

## AGENDA FOR

## STANDARDS COMMITTEE

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**To: All Members of Standards Committee**

Dear Member/Colleague

### **Standards Committee**

You are invited to attend a meeting of the Standards Committee which will be held as follows:-

<b>Date:</b>	Wednesday, 1 July 2020
<b>Place:</b>	Virtual Meeting via Microsoft Teams
<b>Time:</b>	6.00 pm
<b>Briefing Facilities:</b>	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
<b>Notes:</b>	

## **AGENDA**

**1 APOLOGIES FOR ABSENCE**

**2 DECLARATIONS OF INTEREST**

Members of the Standards Committee are asked to consider whether they have an interest in any of the matters on the agenda, and if so, to formally declare that interest.

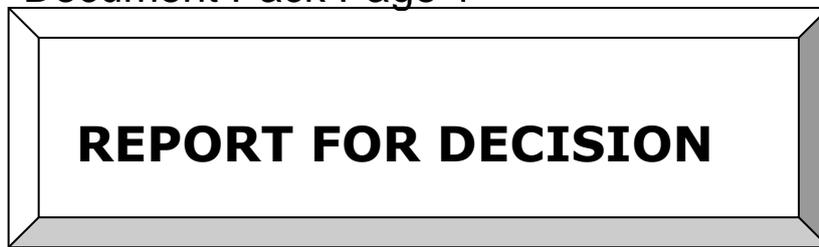
**3 CODE OF CONDUCT** *(Pages 1 - 30)*

**4 CONSTITUTIONAL REVIEW** *(Pages 31 - 36)*

**5 MEMBER DEVELOPMENT**

**6 URGENT BUSINESS**

Any other business which by reason of special circumstances the Chair considers may be dealt with as a matter of urgency.



<b>DECISION OF:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>1 July 2020</b>
<b>SUBJECT:</b>	<b>CONSULTATION ON DRAFT MODEL CODE OF CONDUCT</b>
<b>REPORT FROM:</b>	<b>JANET WITKOWSKI – ACTING COUNCIL SOLICITOR AND MONITORITNG OFFICER</b>
<b>CONTACT OFFICER:</b>	<b>JANET WITKOWSKI</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	<b>This paper is within the public domain.</b>
<b>SUMMARY:</b>	<b>This report sets out the proposals for consultation on a new model Code of Conduct for Elected Members and seeks comments and approval to respond.</b>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	<p><b>Members are asked to;</b></p> <ul style="list-style-type: none"> <li>• <b>Note the contents of the report and attached draft Model Code of Conduct,</b></li> <li>• <b>Provide comments for incorporation into a Council response to the consultation,</b></li> <li>• <b>Agree that a response is drafted based on Members comments</b></li> <li>• <b>That the draft response be circulated to Group Leaders for agreement and submission to the LGA within the consultation period.</b></li> </ul>
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	<p>Do the proposals accord with the Policy Framework?      Yes      No</p>

<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>		
<b>Equality/Diversity implications:</b>		
<b>Considered by Monitoring Officer:</b>	Yes	Comments
<b>Wards Affected:</b>		
<b>Scrutiny Interest:</b>		

**TRACKING/PROCESS**

**DIRECTOR:**

Joint Executive Team	Cabinet Member/Chair Briefed	Ward Members (if necessary)	Partners
Scrutiny Committee	Other Committee	Council	Comms

**1.0 BACKGROUND**

- 1.1** All Councils are required to have a local member code of conduct which sets out the requirements for holding office.
- 1.2** The current code in Bury entitled the 'Code of Conduct for Councillors and other Voting Representatives' contained within the Council's Constitution, has been in use without amendment for a number of years. It is based on the previous Model Code of Conduct and incorporates the Seven Principles of Public Life also known as the 'Nolan Principles', namely, selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These are promoted by the Committee on Standards in Public Life, which is an advisory body to the government.
- 1.3** The Local Government Association (LGA) is a national cross party membership body for local authority's that works on their behalf to support, promote and improve local government. Part of the LGA's role is to undertake regular reviews of the Code to ensure it is fit for purpose. The LGA has now produced a new draft Model Code of Conduct which has been sent out for consultation to member local authorities. The consultation period is 8 June 2020 to 17 August 2020.

**2.0 ISSUES**

- 2.1** The Council's current code reflects most of what is in the new draft. However, the new draft does introduce the concept of 'civility' in terms of the way members speak to and communicate with others. This is a new

concept albeit the concept was arguably incorporated in the previous incarnations.

- 2.2** There are other concepts that Members may feel should be included should as the 'need to know basis' for disclosure of information to Elected Members and there is little by way of clarity on sanctions. However, there is more narrative that Members may find helpful.
- 2.3** The new draft model code together with the consultation questions re attached to this report for consideration.

### **3.0 CONCLUSION**

- 3.1** It is proposed that a response to the consultation is sent on behalf of the Council.
- 3.2** Members are therefore asked to consider the new Draft Model Code and provide their thoughts and comments on it and responses to the consultation questions. A draft response will then be produced by the Monitoring Officer based on their comments, which will be agreed with Group Leaders for formal submissions.
- 3.3** Members are therefore asked to;
- Note the contents of the report and attached draft Model Code of Conduct,
  - Provide comments for incorporation into a Council response to the consultation,
  - Agree that a response is drafted based on Members comments,
  - That the draft response be circulated to Group Leaders for agreement and submission to the LGA within the consultation period.

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#### **List of Background Papers:-**

Bury Council's Constitution

Bury Council's Code of Conduct for Councillors and other Voting Representatives

#### **Contact Details:-**

**Janet Witkowski – [j.witkowski@bury.gov.uk](mailto:j.witkowski@bury.gov.uk) T: 0161 253 5219**

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# Local Government Association Model Member Code of Conduct

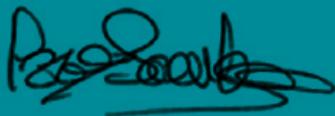
# Introduction

The Local Government Association (LGA) is providing this Model Member Code of Conduct as part of its work on supporting the sector to continue to aspire to high standards of leadership and performance.

The role of councillor in all tiers of local government is a vital part of our country's system of democracy. In voting for a local councillor, the public is imbuing that person and position with their trust. As such, it is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to and want to participate with. We want to continue to attract individuals from a range of backgrounds and circumstances who understand the responsibility they take on and are motivated to make a positive difference to their local communities.

All councils are required to have a local Member Code of Conduct. This Model Member Code of Conduct has been developed in consultation with the sector and is offered as a template for councils to adopt in whole and/or with local amendments. The LGA will undertake an annual review of the Code to ensure it continues to be fit-for-purpose, particularly with respect to advances in technology, social media and any relevant changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code, whilst the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

As a councillor we all represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent everyone (in our ward/town/parish), taking decisions fairly, openly, transparently and with civility. Councillors should also be treated with civility by members of the public, other councillors and council employees. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations. This Code, therefore, has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.



**Councillor Izzi Seccombe OBE**  
Leader, LGA Conservative Group



**Councillor Nick Forbes CBE**  
Leader, LGA Labour Group



**Councillor Howard Sykes MBE**  
Leader, LGA Liberal Democrats Group



**Councillor Marianne Overton MBE**  
Leader, LGA independent Group

## Purpose

The purpose of this Code of Conduct is to assist councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken. It is also to protect yourself, the public, fellow councillors, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

## Application of the Code

The Code of Conduct applies to you when you are acting [or claiming or giving the impression that you are acting]<sup>1</sup> in [public or in]<sup>2</sup> your capacity as a member or representative of your council, although you are expected to uphold high standards of conduct and show leadership at all times. The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media, [including where you could be deemed to be representing your council or if there are potential implications for the council's reputation.] Model conduct and expectations is for guidance only, whereas the specific obligations set out instances where action will be taken.

## The seven principles of public life

Everyone in public office at all levels – ministers, civil servants, members, council officers – all who serve the public or deliver public services should uphold the seven principles of public life. This Code has been developed in line with these seven principles of public life, which are set out in appendix A.

## Model member conduct

In accordance with the public trust placed in me, on all occasions I will:

- act with integrity and honesty
- act lawfully
- treat all persons with civility; and
- lead by example and act in a way that secures public confidence in the office of councillor

In undertaking my role, I will:

- impartially exercise my responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently and in the public interest

## Specific obligations of general conduct

This section sets out the minimum requirements of member conduct. Guidance is included to help explain the reasons for the obligations and how they should be followed. These obligations must be observed in all situations where you act [or claim or give the impression that you are acting] as a councillor [or in public], including representing your council on official business and when using social media.

**As a councillor I commit to:**

## Civility

- 1. Treating other councillors and members of the public with civility.**
- 2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.**

Civility means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the council, any social media provider or if necessary, the police. This also applies to members, where action could then be taken under the Member Code of Conduct.

## Bullying and harassment

- 3. Not bullying or harassing any person.**

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and not always be obvious or noticed by others.

The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

## Impartiality of officers of the council

- 4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.**

Officers work for the council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Although you can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

## Confidentiality and access to information

- 5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.**
- 6. Not preventing anyone getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and

printed materials are open to the public except in certain circumstances. You should work on this basis but there will be times when it is required by law that discussions, documents and other information relating to or held by the council are treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## Disrepute

### **7. Not bringing my role or council into disrepute.**

Behaviour that is considered dishonest and/or deceitful can bring your council into disrepute. As a member you have been entrusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on other councillors and/or your council.

## Your position

### **8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the council provides you with certain opportunities, responsibilities and privileges. However, you should not take advantage of these opportunities to further private interests.

## Use of council resources and facilities

### **9. Not misusing council resources.**

You may be provided with resources and facilities by the council to assist you in carrying out your duties as a councillor. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given

to you to help you carry out your role as a councillor more effectively and not to benefit you personally.

## Interests

### **10. Registering and declaring my interests.**

You need to register your interests so that the public, council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest. The register also protects you. You are responsible for deciding whether or not you should declare 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 declared by you or other members, 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. Discuss the registering and declaration of interests with your Monitoring Officer/Town or Parish Clerk and more detail is set out in appendix B.

## Gifts and hospitality

### **11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.**

### **12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**

You should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you

because you are a member. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify your monitoring officer of any significant gifts you are offered but refuse which you think may have been offered to influence you.

Note – items in square brackets [x] refer to recommendations made by the Committee on Standards in Public Life and may be part of a future Government consultation. This includes possible future sanctions and appeals processes.

## Breaches of the Code of Conduct

Most councillors conduct themselves appropriately and in accordance with these standards. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

Section 27 of the Localism Act 2011 requires relevant authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. Each local authority must publish a code of conduct, and it must cover the registration of pecuniary interests, the role of an 'independent person', and sanctions to be imposed on any councillors who breach the Code.

The 2011 Act also requires local authorities to have mechanisms in place to investigate allegations that a member has not complied with the Code of Conduct, and arrangements under which decisions on allegation may be made.

Failure to comply with the requirements to register or declare disclosable pecuniary interests is a criminal offence. Taking part in a meeting or voting, when prevented from doing so by a conflict caused by disclosable pecuniary interests, is also a criminal offence.

Political parties may have its own internal standards and resolution procedures in addition to the Member Code of Conduct that members should be aware of.

# Example

## LGA guidance and recommendations

### Internal resolution procedure

Councils must have in place an internal resolution procedure to address conduct that is in breach of the Member Code of Conduct. The internal resolution process should make it clear how allegations of breaches of the Code of Conduct are to be handled, including the role of an Independent Person, the appeals process and can also include a local standards committee. The internal resolution procedure should be proportionate, allow for members to appeal allegations and decisions, and allow for an escalating scale of intervention. The procedure should be voted on by the council as a whole.

In the case of a non-criminal breach of the Code, the following escalating approach can be undertaken.

If the breach is confirmed and of a serious nature, action can be automatically escalated.

1. an informal discussion with the monitoring officer or appropriate senior officer
2. an informal opportunity to speak with the affected party/ies
3. a written apology
4. mediation
5. peer support
6. requirement to attend relevant training
7. where of a serious nature, a bar on chairing advisory or special committees for up to two months
8. where of a serious nature, a bar on attending committees for up to two months.

Where serious misconduct affects an employee, a member may be barred from contact with that individual; or if it relates to a specific responsibility of the council, barred from participating in decisions or information relating to that responsibility.

## Endnotes

1. CSPL recommend that “Section 27(2) of the Localism Act 2011 should be amended to state that a local authority’s code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority”.
2. CSPL recommend that “councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.”
3. Subject to footnotes 1 and 2 above
4. See CSPL website for further details [www.gov.uk/government/news/the-principles-of-public-life-25-years](http://www.gov.uk/government/news/the-principles-of-public-life-25-years)
5. ACAS’s definition of bullying

# Appendices

## Code Appendix A

The principles are :

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Code Appendix B

### **Registering interests**

1. Within 28 days of this Code of Conduct being adopted by the council or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests).
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Table 1 or 2, or of any change to a registered interest, notify the Monitoring Officer.

### **Declaring interests**

3. Where a matter arises at a meeting which directly relates to an interest in Table 1, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
4. Where a matter arises at a meeting which directly relates to an interest in Table 2, you must declare the 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. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

5. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the 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. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
6. 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 covered by table 1 below

you must disclose the interest.

7. Where the matter affects the financial interest or well-being to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest you must declare the 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. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

**Table 1: Disclosable Pecuniary Interests**

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.  [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.  This includes any payment or financial benefit from a trade union within the meaning of the <b>Trade Union and Labour Relations (Consolidation) Act 1992</b> .
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —  (a) under which goods or services are to be provided or works are to be executed; and  (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council.  ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to the councillor’s knowledge)—  (a) the landlord is the council; and  (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where—  (a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and  (b) either—  (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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\*'director' includes a member of the committee of management of an industrial and provident society.

\*'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registerable Interests**

<b>Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;</b>	
Any Body—	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
of which you are a member or in a position of general control or management.	





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For a copy in Braille, larger print or audio,  
please contact us on 020 7664 3000.  
We consider requests on an individual basis.

REF 11.197

**THIS FORM IS FOR INFORMATION ONLY - DO NOT COMPLETE**  
**PLEASE USE THE ONLINE SURVEY FORM TO SUBMIT YOUR RESPONSE**

## **LGA Consultation on Draft Model Member Code of Conduct**

Thank you for taking the time to complete this consultation. This Model Member Code of Conduct [[Model Member Code of Conduct.pdf](#)] aims to be concise, written in plain English and be understandable to members, officers and the public. The Model Member Code is designed to aid members in all tiers of local government model the behaviours and high standards that anyone would expect from a person holding public office. Equally, it articulates behaviour which falls below the standards that would be expected of council members. It is designed to help set a framework for public and councillor interaction, emphasising the importance of civility and that councillors should be protected from bullying, intimidation and abuse.

The LGA has reviewed the existing Model Member Code of Conduct and updated it here incorporating the recommendations from the Committee on Standard's in Public Life's recommendations on Local Government Ethical Standards and the representation from its membership. Part of the Committee's recommendations were the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is out of scope of this consultation, as it requires legislative changes by Government, but the LGA has sought to reflect some of the possible changes by using square brackets where legal changes would be necessary. The LGA is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the Committee's recommendations.

This consultation addresses key areas that the LGA would like a view on to help finalise the Code. It is aimed at councillors and officers from all tiers of local government. If you would like a wider discussion about the code, please do sign up to one of the forthcoming Webinars the LGA are holding as part of this consultation. Details will be posted on our [LGA events website](#).

### **Instructions and privacy notice**

You can navigate through the questions using the buttons at the bottom of each page. Use the 'previous' button at the bottom of the page if you wish to amend your response to an earlier question.

All responses will be treated confidentially. Information will be aggregated, and no individual or authority will be identified in any publications without your consent. Identifiable information may be used internally within the LGA but will only be held and processed in accordance with our [privacy policy](#). We are undertaking this consultation to aid the legitimate interests of the LGA in supporting and representing authorities.

Please complete your response in one go - if you exit before submitting your response your answers may be lost. If you would like to see an overview of the questions before completing the consultation online, you can access a PDF [here](#).

**About you**

Your name \_\_\_\_\_

**Are you...**

- A councillor
- An officer
- Answering on behalf of a whole council (Please provide council name below)

\_\_\_\_\_

- Other (please specify below)

\_\_\_\_\_

**Please indicate your council type**

- Community/Neighbourhood/Parish/Town
- District/Borough
- County
- Metropolitan/Unitary/London Borough
- Other (please specify below)

\_\_\_\_\_

**Application of the Code**

Under the Localism Act 2012, the Code of Conduct applies to councillors only when they are acting in their capacity as a member. The LGA believes that because councillors are elected by the public and widely recognised by the public, it makes sense for them to continue to model these behaviours when they are making public comment, are identifying as a councillor and when it would be reasonable for the public to identify them as acting or speaking as a councillor. The Committee on Standards in Public Life supported this approach in their report into Local Government Ethical Standards. Whilst the LGA is waiting for Government's response to these recommendations the option has been added in square brackets as it would need changes in legislation.

**Q1. To what extent do you support the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q1a. If you would like to elaborate on your answer please do so here:**

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**Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?**

- Yes
- No
- Don't know

**Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?**

- Personal tense ("I will")
- Passive tense ("Councillors should")
- No preference

### **Specific obligations**

The Code lists 12 specific obligations – these set out a minimum standard councillors are asked to adhere to.

Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.

**Q4. To what extent to you support the 12 specific obligations?**

	To a great extent	To a moderate extent	To a small extent	Not at all	Don't know / Prefer not to say
1. Treating other councillors and members of the public with civility.					
2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.					
3. Not bullying or harassing any person.					
4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.					
5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.					
6. Not preventing anyone getting information that they are entitled to by law.					
7. Not bringing my role or council into disrepute.					
8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.					

9. Not misusing council resources.					
10. Registering and declaring my interests.					
11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.					
12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.					

**Q5. If you would like to propose additional or alternative obligations, or would like to provide more comment on a specific obligation, please do so here:**

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**Q6. Would you prefer to see the obligations as a long list followed by the guidance, or as it is set out in the current draft, with the guidance after each obligation?**

- As a list
- Each specific obligation followed by its relevant guidance
- No preference

For information only - Do not complete

**Q7. To what extent to you think the concept of 'acting with civility' is sufficiently clear?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q7a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

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**Q8. To what extent do you think the concept of 'bringing the council into disrepute' is sufficiently clear?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q8a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:**

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For information only - Do not complete

**Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q9a. If there are other definitions you would like to recommend, please provide them here.**

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**Q10. Is there sufficient reference to the use of social media?**

- Yes
- No
- Don't know/prefer not to say

**Q10a. Should social media be covered in a separate code or integrated into the overall code of conduct?**

- Separate code
- Integrated into the code
- Don't know/prefer not to say

**Q10b. If you would like to make any comments or suggestions in relation to how the use of social media is covered in the code please do so here:**

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**Registration and declarations of interests**

The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' - that is matters which directly relate to the councillor and their partner if applicable.

The LGA is proposing that all councillors are required to declare interests where matters also relate to or affect other family members or associates. The LGA has broadened the requirement to declare interests beyond this current statutory minimum in line with a recommendation from the Committee on Standards in Public Life. These specific provisions are set out in **Appendix B** of the Code.

**Q11. To what extent do you support the code going beyond the current requirement to declare interests of the councillor and their partner?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

**Q11a. If you would like to elaborate on your answer please do so here:**

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**Q12. Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model code currently references it?**

- In the main body of the code
- In the appendix
- Other (please specify below)
- Don't know/prefer not to say

**Q12a.** If you would like to make any comments or suggestions in relation to how the requirement to declare interests is covered in the code please do so here:

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It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in **Table 2 of the Appendix** and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.

**Q13. To what extent do you support the inclusion of these additional categories for registration?**

	To a great extent	To a moderate extent	To a small extent	Not at all	Don't know / Prefer not to say
Any organisation, association, society or party of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council					
Any organisation, association, society or party that exercises functions of a public nature of which you are a member or in a position of general control or management					
Any organisation, association, society or party directed to charitable purposes					
Any organisation, association, society or party of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)					

**Q13a.** If you would like to propose additional or alternative **categories** for registration, please provide them here:

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**Q14. To what extent do you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?**

- To a great extent
- To a moderate extent
- To a small extent
- Not at all
- Don't know/prefer not to say

Q14a. If you would like to elaborate on your answer please do so here:

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**Q15. The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?**

- Yes
- Yes, but the amount should be reviewed annually with the code's review
- No, it should be lower (please specify amount) \_\_\_\_\_
- No, it should be higher (please specify amount) \_\_\_\_\_
- Don't know/prefer not to say

**Q16. The LGA will be producing accompanying guidance to the code. Which of the following types of guidance would you find most useful? Please rank 1-5, with 1 being the most useful.**

- \_\_\_\_\_ Regularly updated examples of case law
- \_\_\_\_\_ Explanatory guidance on the code
- \_\_\_\_\_ Case studies and examples of good practice
- \_\_\_\_\_ Supplementary guidance that focuses on specific areas, e.g., social media
- \_\_\_\_\_ Improvement support materials, such as training and e-learning packages

**Q16a. If you would like to suggest any other accompanying guidance please do so here:**

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**Q17. If you would like to make any further comments about the code please do so here:**

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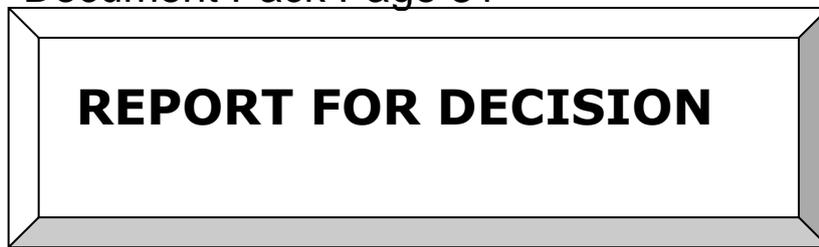
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Once you press the 'Submit' button below, you will have completed your response.

Many thanks for taking the time to respond to this consultation. You are in control of any personal data that you have provided to us in your response. You can contact us at all times to have your information changed or deleted. You can find our full privacy policy here: [click here to see our privacy policy](#)

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<b>DECISION OF:</b>	<b>STANDARDS COMMITTEE</b>	
<b>DATE:</b>	<b>1 July 2020</b>	
<b>SUBJECT:</b>	<b>Constitution Review</b>	
<b>REPORT FROM:</b>	<b>Deputy Chief Executive</b>	
<b>CONTACT OFFICER:</b>	Marie Rosenthal / Janet Witkowski	
<b>TYPE OF DECISION:</b>	Committee	
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain	
<b>SUMMARY:</b>	To inform the Committee of the pending review of the Council's Constitution to ensure that it is up to date and fit for purpose	
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	The Committee is asked to agree the proposed terms of reference, scope and time scale for the Constitution Review	
<b>IMPLICATIONS:</b>		
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework but will need approval of Full Council. <span style="float: right;">Yes</span>	
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	There are no financial implications	
<b>Equality/Diversity implications:</b>	There is no impact on equality matters at this stage but the terms of reference for the review will require this.	
<b>Considered by Monitoring Officer:</b>	<b>Yes</b>	
<b>Wards Affected:</b>	All	
<b>Scrutiny Interest:</b>	Not applicable	

**TRACKING/PROCESS****DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
22 June 2020	18 June 2020	N/A	N/A
Scrutiny Committee	Cabinet/Committee	Council	
N/A	<b>Standards</b>	<b>N/A</b>	

## 1. INTRODUCTION

- 1.1 The Constitution sets out how the Council operates; how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The Council has a legal duty to publish an up to date Constitution and it should be reviewed annually with any necessary changes being normally considered at the annual council meeting. The Council made a number of changes to the Constitution at its annual meeting in May 2020 and agreed to a further full Review during 2020/21 as a priority.
- 1.2 The report to Council in May indicated that the current scrutiny arrangements needed review alongside arrangements for meetings and decision making generally.
- 1.3 Members and Officers have also raised the following issues which have prompted the need for review:
  - (a) A document which has grown over years and is not internally consistent;
  - (b) Setting up of the integrated Bury Health and Social Care One Commissioning Organisation in October 2019  
Concern at legal compliance and extensive statutory references;
  - (c) An unwieldy document that could be simplified and made more accessible for on line viewing;
  - (d) Opportunities to reduce bureaucracy, that also helps members and officers to take decisions more robustly with more clarity over who takes which decisions;
  - (e) An LGA peer review in 2018 recommended a review of the current scrutiny arrangements.
- 1.4 Under Article 9.03 of the Constitution, the Standards Committee is responsible for oversight of the Constitution.
- 1.5 The Council has established a cross party Democratic Arrangements Forum comprising the four Political Group Leaders and the Council Chair to consider proposed changes to ensure the Constitution is kept up to date.
- 1.6 The purpose of this Report is to propose terms of reference and methodology for the Review.

## 2. BACKGROUND

- 2.1 A Constitution Direction was issued by the Secretary of State in December 2000 that requires around 80 matters to be included within council constitutions, covering members' allowances schemes, details of procedures for meetings, details of joint arrangements with other local authorities and a description of the rights of inhabitants of the area.
- 2.2 The Council's Constitution currently comprises 322 pages organised into 7 Parts (many divided into a number of sections). The document is difficult to navigate as the contents page does not number the sections and there is no Index. A member of the public who did not already know which part to look in would find it difficult to

locate a specific section of the Constitution as there is a very limited search facility.

### 3. **INDEPENDENT HEALTH CHECK REVIEW**

3.1 It is suggested that the first phase of the Review comprise an independent review of compliance with legislative provisions and best practice undertaken by the Strategic Advisor Marie Rosenthal.

3.2 This first phase would bring forward options for members to consider with a view to developing a clearer, more succinct Constitution which better reflects the present values of the Council, is accessible, up to date and will incorporate changes to modernise the document and make it easier to use.

### 4. **ROLE OF DEMOCRATIC ARRANGEMENTS FORUM (DAF)**

4.1 It is proposed that the DAF steer the work of the Constitution Review on a regular informal basis over the summer with a view to bringing proposals to the Council meeting on 25 November.

4.2 The DAF will ensure that the outcome of the review will allow members and the public to have a better understanding and clarity around decision-making, including who takes decisions and how.

4.3 Where possible, it is suggested there should be more use of flow charts and diagrams in the Constitution outlining decision-making bodies and where possible hyperlinks to enable easy navigation. The Introduction should properly explain how the council takes decisions lawfully in respect of the Council's functions.

4.4 The Terms of Reference for the Review by the DAF would be:

- develop a shortened, streamlined and improved Constitution for Bury Council
- review the decision making process to be explained and set out in the new Constitution
- review the Overview and Scrutiny arrangements across the Council
- provide political and social policy direction.
- carry out a survey of all members and stakeholders on how the Constitution can be improved
- approve the text of amendments to the Constitution to give effect to Council policy.
- Ensure that the partnership arrangements with the CCG are reflected in the new Constitution
- steer the Constitution Review to completion.
- Recommend to full council a revised version of the Constitution by December 2020(25 November Council)
- agree a programme of training and development for members and officers on the new Constitution during 2020/21.

### 5. **ALL MEMBER SURVEY**

5.1 It is proposed that the DAF commission an on line survey to alert all councillors to the Review and to seek ideas for improvement.

## 6. **SCRUTINY REVIEW**

- 6.1 In November 2018, the Council invited the Local Government Association (LGA) to undertake a Corporate Peer Review. The purpose of this was to help understand what the Council was doing well and what areas it could improve.
- 6.2 The review provided an independent external assessment of the Council's capacity to deliver Members' priorities for Bury. The review was conducted by a team of expert Members and officers from other Councils and was based on a wealth of evidence collected from discussions with Members, officers at all levels, residents and partners.
- 6.3 The Peer Review looked at the Council's governance arrangements and suggested:

“Given the significant portfolio of transformation work required the council may also wish to consider reviewing its current scrutiny arrangements to ensure that they are able to achieve the right objectives for the council on the journey ahead. This should include the alignment of scrutiny to the corporate priorities and partnership arrangements as well as the type of member support this requires. This review may wish to check whether an appropriate level of challenge is currently in place and if this is fit for the journey ahead.

The Peer Review found:

“At present, scrutiny is provided with a more limited set of outcome level information rather than the type of detailed service performance information recommended here. As the corporate Performance Management Framework is developed, how this feeds into scrutiny to support effective and transparent challenge should also be considered. “

The Peer Review recommended:

“Scrutiny should be provided with the appropriate performance information and officer capacity to provide effective challenge and assist with policy development.”

- 6.4 Members have requested that the review of Scrutiny be an early aspect of the Review. The current arrangement was introduced in 2000 and has developed ad hoc over time. It is proposed to create a new Scrutiny Committee to oversee the programme of scrutiny work across the council together with a number of new Scrutiny sub committees / panels dedicated to key themes of council business.
- 6.5 It is suggested that 4 new Panels be set up: Children; Environment; Partnership and Corporate; Economy. The existing Health Scrutiny Panel would be extended to also cover Social Care.
- 6.6 The Review will examine these proposals during the summer with a view to bringing recommendations to Council on 9 September 2020.

## 7. **NEW FORMAT FOR THE CONSTITUTION**

- 7.1 It is proposed to simplify Parts 1 and 2 of the current Constitution comprising the Introduction and the Articles of Constitution into a new easier to read introduction. The Introduction will set out the purpose of the Constitution and have on line links to the detail of the Constitution. The Articles are not a legal requirement and repeat many of the points in the

Introduction and elsewhere in the Constitution.

- 7.2 The revised Constitution would be available on the Council's website as a complete document. This will make searching for key terms within the document easier. The new format will also make use of internal hyperlinks to allow a user to navigate quickly across the document
- 7.3 It is important to ensure that the revised Constitution fully meets all accessibility legislation. It is suggested that the new Constitution be published as a series of web pages, which would be easier to amend and would be accessible and more user friendly. It would be easier to read on mobile phones and devices and enable searches and accessibility with no large file to open as is the case now.

### 8. **RESEARCHING BEST PRACTICE**

- 8.1 Officers will review the Model Constitution for councils in England created in 2014 by the Lawyers in Local Government Group by the law firm, Womble Bond Dickinson. The intention was to create a user-friendly suite of documents which can be tailored easily by in-house lawyers and constitutional experts to suit any type of council.
- 8.2 Officers will also review examples of Constitutions used across the country especially by councils who have engaged with the NHS to create integrated new arrangements similar to Bury.

### 9. **COMMITTEES' TERMS OF REFERENCE**

- 9.1 It is suggested that there should be a diagram showing all the Council's committee and sub-committees and that each Committee has its membership and terms of reference set out in a standard format and includes all sub-committees and Panels.

### 10. **CONCLUSION AND RECOMMENDATIONS**

- 10.1 The Standards Committee are asked to consider and approve the proposed approach to reviewing the Constitution.
- 10.2 It is proposed to report to Council on the scrutiny proposals on the 9 September 2020. A more comprehensive Report is proposed to go to Council on 25 November 2020 with recommendations to adopt a new revised Constitution to come into effect on 1 January 2021.

### 11. **LEGAL AND FINANCIAL IMPLICATIONS**

Section 37 of the Local Government Act 2000 sets out the duty of the Council to prepare and keep up to date its constitution as follows:

(1) A local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains— (a) such information as the Secretary of State may direct, (b) a copy of the authority's standing orders for the time being, (c) a copy of the authority's code of conduct for the time being under section 51; and (d) such other information (if any) as the authority consider appropriate.

(2) A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.

(3) A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

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### **List of Background Papers:**

LGA Corporate Peer Challenge Report – November 2019

Lawyers in Local Government Model Form of Constitution  
Created by Womble Dickenson Dees

### **Contact Details:**

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