



Classification	Item No.
Open	

Meeting:	Standards Committee
Meeting date:	15 th November 2021
Title of report:	Code of Conduct for Members
Report by:	The Monitoring Officer
Decision Type:	Council
Ward(s) to which report relates	All

EXECUTIVE SUMMARY:

All Councils are required to have a local member code of conduct which sets out the requirements for holding office.

The current code in Bury entitled the 'Code of Conduct for Councillors and other Voting Representatives' contained within the Council's Constitution. 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.

This report is to advise Members on recent developments regarding the LGA code of conduct, the recent review of the code by Chief Legal Officers across Greater Manchester and draw to Members attention that the Committee on Standards in Public Life ("the CSPL") report on the 1st November 2021.

RECOMMENDATIONS:

1. Defer consideration and recommendations regarding adoption of the LGA model code pending the receipt of central government's response the Committee on Standards in Public Life recommendations and any legislative changes
2. Request a further report on this to its next meeting and that this be added to the Committee's workplan

1.0 INTRODUCTION

1. The Committee on Standards in public life (CPSL) published its review of local government ethical standards on 30th January 2019. The report contained a recommendation that the Local Government Association should create an updated code of conduct in consultation with representative bodies of Councillors and all tiers of Local Government. Members received a report from the Interim Monitoring Officer on 1st July 2020 relating to the proposed Local Government Association model code of conduct. The LGA carried out a consultation and Bury members responded to the consultation.
2. The Government has not commented yet on the CSPL 2019 recommendations including the recommendations relating to strengthening sanctions for breach of the code. It is now anticipated following the Upholding Standards in Public Life (Final report of the Standards Matter 2 review) by the Committee on Standards in Public Life [Upholding Standards in Public Life - Web Accessible.pdf](#) Appendix 1) the Government will shortly respond which will be followed by a further LGA review of the model code.
3. The latest review Chaired by Lord Evans has brought forward 34 recommendations. The review examined whether the current articulation of the Seven Principles of public life lays out the right ethical expectations. Lord Evans noted that contributors voiced strong support for Lord Nolan's original seven, citing their longevity, timelessness and widespread integration into British public life however following recent issues the Committee has decided it will amend the descriptor for leadership to have a greater emphasis on treating others with respect. Leadership (new descriptor): Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.
4. Members were orally updated by the Monitoring officer on 13th September 2021 of a proposal that all Chief Legal Officers across Greater Manchester were meeting to review the LGA model code. The benefits of this was to attain a consistency of approach across Greater Manchester Councils in the event that stronger sanctions were to be made available for breach of the code and that Chief Legal Officers consider the adoption of the of the LGA code (either in full or with minor amendments). This report feedbacks the outcome of those meetings.
5. Key points to note from the Standards Section of the LGA model code include that it:

- aims to clarify when the code will apply
 - introduces the concept of treating other Councillors, members of the public, staff and representatives of partner organisations with 'respect' whilst acknowledging the need to be able to engage in debate in a civil manner.
 - makes it a requirement to comply with any sanction imposed following a finding that the code has been breached. At present as Members will be aware sanctions for breach of the Members Code of Conduct are very limited. The CSPL recommended the Government change the law to allow Local Authorities the power to suspend councillors, without allowances, for up to six months (exercisable only where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction).
 - Sets the threshold for registration of Gifts and hospitality at £50 (but makes no mention of smaller gifts adding up to £50 threshold.)
6. Several concerns were raised regarding the LGA code. In particular it was noted that it departed from narrower wording in s 31 of the Localism Act 2011 (which relates to Disclosable Pecuniary Interests (DPI's)) and introduced a distinction between things that "directly relate" to an interest and things that "affect" an interest. It was concluded that it had been assumed by the LGA the change to the law recommended by the CSPL report to repeal s 31 of the Localism Act 2011 would have taken place. The wording in the Bury code of code is consistent with the legislation as it currently stands. As Members are aware there are criminal sanctions if members fail to disclose a disclosable pecuniary interest.
7. It was noted that the since its issue the LGA code has been updated twice to clarify issues that were not covered by the earlier versions, with further guidance being issued on the LGA model code in July 2021. Whilst the current version does pick up on some of the issues it does not address the departing for the Localism Act.
8. The LGA contacted Monitoring Officers in relation to its original proposal to review the Code on an annual basis querying whether it is too early to review the code this year for the following reasons:
- It has not yet been well embedded
 - Some councils have only just considered it
 - It would be better to review it shortly before the May 2022 London Local Government elections, so that it can be considered at the annual general meeting for adopted in full/part/not at all at the annual meeting of councils

- Wait for central government response to CSPL recommendation if this is likely to be published by the end of 2021.

9. For the reasons highlighted above and because the LGA code appears to be in a state of flux it is recommended that Bury should retain its current code of conduct for now. It is recommended that this matter is reviewed at the beginning of next year once the position is clearer any change to the code at this point would be subject to a further review.

Community impact/links with Community Strategy

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Legal Challenge	

Consultation:

Legal Implications:

As set out in the report

Financial Implications:

None

Report Author and Contact Details:

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Background Papers

**Appendix 2 CONSULTATION ON DRAFT MODEL CODE OF CONDUCT
(Standards Committee 1.7.2021)**

