full Council in December with a view to the Constitution being amended thereafter.
19. A comprehensive training programme will be developed to ensure members are aware of the change and conversant with the terms of any code adopted.

Recommendation

16. The Committee is asked to recommend:

- (a) That the County Council approve the adoption of the revised Code of Conduct for Members as set out in Appendix A to this report;
- (b) That the County Council approve the adoption of the revised Protocol on Member/Officer Relations as set out in Appendix B to this report.

Equality and Human Rights Implications

17. None arising from this report.

Background papers

LGA Model Code of Conduct

Report to Full Council on 4th July 2012 – Review and Revision of the Constitution
<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MId=3530&Ver=4>

Report to the Corporate Governance Committee on 10 May 2019 – ‘Ethical Standards in Local Government’
<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=434&MId=5854&Ver=4>

Report to the Corporate Governance Committee on 24 July 2020 – ‘LGA Model Code of Conduct Consultation’
<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=434&MId=6055&Ver=4>

[Constitution of Leicestershire County Council](#)

Circulation under the Local Issues Alert Procedure

None.

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Appendices

Appendix A - LGA Model Code with local amendments

Appendix B – Revised Protocol on Member/Officer Relations

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