

REPORT TO AUDIT AND STANDARDS COMMITTEE



DATE	20 th March 2024
PORTFOLIO	None
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CODE OF CONDUCT REVIEW

PURPOSE

1. To update the Committee on a review of the Borough Council's Code of Conduct for Members and to consider the minor change which is being proposed and to consider whether to progress with the adoption of the Local Government Association's (LGA) Model Code of Conduct (LGA Model Code).

RECOMMENDATION

2. That the Audit and Standards Committee recommend to Full Council to approve the proposed minor change to the Council's Code of Conduct (the Code) namely the appointment of an additional Independent Person.
3. That the Audit and Standards Committee either:
 - 3.1 establish a sub-committee to consider and produce a report as to whether it should adopt the LGA Model Code in full or in part and report back to this Committee in the first instance with their findings; or
 - 3.2 resolve not to recommend to Full Council to approve the LGA Model Code but agree to review the matter in 12 months.

REASONS FOR RECOMMENDATION

4. The Committee has the responsibility to promote and maintain high standards of conduct of elected Members.

The Code was last reviewed in January 2023. At the meeting of Audit and Standards Committee on 16th January 2023 the Committee agreed with the recommended changes to the Code, which were consistent with the Committee for Standards in Public Life (CSPL) recommendations, and these were subsequently approved by Full Council. These included strengthening the Code on the behaviours of bullying and harassment.

The Committee will recall that the Local Government Association (LGA) produced a Model Code of Conduct (LGA Model Code), which local authorities were encouraged to adopt to replace their existing Codes.

	<p>At the meeting in January 2023 the Committee deferred consideration of the adoption of the LGA's Model Code of Conduct due to perceived ambiguities in the Code and resolved to look at the matter again in 12 months.</p> <p>The CSPL recommends that local authorities review their codes of conduct annually. This increases transparency and improves trust and confidence in the local democratic process.</p> <p>A minor amendment is being proposed to the Code, which is set out in paragraph 8. This also accords with recommendations of the CPSL.</p> <p>The Committee needs also to consider whether it wishes to proceed with the adoption of the LGA Model Code. If the Committee wishes to pursue this action, it may wish to establish a sub-committee whose remit shall be to consider whether it should recommend to Full Council to adopt the LGA's Model Code, if it considers this is necessary to maintain high standards of conduct of elected Members.</p> <p>The Committee may opt not to recommend to Full Council to approve the LGA Model Code as the existing Code is fit for purpose and the LGA's Model Code does not materially improve or add more rigour to existing arrangements and agree to review the situation in 12 months' time.</p>
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SUMMARY OF KEY POINTS	
5.	<p>Background</p> <p>Section 27 of the Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. This is an active obligation.</p> <p>The Council adopted the Code in 2012 and it has been subject to minor amendments over the years, most recently in January 2023. The Existing Code and associated complaints procedure are available at:</p> <p><i>Existing Code:</i> CONTENTS (moderngov.co.uk)</p> <p><i>Complaints Procedure:</i> Part 5.1 Code of Conduct and Complaints Procedure Appendix REVIEW DRAFT (burnley.gov.uk)</p> <p>The Borough Council's Monitoring Officer also oversees the complaints about Parish and Town Councillors. Parish and Town Councils have Codes of Conduct and complaints procedures that are broadly similar to the Borough Council's Existing Code.</p>
6.	<p>The Committee on Standards in Public Life Report</p> <p>The CSPL advises the Prime Minister on ethical standards across the whole of public life in England and monitors and reports on issues relating to the standards of conduct of all public office holders.</p> <p>The CSPL undertook a review of local government ethical standards and published its report on 30 January 2019. A copy of the CSPL report is available at:</p> <p>https://www.gov.uk/government/publications/local-government-ethical-standards-report</p>

In its report the CSPL made 24 recommendations to the government to improve ethical standards in local government. Recommendation 1 stated:

“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.”

On 18 March 2022 the Government published its response to the CSPL recommendations.

A copy of the Government response is available at:

<https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report/government-response-to-the-committee-on-standards-in-public-life-review-of-local-government-ethical-standards#recommendation-1>

The Government responded as follows to CSPL’s Recommendation 1:

“The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors. Authorities can determine the content of their own code of conduct. However, codes must conform to the 7 ‘Nolan’ principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.”

The government has not taken any of the other of CPSL’s recommendations forward.

7. LGA’s Model Code

Following the publication of the CSPL report, the LGA drafted a Model Code for consideration for Local Authorities in December 2020. The latest version is dated 17th May 2021 and can be accessed here.

[Local Government Association Model Councillor Code of Conduct 2020](#)

The LGA’s Model Code received a lukewarm response from local authority Monitoring Officers and there was not a wholesale take up of the Model Code.

It should be emphasised that the Model Code is a template which local authorities can adopt in full or in part.

It has been observed that the LGA’s Model Code departs from narrower wording in s31 of the Localism Act 2011 (which relates to Disclosable pecuniary interests) and introduces a

	<p>distinction between things that "directly relate" to an interest and things that "affect" an interest. It has been suggested that this is probably because it assumes the change to the law recommended by the CSPL report to repeal s 31 of the Localism Act 2011 but until such time as s31 is repealed departing from (narrowing) the wording currently in the Localism Act is not recommended given the criminal sanctions for failure to disclose a DPI.</p> <p>Should Members wish to consider adopting the LGA's Model Code at this time, it is suggested that a sub-committee is established to consider the LGA's Model Code to ensure that proper consideration is given to the document before it is recommended to Full Council for approval.</p>
8.	<p>Best Practice Recommendations</p> <p>The Local Government Ethical Standards report produced by the CSPL also contained 15 Best Practice Recommendations. A review of the recommendations and current Code has identified the following;</p> <p>Best Practice 7; Local authorities should have access to at least two Independent Persons.</p> <p>The Council currently has two Independent Persons but given the volume of complaints that have been received in the past year and to provide resilience and support to the complaints process, it is recommended that a third Independent Person be recruited.</p> <p>Best Practice 10; A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints and estimated timescales for investigations and outcomes.</p> <p>The Council has now included details of estimated timescales for investigations and outcomes on its website and has devised a new portal on the website for complaints to be logged.</p> <p>Best Practice 12 Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority, they should be provided with adequate training, corporate support and resources to undertake this work.</p> <p>The Monitoring Officer has recently undertaken training on the Code of Conduct and standards work and will ensure that training is undertaken on a regular basis. The Monitoring Officer is supported by her Deputy Monitoring Officer who also undertakes training in code of conduct and standards matters.</p> <p>That the Committee note the update and endorse the recommendation to Full Council to recruit an additional Independent Person.</p>

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

9. None arising directly from this report.

POLICY IMPLICATIONS

10. Not applicable.

DETAILS OF CONSULTATION

11. Deputy Monitoring Officer
Independent Person

