

## **Committee: Standards and General Purposes**

**Date: 23 July 2020**

Wards: All

### **Subject: Proposed Response to the Local Government Association's Consultation on a new Model Code of Conduct for Members**

Lead officer: Louise Round, Managing Director, South London Legal Partnership

Lead member: Councillor Peter McCabe, Chair, Standards and General Purposes Committee

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#### **Recommendations:**

- A. To consider the attached proposed response to the Local Government Association's Consultation on a new Model Code of Conduct for Members
  - B. To authorise the Monitoring Officer to submit the response at Appendix B, as amended to take into account the Committee's views.
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#### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. In January 2019 the Committee on Standards in Public Life published its report into Local Government Ethical Standards and among other things, recommended that a new model code of conduct be produced in order to provide for consistency of approach across all local authorities. Prior to the Localism Act, there had been a model code which all councils were obliged to adopt but the Localism Act dispensed with this requirement and replaced it with a more general requirement simply to have a code and a process for dealing with breaches. The only mandatory detailed provisions relate to the requirement to register and declare disclosable pecuniary interests which are defined in the Relevant Local Authorities (Disclosable Pecuniary Interests) Regulations 2012.
- 1.2. As a result of the Committee's recommendations, the Local Government Association (LGA) has produced a model code which is attached as Appendix A and is currently consulting on its contents. The consultation questionnaire and some suggested responses to it is attached as Appendix B. The consultation period ends on 17 August. The Council will not be under any obligation to adopt the new code once finalised although it would seem prudent to consider whether to do so in whole or in part. As currently drafted, the Council's current code is arguably very general which could lead to difficulties should it be tested through a formal investigation process. The current code is attached as Appendix C.
- 1.3. The Monitoring Officer has partially completed the consultation questionnaire and would welcome this Committee's views on the suggested response. This report sets out some specific aspects of the model code which

members are invited to consider in order to inform the completion of the rest of the questionnaire.

## 2 DETAILS

- 2.1. The proposed new code is similar in many ways to the pre 2011 version in that it recites the Nolan principles and then sets out twelve specific obligations with which members will be expected to comply. There are also some “model conduct” clauses but failure to comply with those would not amount to a breach of the code. Under each specific obligation there are some explanatory notes.
- 2.2. Some of the consultation questions would on the face of it seem to be relatively easy to answer and officers have included some suggested responses. For instance, in relation to the twelve specific obligations, it might be expected that in principle the Council could support all of them to a great extent. The complexity arises when it comes to the interpretation of them. In other areas, the issues are more finely balanced and members’ attention is drawn to the following:

### Capacity

- 2.3. Under section 27 of the Localism Act, the requirement is to have a code of conduct which sets out what is expected of members of the authority *when they are acting in that capacity*. The Committee on Standards in Public Life concluded that any code should include a rebuttable presumption that any conduct in public is in a members’ official capacity. The model code seeks to accommodate this recommendation by stating that the code will apply:

*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.*

- 2.4. The LGA is seeking views on this, hence the words in square brackets – the second set of bracketed words is much wider and if adopted in preference to the first set would indeed mean that any public behaviour could trigger the application of the Code and arguably goes beyond what the Act would allow. Interestingly though, the question in the consultation questionnaire is phrased slightly differently:

*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?*

- 2.5. The Monitoring Officer has assumed that there would be general agreement that the code of conduct should extend to a range of circumstances beyond formal council business to situations where a reasonable person might conclude someone was acting as a councillor so is suggesting answering that question by agreeing “to a moderate extent”, subject to the Committee’s

views, but also to comment that the proposed wording seems to go beyond that intention.

### **Interests**

- 2.6. The model code seeks to expand the range of interests which a council may require members to register and goes into some detail about the circumstances in which having such an interest would affect the member's ability participate in a meeting where that interest arises. These go well beyond the Council's current regime where only statutory disclosable pecuniary interests, trade union membership and positions of general management or control in third party organisations in the borough are required to be registered. The Council's code does not deal with other personal interests at all.
- 2.7. The model code proposes in table 2 that membership of or positions of management and control in any organisation to which the member is appointed by the Council should be registered, as should holding such a position in any body exercising functions of a public nature, directed to charitable purposes or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union). This would represent a slight extension to what the Council currently requires but not a total change of direction so the Monitoring Officer is suggesting that the Council agree with their inclusion to a moderate extent, although members may have views about the different categories.
- 2.8. However, the model code also proposes a new approach to other interests where a matter affects the financial position or well-being of a member, their spouse or partner, relative or close associate. "Relative" and "Close Associate" are not defined. Question 11 seeks the Council's views on whether these wider interests should be declared. The answer does not seem straightforward. On the one hand, it is easy to envisage interests beyond those of one's partner – a sibling or child for instance, where their significance is such as to represent a real conflict of interest. On the other hand as drafted, the current proposals are very widely cast. It is suggested that the council agrees to a "small extent" and elaborates in the free text.
- 2.9. The other key aspect of the model code in relation to interests is the way it is suggested they are treated at meetings. The law relating to disclosable pecuniary interests is clear: it is a criminal offence to participate in the discussion of a matter in which a member has such an interest. For other interests, the model code takes a different approach depending on the nature of the interest. Under paragraph 5 of Appendix B of the Code, if the matter under consideration *directly relates* the financial interest or well-being of the member, their spouse or partner, relative or close associate, then member can only take part in the meeting if members of the public are also allowed to speak. If not, the member must leave the room. Paragraphs 6 and 7 of the appendix are not clearly drafted but appear to state that if the matter only *affects*, as opposed to directly relating to, the financial interests

or well-being of those people, then the member must declare this but can participate if the effect is not greater than it is for other residents in the ward. If the impact of the decision is greater such that it calls into question the ability of the member to act in the wider public interest, the member can only speak if other members of the public are allowed to, otherwise s/he must leave the room.

- 2.10. The Monitoring Officer's view is that although there is an argument that the definition of interests which preclude a member from participating in a discussion of and voting on a matter should be wider than the currently statutory provisions, the proposed wording is far too complicated and wide ranging. It would not be reasonable to expect members to work through all the permutations in order to decide how to act. Under the old code, the test for whether someone should participate, and which some neighbouring councils have retained, is whether a reasonable person, in possession of all the relevant facts, would consider that the member's ability to judge the public interest is prejudiced. Members' views are sought on whether the Council should recommend the adoption of that test.

### **Social Media**

- 2.11. The model code makes brief reference to social media in the context of addressing the code's scope, to make it clear that the obligations apply when using social media as they would during face to face interaction or other forms of written communication. The questionnaire seeks views as to whether there should be more detail in the code itself. Elsewhere on this agenda is a report recommending social media protocol for members and members' views are sought on whether the code of conduct should cover both or whether there is value in a separate protocol.

### **Gifts and Hospitality**

- 2.12. The model code contains some fairly standard provisions around gifts and hospitality, prohibiting the acceptance of any gifts at all 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. The LGA is seeking views on the financial limit beyond which other gifts and hospitality should be declared, with £25 being proposed. The Council's current code is silent on gifts and hospitality but declarations of them are included in members' individual details on the website. Some neighbouring councils have higher limits ranging from £35 to £100. Members' views are sought on the appropriate limit.

## **3 ALTERNATIVE OPTIONS**

- 3.1. An alternative option would be not to respond to the consultation exercise but it would seem a shame to miss the opportunity to influence the model code, particularly if there were a wish to consider adopting it, or part of it, in the future.

#### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. The political group offices have been consulted on the proposed response. Political parties will also be able to respond to the LGA consultation in their own right.

#### **5 TIMETABLE**

- 5.1. The consultation response is due by 17 August.

#### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. None

#### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The legal implications are set out in the body of the report.

#### **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. None

#### **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. None

#### **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. None

#### **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A – LGA Model Code of Conduct
- Appendix B - Draft proposed response to consultation
- Appendix C – The Council’s current code of conduct

#### **12 BACKGROUND PAPERS**

- 12.1. Report on Local Government Ethical Standards by the Committee

# Local Government Association Model Member Code of Conduct

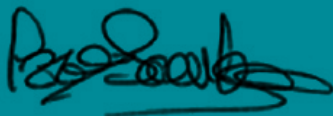
# Introduction

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 Izzie 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.



\*'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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## **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 Louise Round

### Are you...

A councillor  An officer

Answering on behalf of a whole council (Please provide council name below)

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Other (please specify below)

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### Please indicate your council type

Community/Neighbourhood/Parish/Town

District/Borough  County

Metropolitan/Unitary/London

Borough   Other (please specify below)

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## 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 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:**

The Council agrees that it is sensible to ensure the scope of the code covers a wider set of circumstances than formal council duties but if the wording in the second set of parenthesis is adopted, this would arguably capture any behaviour in public. The Council considers that this goes too far and arguably exceeds the statutory wording in section 27 of the Localism act which refers to members 'acting in that capacity', and the recommendation of the committee on standards in public life which only refers to a rebuttable presumption.

**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 do 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

**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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**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.**

It would be helpful if the definition could address the question of whether in cases of alleged bullying, the intention of the person whose conduct is being questioned is at all relevant, or whether the matter should be judged by reference to the impact on the complainant.

**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 to 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:**

The Council supports the inclusion of the interests in table 2. So far as the wider personal interests being contemplated, as currently drafted, the scope is too extensive. It would be helpful to define relative and close associate. The drafting in paragraphs 5,6 and 7 is confusing, insofar as it appears to seek to distinguish between matters which directly relate to financial interests and wellbeing and those which only affect those interests. It is not clear what the interrelationship between paragraphs 6 and 7 is. The Council's view is that there are too many permutations which is likely to lead to some confusion.

**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.**

- \_\_\_\_\_ 1\_ Regularly updated examples of case law
- \_\_\_\_\_ 1\_ Explanatory guidance on the code
- \_\_\_\_\_ 3 Case studies and examples of good practice
- \_\_\_\_\_ 3\_ 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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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](#)

## APPENDIX C

### Part 5 – A

## CODE OF CONDUCT

### Introduction

This code applies to elected councillors and statutory co-opted members of Merton Council.

As a member, or co-opted member of Merton Council, I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

The Act further provides for registration and disclosure of interests and in Merton Council this will be done in accordance with guidance issued by the Standards Committee.

### Principles

#### Selflessness

- Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### Integrity

- Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### Objectivity

- In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

## Accountability

- Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

## Openness

- Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

## Honesty

- Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## Leadership

- Holders of public office should promote and support these principles by leadership and example.

## **Commitment**

I agree to behave in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.



## **Part 5 – A Addendum**

### **CODE OF CONDUCT – DECLARING INTERESTS**

#### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.



# Councillors' declarations of interest

All councillors and statutory [co-opted members](#) must declare certain "pecuniary" and "non-pecuniary" interests.

These declarations can be found on each [individual councillor's web page](#).

## Pecuniary interests

These are:

- employment, office, trade, profession or vocation carried out for profit or gain
- sponsorship received in respect of carrying out duties as a member of the authority, or towards election expenses
- contracts between a councillor (or body in which they have a beneficial interest) and the London Borough of Merton (or organisation contracted to carry out business on its behalf)
- address of property or land in the London Borough of Merton in which the councillor has a beneficial interest
- any licence (alone or jointly with others) to occupy land in the London Borough of Merton for a month or longer
- any tenancy where (a) the landlord is the London Borough of Merton; and (b) the tenant is a body in which the relevant person has a beneficial interest
- any beneficial interest in securities (stocks, shares, bonds...) applies only when the councillor has a large shareholding of a company that operates in the borough: where (a) that body has a place of business or land in the London Borough of Merton; 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) of the share capital is of more than one class, the total nominal value of any one class in which the councillor has a relevant interest exceeds one hundredth of the total issued share capital of that class

## Non-pecuniary interests

These are:

- trade union membership
- any position of management or control that the councillor holds in any third party organisation within the borough



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