

COUNCIL MEETING – 22ND APRIL 2021

AGENDA ITEM NO. 4 (2)

NEW CODE OF CONDUCT FOR MEMBERS

A report from the meeting of the Licensing, Audit and General Purposes Committee held on 29th March, 2021.

SUMMARY:

During February and March 2021, a six-week consultation was carried out on a draft new Code of Conduct for Councillors ('the draft new Code') mirroring a new national Model Code produced by the Local Government Association. Information on the requirement for a new Code and the extent of the consultation and the responses received is set out within this report.

RECOMMENDATION:

The Council is recommended to:

- (1) adopt with effect from the start of the 2021/22 Municipal Year (25th May 2021) the new Code of Conduct for Members attached to the report at Appendix 1; and
- (2) note the intention to seek dispensations for Members to participate in items where they have a personal interest arising from their nomination or appointment by the Council to the general control or management of any body.

1. INTRODUCTION

- 1.1 At the end of last year the Local Government Association (LGA) published a new Model Code of Conduct for Councillors after extensive consultation. The Model Code was developed in order to support local government to continue to aspire to high standards of leadership and performance taking account of the Committee on Standards in Public Life 2019 report on Ethical Standards in Local Government. The current Council Member of Code of Conduct requires to be updated to meet best practice recommendations flowing from that Report including a prohibition on bullying and harassment; a requirement for councillors to comply with any formal standards investigation and a prohibition re trivial or malicious allegations by Councillors. The LGA Model provides for the possible inclusion of a new category of disclosable pecuniary interests namely "any unpaid directorship". This would cover those Members of the Council who have been appointed to the boards of any organisation including for example the

Council's own housing company or the Rushmoor Development Partnership.

- 1.2 In January, Members of the Licensing, Audit and General Purposes Committee considered and approved a report on a draft new Code of Conduct for Members of Rushmoor Borough Council (Report attached as Appendix 2), following which a period of public consultation was undertaken.

2. CONSULTATION

- 2.1 The consultation on the new Code of Conduct was published on the Council's website and was notified to Members by the Chief Executive in his newsletter of 5th March. In addition, the Communications Team have written to some 3,000 residents who have asked to be kept up to date on Council news and consultations being undertaken by the Council. There has also been a social media campaign offering residents and interested parties the opportunity to air their views on the proposed new Code. The Monitoring Officer has also contacted a number of local and partner organisations asking for their views. These include Hampshire Police, Citizens Advice, the Garrison, Rushmoor Voluntary Services, the Nepali Community, Farnborough 6th Form College and some of the churches in the Borough.

Overall, there have been more than 227 views of the webpage, and a copy of the consultation responses received is attached at Appendix 3.

3. SUMMARY OF RESPONSES

- 3.1 Only four detailed responses were received, and these are set out in the Appendix in a table with comments from the Corporate Manager – Legal against each. It is considered that the Code as drafted provides safeguards around each of the concerns listed. No comments were received in relation to the option for addition of unpaid directorships to the class of disclosable pecuniary interests set out in Table A of the annex to the new Code. Such interests as relate to any body of which a Member is in general control or management and to which that Member was nominated or appointed by the Council is a personal interest in any event (Table B of the annex) and would require that Members with such interests are granted a dispensation to take part any decision making in relation thereto.

4. CONCLUSION

- 4.1 The new draft Code simplifies and provides timely helpful clarification and guidance to members in navigating their role in a time of increasing complexity in the business of local government and growing social media use with its potential for intimidation and abuse. At the same time the new draft Code seeks to reassure members of the public that those they elect will be accountable in meeting the behaviours set out in the Seven Principles of Public Life and taking decisions in a fair and transparent way. Dispensations will be sought from the Licensing Audit and General Purposes Committee at the earliest opportunity to enable any Member appointed to the management or control of the Council's

Housing Company and the Rushmoor Development Partnership to take part in decision making in relation thereto.

S.J. MASTERSON
CHAIRMAN OF LICENSING, AUDIT AND
GENERAL PURPOSES COMMITTEE

BACKGROUND DOCUMENTS:

1. *Report to Licensing Audit and General Purposes Committee of 25th January 2021.*
2. *Local Government Association Model Member Code of Conduct Consultation May 2020*
3. *LGA Model Councillor Code of Conduct December 2020*
4. *Report of the Parliamentary Committee on Standards in Public Life Report on Local Government Ethical Standards January 2019.*



**RUSHMOOR BOROUGH COUNCIL
MEMBERS' CODE OF CONDUCT 2021
(CONSULTATION DRAFT)**

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

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

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

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person

- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- You misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- At face-to-face meetings
- At online or telephone meetings
- In written communication
- In verbal communication
- In non-verbal communication
- In electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer or your two Deputy Monitoring Officers on any matters that may relate to the Code of Conduct.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a Councillor:

- 1.1** I treat other councillors and members of the public with respect
- 1.2** I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play

Respect 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 robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination**As a Councillor:**

- 2.1** I do not bully any person
- 2.2** I do not harass any person
- 2.3** I promote equalities and do not discriminate unlawfully against any person

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. 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 may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a Councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority

Officers work for the local authority 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. 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. However, 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.

4. Confidentiality and access to information

As a Councillor:

4.1 I do not disclose information:

- a) Given to me in confidence by anyone
- b) Acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - iii. The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - iv. The disclosure is:
 1. Reasonable and in the public interest; and
 2. Made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests

4.3 I do not prevent anyone from 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 legally defined 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 local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a Councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted 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 you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a Councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a Councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a) act in accordance with the local authority's requirements; and
- b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- Office support
- Stationery
- Equipment such as phones, and computers
- Transport
- Access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

- 8.1** I will undertake Code of Conduct training provided by my local authority
- 8.2** I will cooperate with any Code of Conduct investigation and/or determination
- 8.3** I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings
- 8.4** I will comply with any sanction imposed on me following a finding that I have breached the Code of Conduct

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer or the Deputy Monitoring Officers.

Protecting your reputation and the reputation of the local authority.

9. Interests

As a Councillor:

- 9.1** I register and disclose my interests

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose 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 disclosed by you or other councillors when making or taking part in decisions, 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.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a Councillor:

- 10.1** I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage
- 10.2** I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt
- 10.3** I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept

In order to protect your position and the reputation of the local authority, 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 councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer or Deputy Monitoring Officers for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

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 disclose 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.

Appendix B – Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable pecuniary interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in **Table 1** below.

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate 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 disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of other registerable interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), 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 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 disclose the nature of the interest.

Disclosure of non-registerable interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) 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 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 disclose the nature of the interest.
8. Where a matter arises at a meeting which ***affects*** –
 - a) your own financial interest or well-being;
 - a) A financial interest or well-being of a friend, relative, close associate; or
 - b) A body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter ***affects*** your financial interest or well-being:
 - a) To a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b) 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 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 disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>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 –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the Council.</p> <p>‘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.</p>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

Corporate tenancies	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.
Securities	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.

* '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

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) Anybody of which you are in general control or management and to which you are nominated or appointed by your authority
- b) Anybody
 - (i) Exercising functions of the public nature
 - (ii) Exercising functions of a public nature
 - (iii) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

LICENCING, AUDIT & GENERAL
PURPOSES

MONITORING OFFICER
REPORT NO: LEG2101

25th JANUARY 2021

**UPDATE ON THE LOCAL GOVERNMENT ASSOCIATION MODEL CODE AND
DRAFT NEW CODE OF CONDUCT FOR MEMBERS**

SUMMARY:

The current Code of Conduct for Councillors requires to be updated and consulted upon in line with the best practice recommendations of the Committee on Standards in Public Life following their report into Ethical Standards in Local Government. A new Model Councillor Code of Conduct ('Model Code') has been produced by the Local Government Association. This is designed to protect Councillor's democratic role, encourage good conduct and safeguard the public's trust in local government. A draft new Code of Conduct for Councillors ('the draft new Code') mirroring this Model Code has been produced for consideration and for consultation in order to finalise a new Code for adoption by Council in due course.

RECOMMENDATION:

That the terms of the draft new Code be noted and agreed for consultation. Further, that the Committee agree a six-week period of consultation with Councillors, members of the public, community organisations and neighbouring authorities on the draft new Code. Following this, a report to be brought to the meeting of the Licensing Audit and General Purposes Committee on the 29th March 2021 with a final draft new Code, taking into account responses to the consultation for consideration and recommending the adoption of a new Code of Conduct by Council if appropriate.

1. INTRODUCTION

- 1.1 The Local Government Association (LGA) has published a new Model Code of Conduct after extensive consultation across the sector during the Summer of 2020. The Model Code was developed in order to support local government to continue to aspire to high standards of leadership and performance. The Committee on Standards in Public Life (CoSPL) reported on Ethical Standards in Local Government in 2019 and this report has informed the work of the LGA in producing a Model Code. The CoSPL report included 15 best practice recommendations in relation to the standards regime and ethical practice which they expect every local authority to implement. The current Rushmoor Member

of Code of Conduct requires to be updated to meet certain of these best practice recommendations in relation to prohibitions on bullying and harassment; a requirement for councillors to comply with any formal standards investigation and a prohibition re trivial or malicious allegations by Councillors. The publication of the Model Code presents the opportunity to both meet the best practice recommendations of the CoSPL and to modernise the Rushmoor Code, providing a very clear framework for all members in upholding the ethical values set out in the Model Code and clear guidance on meeting the Seven Principles of Public Life.

- 1.2 The stated purpose of the new Model Code is to assist councillors to make clear the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken under the Code. It also seeks to protect councillors, the public, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and specific obligations in relation to standards of conduct. The fundamental stated aim of the Code is to create and maintain public confidence in the role of councillor and local government.

2. BACKGROUND

- 2.1 The current Code of Conduct for Councillors applies to all Members and Co-opted Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council. The current Code provides a list of general obligations for all Members of the Council to comply with including valuing colleagues and officers and treating everyone with respect and propriety. It focusses very much on declarations of interest and the impact of certain interests on the Member's ability to take part in the decision-making process. It does not positively state the commitment of elected Members as to the standards of behaviour that is expected of those elected to serve in public office nor give examples to guide. As such it does not meet the requirements of the CoSPL best practice recommendation in relation to providing clear guidance on preventing bullying and harassment.

3. THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

- 3.1 The recommendation from the CoSPL is that all local authorities should include a prohibition on bullying and harassment in codes of conduct with a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by the definition so that it is very clear what harm this seeks to address. A further recommendation of the CoSPL is that councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.
- 3.2 The CoSPL highlighted in their report the danger of drawing too narrow a scope for the application of the Code of Conduct as this make it difficult to effectively deal with some instances of poor behaviour particularly in relation to social media use. The CoSPL recognised the question of public and private capacity raised significant issues about the responsibilities of elected representatives. It

said that whilst democratic representatives need to have their right to free speech and freedom of expression protected, the public interest demands that they meet certain responsibilities in that role.

- 3.3 The CoSPL recognises the widespread use of social media presents a particular challenge to deciding whether a code of conduct applies to instances of behaviour. In line with the guidance provided in Wales, the CoSPL consider that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the code of conduct applies.
- 3.4 The CoSPL also recognises that an individual's private life – that is, private behaviour in a personal capacity – should remain out of scope. This includes, for example, what is said in private conversations (where those conversations are not in an official capacity), but it says that those in high-profile representative roles, such as councillors, should consider that their behaviour in public is rightly under public scrutiny and should adhere to the Seven Principles of Public Life. This includes any comments or statements in print, and those made while speaking in public or on publicly accessible social media sites.
- 3.5 This does not, however, mean that councillors should be censured just because an individual dislikes or disagrees with what they say; standards in public life do not extend to adjudicating on matters of political debate. Controversial issues must be able to be raised in the public sphere, and councillors should have their right to form and hold opinions respected. Established rights to freedom of expression must be respected by councils when adjudicating on potential misconduct, considering the heightened protection granted to political expression.
- 3.6 The Committee on Standards in Public Life accordingly recommended that Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media.

4. THE CONSULTATION DRAFT COUNCILLOR CODE OF CONDUCT

- 4.1 The consultation draft new Code mirrors the Model Code of Conduct produced by the LGA and is appended to this report. Members will note the layout commences with a reference to the general principles of councillor conduct and the need to uphold the **Seven Principles of Conduct in Public Life**, also known as the Nolan Principles. These are appended to the draft new Code as they are in the current Code however in the new Code there is a greater emphasis on the link to the principals of the role of councillor set out in the Code. This focus on councillor conduct is helpful clarification for members given that the Nolan Principles are quite high level as they apply to all of those who serve the public or deliver public services.
- 4.2 The draft new Code applies to councillors acting in their capacity as a councillor including when a councillor misuses their position as a councillor and also where the actions of the councillor give the impression to a reasonable member

of the public with knowledge of all the facts that the councillor is acting as a councillor.

- 4.3 The draft new Code is written in the first person and runs clearly through when it will apply and the fact that it applies to **all** forms of communication and interaction with a list including social media communication. The draft new Code sets out the **minimum** standards of conduct required of councillors with guidance on the reasons for the obligations and how they should be followed. If a councillor's conduct falls short of these standards it is made clear that on receipt of any complaint, this may result in action being taken.
- 4.4 The obligations include treating others with respect; not bullying or harassing anyone and the promotion of equalities; not attempting to compromise the impartiality of anyone working for, or on behalf of, the Council. There is an obligation of confidentiality, and not using knowledge gained solely as a result of being a councillor for advancement of self or others; and not preventing anyone from getting information they are entitled to by law. A councillor must not bring their role of the council into disrepute nor must they use or attempt to use their position improperly to the advantage/disadvantage of themselves or others. A councillor must not misuse council resources. A councillor is required to undertake training on the code and cooperate with any investigation under the code. A councillor is obliged to register and disclose interests and disclose gifts and hospitality with a value of £50 within 28 days of receipt and register any significant gift or hospitality that they have been offered but have refused to accept.

5. REGISTRATION AND DISCLOSURE OF INTERESTS

- 5.1 The new draft Code maintains, as it must do, the legal requirement within 28 days of election or re-election to register Disclosable Pecuniary Interests in accordance with The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. There is also a requirement to register the details of other personal interests which are referred to as 'Other Registrable Interests'. A list and description of these types of Interest are contained within tables in the new draft Code.
- 5.2 The new draft Code clearly sets out the implications of the existence of such interests in relation to a councillor taking part in any discussion or decision making on a matter in which they have any interest.
- 5.3 The new draft Code simplifies the description and impact of personal interests and does not contain reference to the concept of 'prejudicial interests' which are somewhat difficult to navigate in the current Code. In so doing it removes the requirement to apply an additional subjective test.

6. SUMMARY AND RECOMMENDATIONS

- 6.1 The new draft Code simplifies and provides timely helpful clarification and guidance to members in navigating their role in a time of growing social media use and potential for intimidation and abuse. At the same time the new draft

Code seeks to reassure members of the public that those they elect will be accountable in meeting the behaviours set out in the Seven Principles of Public Life and taking decisions in a fair and transparent way.

- 6.2 It is recommended that the terms of the draft new Code be noted and agreed for consultation. Further, that the Committee agree a six-week period of consultation with Councillors, members of the public, community organisations and neighbouring authorities on the draft new Code. Following this, a report to be brought to the meeting of the Licensing Audit and General Purposes Committee on the 29th March 2021 with a final draft new Code, taking into account responses to the consultation for consideration and recommending the adoption of a new Code of Conduct by Council if appropriate.

BACKGROUND DOCUMENTS:

1. *Local Government Association Model Member Code of Conduct Consultation May 2020*
2. *LGA Model Councillor Code of Conduct December 2020*
3. *Report of the Parliamentary Committee on Standards in Public Life Report on Local Government Ethical Standards January 2019.*

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CONSULTATION EXERCISE - COMMENTS RECEIVED

Responses received to consultation	Response to comments
<p>1.“Councillors should not be able to be both local and county councillors as there is a potential / actual conflict of interest or even local favouritism in some circumstances.</p> <p>Having a practice of allowing multiple councillors from the same family should be stopped. It allows single families to wield too much influence and power. It’s just plain wrong.</p> <p>Councillors should have to declare interests more widely than their immediate family and remove themselves from decision making when there is even just a slight possibility that it could be seen as contentious. This should extend to local party members (aka mates and other relatives) who can wield undue influence over councillors.</p> <p>Councillors should not be able to stand for more than a set number of terms (say 3 - that’s 12 years): They are there to hold local government to account rather than build empires around themselves and a fresh perspective is often beneficial for all.”</p>	<p>This is outside the scope of the review of the Code of Conduct and is governed by primary legislation.</p> <p>There is no scope to introduce a limitation on numbers within the remit of the Code of Conduct regarding member conduct and declaration of interests.</p> <p>Members should note that the requirement of the code is to declare an interest where a matter directly affects OR relates to a financial interest or well-being of a relative or close associate. (Emphasis added) This therefore already provides some accountability in relation to family members, and friends who would be covered by the phrase ‘close associates’.</p> <p>This is outside the scope of the review of the Code of Conduct and is governed by primary legislation.</p>
<p>2. <u>Vested Interests</u></p> <p>Local politicians are motivated to serve in many ways. The ghastly words” open and transparent” are used when someone anticipates being found out to be the opposite. Better to understand just how much those weasel words mean in real life is for councillors to list their outside interests. These to include:</p>	<p>The draft Code provides for Members to declare a personal interest “in any business of your authority where it relates to or is likely to affect:</p>

Membership of lobby groups

RSPB

RSPCA

Greenpeace

Friends of the Earth

Extinction Rebellion

Trades Union Officials

Paid up Political Party membership (Conservative, Labour, Lib Dem, etc)

National Union of Students

Noise Abatement Society

Natural England Official

Ramblers Association membership

Cycling Association membership

RAC Competition Licence holder

An example of the consequences of accepting a lobby group

The huge desire to see everyone walking or on bikes is laudable, but only as a recreational ideal is it likely to be widely practical. Your Council Car Park outside Covid times is usually packed, with visitors parking limited to some 10 spaces. I don't see bike racks outside or round the back. Ever tried carrying a weekly shop on a bike, or on foot? The latter OK if it's a 10 minute walk, but not for town centre shopping. Prices Mead and B&Q car parks are usually packed, and it is of necessity, not for a drive in the country. I can't ride a bike. There is plenty of room and space as it is for loads of walkers and cyclists, but, frankly, you don't see them. Yet an enthusiast in Lycra plus cycle clips is likely to be highly vociferous in pursuit of ensuring that their passion for two wheels, or just a pair of feet. Fine, but let you espoused independence of thought and action have a few teeth, eh?

We need four wheels. Electric, ICE, Hybrid. Taxi, Bus. Emergency Services. Delivery vehicles. They are not an indulgence, but a

a) any body of which you are in general control or management and to which you are nominated or appointed by your authority

b) any body

i) exercising functions of a public nature

ii) any body directed to charitable purposes or

iii) **one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)**" (Emphasis added)

The list of examples of lobbying groups provided in this response are covered by the requirement to declare a personal interest.

Furthermore, the Code requires Members to apply an additional test Where a matter **affects your financial interest or well-being:**

a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

b. 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.

<p>necessity. Keep them moving, accommodate them, don't imprison them. Short cuts are just that. In, out, gone. Not stuck up a cul-de-sac. Not stuck in a traffic jam. Not getting road rage.</p>	<p>Accordingly it is a matter for Members to consider their position on any given decision where they have declared a personal interest and the Code provides this to include membership of lobbying groups of the type described by the respondent.</p>
<p>3. "The Model Code of Conduct is a balanced set of rules and regulations for Councillors to follow. I haven't compared it to what rules and regulations are currently in place for Councillors, so am unable to comment on any differences.</p> <p>It makes sense to me for all Local Authorities to follow the same generic rules, but if this not practical then certainly those adjacent to each other should."</p>	<p>For noting</p> <p>For noting</p>
<p>4. I am happy with the LGA model, and just have the following minor comments:</p> <p>7.2 - I think the word 'authority' should appear after 'local'</p> <p>Appendix A - Selflessness. I'm not sure what 'in terms of the public interest' means. If it's the same as 'in the public interest', then the two superfluous words should be dropped. If it means something else, then clearer wording is needed</p>	<p>This word is in the Council's draft Code.</p> <p>This description is taken directly from the Seven Principles of Public Life and it would therefore not be appropriate to change this wording.</p>

Table 2 - I think the left column should read 'Licences' rather than 'Licenses'."

This typo was within Table 1 and had been corrected.