



**COTSWOLD
DISTRICT COUNCIL**

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE - 30 JULY 2020
Report Number	AGENDA ITEM (17)
Subject	RESPONSE TO THE LOCAL GOVERNMENT ASSOCIATION (LGA) CONSULTATION ON THE MODEL MEMBER CODE OF CONDUCT
Wards affected	ALL
Accountable member	Cllr. Patrick Coleman - Chair of Audit Committee Email: patrick.coleman@cotswold.gov.uk
Accountable officer	Bhavna Patel - Monitoring Officer Tel: 01285 623219 Email: bhavna.patel@cotswold.gov.uk
Summary/Purpose	To inform the Committee of the consultation by the Local Government Association (LGA) on its draft Model Member Code of Conduct.
Annexes	Annex A - the draft Model Members Code of Conduct Annex B - the Consultation Questionnaire Annex C - the Cotswold District Council's Members Code of Conduct Annex D - the MO's responses
Recommendation/s	<i>That the Committee:</i> <i>a) Notes the report;</i> <i>b) Provides responses and comments to the draft consultation questionnaire at Annex B; and</i> <i>c) Authorises the Monitoring Officer to submit a consultation response to the LGA on the Council's behalf.</i>
Corporate priorities	Ensure all services delivered by the Council are delivered to the highest standards.
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Chair of Audit Committee, Interim Chief Executive , Section 151 Officer

1. BACKGROUND

- 1.1. Cotswold District Council adopted the members' code of conduct in July 2013 and it forms part of the Constitution.
- 1.2. The Committee on Standards in Public Life (CSPL) undertook a review in 2018 which considered that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government
- 1.3. The terms of reference for the review were to:
- (i) examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
 - (ii) assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
 - (iii) make any recommendations for how they can be improved
 - (iv) note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

2. MAIN POINTS

- 2.1. The Local Government Association (“the LGA”) has now released a draft Model Member Code of Conduct and is seeking views on it.
- 2.2. The LGA’s Model Code of Conduct
- 2.2.1. On 8 June 2020 the LGA released a [model code of conduct for consideration](#) (Annex A) together with a consultation questionnaire (Annex B). The LGA has stated that “the draft Model Member Code of Conduct aims to be concise, written in plain English and be understandable to members, officers and the public. The draft Model Member Code has been 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.” The LGA states that the draft 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.
- 2.2.2. The LGA has drafted a Model Member Code of Conduct incorporating the Committee on Standards in Public Life’s recommendations on Local Government Ethical Standards and representations from its membership. Part of the CSPL’s recommendations was the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is outside the scope of the LGA 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. These have been shown within this report in bold type to assist members.

2.2.3. A model code would create consistency across England and reflect the common expectations of the public regardless of geography or tier of authority.

1. The draft Model Code is attached at Annex A. The Committee will note that it:-

- a) Applies to members when they are acting [**or claiming or giving the impression that they are acting**] in [**public or in**] their capacity as a member or representative of the Council, although members are expected to uphold high standards of conduct and show leadership at all times;
- b) Applies to all forms of member communication and interaction including written, verbal, non-verbal, electronic and via social media [**where the member could be deemed to be representing the Council or if there are potential implications for the Council's reputation**]. The Localism Act 2011 may need to be amended to allow for this. The LGA consultation specifically raises the question whether there should be a separate social media code or whether provision for guidance on the use of social media should be included in the main body of the code;
- c) The Model conduct and expectations are for guidance only, whereas the specific minimum obligations that are expected set out instances where action will be taken;
- d) It introduces the requirement to treat all persons with "civility" which is defined as meaning "politeness and courtesy in behaviour, speech and in the written word";
- e) Gives a definition of bullying - "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."
- f) Gives a definition of harassment - "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."
- g) Introduces requirements around gifts and hospitality – "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. 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.” The Council already requires that Councillors declare gifts with a monetary value of £25 and over. The model code proposes a threshold of £25.

h) States that Councils must have an internal resolution procedure to address any behaviour that is in breach of the Member Code of Conduct. It says “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.

2.2.4. 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.”

2.2.5. The Monitoring Officer in her response to the CSPL highlighted that the main weakness in the standards regime is the limited range of sanctions that can be applied, which are not strong enough to provide an effective deterrent.

2.2.6. Additional sanctions which would strengthen the standards regime should include the powers to suspend members from office and to suspend members’ allowances for a period of time. Currently there are insufficient sanctions to deal with more extreme behaviours such as bullying, dishonesty or conviction other than those provided under section 34 of the Localism Act 2011. The draft Model Member Code of Conduct does not provide any strengthening of the sanctions available and a change to the legislation would be required to allow for suspension from office or suspension of allowances.

- i) Introduces two tables in relation to members’ declaration of interests. It states that where a matter arises at a meeting which directly relates to an interest in Table 1 (disclosable pecuniary interests) a member must not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation. If a matter arises at a meeting which directly relates to an interest in Table 2 (other registrable interests) a member must declare the interest and would only be able 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 granted a dispensation.

j) Describes the action that must be taken where:

- 1) a matter arises at a meeting which directly relates to a member's financial interest or well-being (and is not a disclosable pecuniary interest) or that of a relative or close associate
- 2) a matter arises at a meeting which affects:
 - a) a member's 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
- 3) a matter arises which affects the financial interest or well-being of a member 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 of the facts would believe that it would affect that member's view of the wider public interest.

3. THE LGA CONSULTATION

- 3.1. The LGA says that it is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the Committee's recommendations.
- 3.2. The consultation is expected to address 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. The consultation on the draft member code of conduct runs for 10 weeks from Monday 8 June until Monday 17 August.
- 3.3. The Committee is asked to consider a response to the consultation and comments and to authorise the Monitoring Officer to respond on behalf of the Council.
- 3.4. The Monitoring Officer has responded to the Consultation Questionnaire and her responses are attached on Annex D

4. FINANCIAL IMPLICATIONS

- 4.1. None.

5. LEGAL IMPLICATIONS

- 5.1. None.

6. RISK ASSESSMENT

- 6.1. None.

7. ALTERNATIVE OPTIONS

7.1. None.

8. BACKGROUND PAPERS

8.1. None.

(END)