

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

TO:	MSDC COUNCIL BDC COUNCIL	REPORT NUMBER: MC/21/31
FROM:	Monitoring Officer	DATE OF MEETINGS: 21 March 2022 22 March 2022
OFFICER:	Emily Yule – Assistant Director for Law and Governance and Monitoring Officer	

NEW CODE OF CONDUCT FOR COUNCILLORS

1. PURPOSE OF REPORT

- 1.1 The Localism Act 2011 places a duty on every council to promote and maintain high standards of conduct by councillors and co-opted members of the authority and, in discharging that duty, adopt a code dealing with the conduct that is expected of those members when they are acting in that capacity. A Suffolk-wide local code of conduct was adopted by the Councils in 2012.
- 1.2 In January 2019 the Committee on Standards in Public Life (CSPL) published a report following their review of local authority standards. The report directed a series of recommendations to Government and to the local government sector. A key recommendation of the CSPL was directed to the Local Government Association (LGA) - "The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government."
- 1.3 The Joint Audit and Standards Committee considered the new code of conduct at its informal meeting on 24 January 2022 and gave the steer to recommend that the model code of conduct be adopted by the Full Councils.
- 1.4 This report seeks each Council's agreement to adopt the new model code of conduct as its local code of conduct.

2. OPTIONS CONSIDERED

- 2.1 The following options have been considered:
 - 2.1.1 To retain the existing Suffolk Local Code of Conduct – this option is not recommended as the new model code provides additional clarity, guidance and more up to date provisions for Councillor conduct.
 - 2.1.2 To adopt the new LGA Model Code of Conduct for Councillors – this is the recommended option.
 - 2.1.3 To adopt an alternative form of local code of conduct – this option is not recommended as the LGA model code reflects the legislative requirements and best practice based on the recommendations of the CSPL and therefore is the most appropriate code to adopt.

3. RECOMMENDATION

- 3.1 That the Local Government Association Model Code of Conduct be adopted as the Local Code of Conduct for Councillors for Babergh District Council / Mid Suffolk District Council with effect from the Annual Council meetings in May 2022.

4. KEY INFORMATION

Background

- 4.1 The current Suffolk Local Code of Conduct has been adopted by Suffolk County Council, Babergh and Mid Suffolk District Councils, Ipswich Borough Council, East Suffolk Council, West Suffolk Council and the majority of Town and Parish Councils across Suffolk. The Suffolk Monitoring Officers group strongly recommends that there continues to be a Suffolk-wide code of conduct to enable clarity and consistency across the county and particularly across the tiers of local government where councillors represent more than one authority. The district council Monitoring Officer is responsible for investigating breaches of the code of conduct by Town and Parish Councillors across the whole district and the ability to apply a single code of conduct to all complaints is desirable. The Suffolk Association of Local Councils is also supportive of a Suffolk-wide code.
- 4.2 The CSPL review in 2019 concluded that a model code of conduct would create consistency across England and reflect the common expectations of the public regardless of geography or tier. It would also reduce the potential for confusion among dual-hatted or triple-hatted councillors.
- 4.3 CSPL also considered that matters such as gifts and hospitality, social media use, and bullying and harassment had all increased in salience, and were perhaps not regularly reflected in local authority codes of conduct and a model code of conduct would help to ensure that they do so.
- 4.4 Following extensive consultation, the LGA Executive approved a Model Councillor Code of Conduct ('Code') in December 2020. The Model Code provides a template for councils to adopt in whole and/or with local amendments. During 2021, supplementary guidance was developed by the LGA, alongside sector experts and local authority representatives, to accompany the Code.
- 4.5 The LGA have committed to undertake an annual review of the Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media, and changes in legislation.
- 4.6 The LGA will also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils will be offering advice and support to town and parish councils.

- 4.7 The Code (attached at Appendix A) contains much of the existing Suffolk Local Code of Conduct and provides welcome guidance to explain the rationale for the obligations and how councillors should follow them. The LGA have also published more extensive guidance that will assist councillors and the public in understanding the Code and what is included. This guidance is attached at Appendix B.
- 4.8 The following sections of this report highlight the key differences between the new model Code and the existing Suffolk Local Code of Conduct.

Application of the Code

- 4.9 The Code provides clarity that the requirements of the Code apply as soon as a councillor signs their declaration of acceptance of office or, in the case of a co-opted member, attends the first meeting, and continues to apply until a member ceases to be a councillor.
- 4.10 Additional clarification is also provided as to the types of interactions that amount to duties of a councillors' elected office and that would so be captured under the Code's remit and application – these are when a councillor is:
- Acting in their capacity as a councillor and/or a representative of the council;
 - Claiming to act as a councillor and/or as a representative of the council;
 - Giving the impression of acting as a councillor or a representative of the council;
 - Referring publicly to their role as a councillor and using knowledge that could only be obtained in that role.
- 4.11 The Code also provides clear guidance as to the forms and type of communication that are within scope:
- at face-to-face meetings;
 - online or telephone meetings;
 - in written communication;
 - in verbal and non-verbal communication;
 - in electronic and social media communication, posts, statements, and comments.
- 4.12 There are new commitments to co-operate with any investigation, should a complaint be received, and to comply with any sanctions that may be imposed if a breach is proven. These are important to protect the integrity of the process.

Bullying, harassment and discrimination

- 4.13 The new Code includes enhanced provisions relating to bullying, harassment, and discrimination. The Code now includes a definition of bullying and harassment and makes it clear that online activity, for example posting on social media, is captured by the Code. The guidance notes which accompany the Code set out the types of behaviour which would constitute bullying or harassment.
- 4.14 The new Code now includes a requirement for Councillors to promote equalities, in accordance with the statutory duties imposed by the Equalities Act 2010, as well as avoiding any behaviour which would unlawfully discriminate against any person.

Confidentiality and Access to Information

- 4.15 Specific requirements in relation to confidentiality and access to information have been incorporated. This clause sets out standards of conduct relating to the proper use of information by councillors.

Gifts and Hospitality

- 4.16 The provisions extend those set out in the Suffolk Code in two ways:
- by specifically referencing a requirement to not accept gifts or hospitality that could give rise to real or substantive personal gain or a suspicion of influence; and
 - by placing a responsibility on councillors to register any significant gift or hospitality that has been offered but refused.
- 4.17 The new Code also increases the value of declarable gifts and hospitality from £25 to £50.

Protecting the reputation of members and the local authority

- 4.18 This section primarily relates to the registration and declaration of interests. Importantly the section references a separate Appendix 2 that, if adopted, would place additional requirements on councillors in certain circumstances.
- 4.19 An example being where a matter arises (which is not a pecuniary interest) at a meeting and that matter directly relates to a financial interest or wellbeing of a relative or close friend of a councillor – extract below.

8. 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 included in those you need to declare under Disclosable Pecuniary Interests*

you must disclose the interest.

Training

- 4.20 A programme of training, based on LGA learning and guidance modules, will be coordinated by the Monitoring Officers within each council. Any opportunities for joint training will be taken, but it is recognised that authorities will be at different stages of their electoral cycles.

Procedure for Considering Complaints Alleging a Failure to Comply with the Code of Conduct

- 4.21 It will continue to be for each local authority to follow its agreed procedures for managing complaints and deciding upon any action should it be concluded that there has been a breach of the Code. The Councils adopted a revised code of conduct complaints procedure in 2020, effective January 2021.

Recommendations of the Joint Audit and Standards Committee

- 4.22 The Joint Audit and Standards Committee considered the proposed revised code of conduct at its informal meeting on 24 January 2022 and unanimously agreed that the Councils should formally adopt the revised code. The Monitoring Officer responded to the Committee's questions around the arrangements for declaring gifts and hospitality, on training and support for town and parish councils and on how the code might apply in respect of a councillor's professional or personal capacity.
- 4.23 The Committee commented on the need to ensure that there was early communication with Town and Parish Councils about the new code and the Monitoring Officer agreed that this would be discussed with the Suffolk Monitoring Officer group.

5. LINKS TO CORPORATE PLAN

- 5.1 Ethical conduct and good governance provide a framework which supports the delivery of all the Councils' key strategic outcomes.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no direct financial implications of adopting the new model code of conduct. Officer time will be required to provide training to Councillors on the new code of conduct, if adopted, however this will be accommodated within existing resources.

7. LEGAL IMPLICATIONS

- 7.1 All local authorities are required to adopt a local code of conduct for councillors under s.27(2) of the Localism Act 2011. The Councils' current local code of conduct complies with this statutory requirement, however adopting the revised model code of conduct will bring the councils' local arrangements in line with the most up to date government guidance.

8. RISK MANAGEMENT

8.1 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
If the Councils fail to adopt a local code of conduct they will be unable to fulfil their statutory duty under s.27 of the Localism Act.	1 (Highly unlikely)	3 (Bad)	The Councils already have an existing code of conduct which would continue to be in effect even if the new model code was not adopted.
If the code of conduct adopted by the Councils does not promote high standards of ethical conduct the Councils could fail in their statutory duty.	1 (Highly unlikely)	2 (Noticeable)	Adopting the new model code will ensure that the Councils' code fulfils the statutory duties placed on the Councils to promote ethical conduct.
If Councillors are not aware of the new provisions they could inadvertently breach the code of conduct.	2 (Unlikely)	3 (Bad)	A programme of training will be put in place for councillors if the new local code is adopted.
If Councillors breach the code of conduct or if the code of conduct is not robust enough the reputation of the Councils could be damaged.	2 (Unlikely)	3 (Bad)	Adopting the model code of conduct will ensure that the Councils are adopting the 'national standard'. Training will be provided to Councillors to help them comply with the Code of Conduct.
If the Councils do not carry out periodic reviews of the Councils' ethical governance arrangements, including the Member Code of Conduct, there is a risk that standards will be lowered, bad conduct will not be dealt with effectively and public confidence in local democracy will be eroded.	2 (Unlikely)	3 (Bad)	By adopting the model code of conduct the Councils will be following current best practice and complying with the recommendations of the CSPL. The Monitoring Officer makes a quarterly report to the Joint Audit and Standards Committee on the complaints received which identifies any trends in the types of complaints.

9. CONSULTATIONS

- 9.1 The LGA undertook a range of consultation activities with various stakeholder groups during 2020 when preparing the new model code of conduct. Further information about the consultation process can be found at: <https://www.local.gov.uk/publications/lga-model-member-code-conduct-consultation-response-analysis-november-2020>
- 9.2 The Council is not required to undertake formal public consultation before adopting its own code of conduct.

10. EQUALITY ANALYSIS

- 10.1 An Equality Impact Assessment initial screening has been undertaken (Appendix C) and no impacts on the protected characteristics have been identified. Therefore, a full Equality Impact Assessment (EIA) is not required.

11. ENVIRONMENTAL IMPLICATIONS

- 11.1 There are no environmental implications of adopting the new model code of conduct.

12. APPENDICES

Title	Location
(a) New Model Code of Conduct	Attached
(b) Guidance on the LGA Model Code of Conduct	Attached
(c) EQIA Initial Screening	Attached

13. BACKGROUND DOCUMENTS

- 13.1 None

14. REPORT AUTHORS

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