

Report to: **Overview and Scrutiny Panel**

Date: **1 April 2021**

Title: **LGA Model Code of Conduct**

Portfolio Area: **Cllr Nicky Hopwood (Lead Executive Member for Customer Service Delivery)**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/Y**

Date next steps can be taken: The recommendation(s) of the Panel will be considered by Full Council at its next meeting on 20 May 2021.

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

Contact: **Telephone: 01803 861359/email: david.fairbairn@swdevon.gov.uk**

RECOMMENDATION

It is RECOMMENDED that the Panel RECOMMEND that the Council adopts the Code set out in Appendix C from the date of the Annual Council.

1. Executive summary

- 1.1 The Local Government Association has produced a New Model Member Code of Conduct which is appended to this report at Appendix A.
- 1.2 The Overview and Scrutiny Panel is responsible for monitoring the Code of Conduct and for making recommendations to Full Council on any changes to the Code.
- 1.3 The Panel is asked to recommend that Council adopts the code of conduct in Appendix C which is a customised version of the LGA Model Code, in accordance with the best practice recommendations of the Committee for Standards in Public Life.

2. Background

- 2.1 The Council has a statutory duty to promote and maintain high standards of conduct by Councillors and Co-opted Members of the authority. To that end the Council is required to adopt a Code of Conduct consistent with the Nolan Principles of good governance and to appoint at least one Independent Person whose views must be sought and taken into account before the Council makes any decision about an alleged breach of the Code that has been investigated.
- 2.2 The Council's current Code of Conduct is appended to this report as Appendix B.
- 2.3 The Committee for Standards in Public Life (CSPL) in the January 2019 [Report on Local Government Standards](#) found that there was considerable variation in the length, quality and clarity of codes of conduct. This the CPSL said created confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct the CPSL said failed to address adequately important areas of behaviour such as social media use and bullying and harassment. It therefore recommended that an updated model code of conduct should therefore be made available to local authorities to enhance the consistency and quality of local authority codes. The model was to be voluntary and local authorities should be able to adapt it so they had ownership.
- 2.3 The Local Government Association (LGA) has published a Model Councillor Code of Conduct following consultation with stakeholders and examining good practice in local government and other professions (Appendix A).
- 2.4 The LGA model code is largely self-explanatory. However, the following points are to be noted:
 - (a) The LGA Model Code seeks to build upon the CSPL's seven "Nolan Principles" of public life (selflessness; integrity; objectivity; accountability; openness; honesty and leadership). It builds on these principles with a set of "general principles" developed specifically for the role of the councillor. These are, like the Council's Code of Conduct phrased in the first person, which reinforces ownership by councillors.
 - (b) The LGA Model Code uses "respect" rather than "civility" which had been suggested in earlier drafts. There is a definition of respect in case it is not immediately obvious or perhaps as a useful reminder to reflect upon. The model code confirms that councillors can "express, challenge, criticise and disagree with views, ideas, opinions and

policies in a robust but civil manner” but that they should not “subject individuals, groups of people or organisations to personal attack”. The model code also confirms that councillors have a right to expect respectful behaviour from the public, other councillors and employees.

- (c) The LGA Model Code contains specific references to councillors not bullying or harassing others and includes definitions of bullying and harassment.
- (d) The preamble to the LGA Model Code makes it clear that the code applies to “all forms of communication and interaction” including online meetings, on the telephone and via social media.
- (e) The LGA Model Code contains new duties to undertake code of conduct training and to cooperate with any code of conduct investigation undertaken.
- (f) The LGA Model Code uses the terminology of “disclosable pecuniary interests”, “other registerable interests” (and “non-registerable” interests. This contrasts with the Council’s Code’s references to disclosable pecuniary interests and personal or other interests.
- (g) The LGA Model Code requires gifts and hospitality with a value of £50 or more to be declared. This is less than the Council’s current requirement to register gifts and hospitality in excess of £100.

2.5 Although the Council’s present Code of Conduct is largely fit for purpose, adoption of the LGA Model Code of Conduct would bring about improvements and greater consistency.

3. Outcomes/outputs

- 3.1 High standards of conduct in local government are needed to demonstrate that decisions are taken in the public interest and to maintain public confidence. The adoption of the LGA Model Code of Conduct will help address areas that are not covered by the Council’s present Code of Conduct.
- 3.2 The Model Code as customised for adoption by the Council is appended to this report as Appendix C. The “customisation” relates to a revised introduction and the replacement of references to the LGA with the Council in the main body.

4. Options available and consideration of risk

- 4.1 The CPSL identified a number of risks in local government. It said that the current rules around conflicts of interest, gifts, and hospitality were inadequate; and the increased complexity of local

government decision-making was putting governance under strain. It therefore recommended that there should be a new model, but voluntary, code of conduct.

4.2 The Panel has a number of options at this stage, including:

- (a) Recommend to Full Council the adoption of the LGA Model Councillor Code of Conduct;
- (b) Recommend to Full Council the adoption of the LGA Model Councillor Code of Conduct with potential amendments;
- (c) Reject the LGA Model Councillor Code of Conduct and resolve to continue with the existing Code of Conduct; or
- (d) Resolve to await the outcome of the Government consideration of the CSPL's recommendations, and in the meantime invite parish and town councils, community organisations, neighbouring authorities and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the LGA's Model.

5. Proposed Way Forward

5.1 It is proposed that the Panel recommends to Council the adoption of the Code of Conduct appended to this report as Appendix C with effect from the Annual Meeting. Given the extensive consultation undertaken by the LGA in the lead up to the publication of the Model Code and the parties involved in the drafting it is not suggested that the Council needs to undertake its own consultation.

5.2 An important consideration in adopting the Model Code is whether doing so will remove confusion among councillors who represent more than one tier of local government. To that end, the Monitoring Officer has spoken with Monitoring Officers across Devon. Most are taking the LGA Model Code to their standards committees with a view to it being adopted, although that is not uniformly so. A number of parishes across both West Devon and South Hams have approached the Monitoring Officer about the adopting the Model Code.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Section 27 of the Localism Act 2011 requires all local authorities to have a code setting out the standards of behaviour expected of councillors. Although the adoption of a model code of conduct

		was recommended by the CSPL there is no legal requirement to do so.
Financial implications to include reference to value for money	N	There are no financial implications arising from the report.
Risk	Y	The adoption of a new Code of Conduct would provide clarity on a number of issues and provide clear expectations of councillors regarding their conduct. Adoption at the Annual Council will link to the formal adoption of the Constitution (and any changes arising from the adoption of the code).
Supporting Corporate Strategy	Y	The operation of a robust Code of Conduct supports the proper delivery of all of the Council's functions and therefore the Corporate Strategy.
Climate Change - Carbon / Biodiversity Impact	N	There are no direct climate change, carbon or biodiversity impacts arising from this report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no direct equality and diversity implications arising from this report.
Safeguarding	N	There are no direct safeguarding implications arising from this report.
Community Safety, Crime and Disorder	N	There are no direct community safety, crime and disorder implications arising from this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications arising from this noting report.
Other implications		

Supporting Information

Appendices:

Appendix A – LGA Model Code

Appendix B - The Council's Members' Code of Conduct

Appendix C – Customised LGA Model Code

Background Papers:

None