

NORTH YORKSHIRE COUNTY COUNCIL
INFORMAL MEETING OF EXECUTIVE MEMBERS

25 January 2022

**Proposed Amendments to Council's Members' Code of Conduct
in light of new voluntary Model Code**

Report of the Assistant Chief Executive (Legal and Democratic Services)

1.0 PURPOSE OF REPORT

- 1.1 To present to Members, for their consideration for recommendation to the Chief Executive Officer under his emergency delegated decision-making powers for onward recommendation to full Council for approval, proposed amendments to the Council's Members' Code of Conduct in light of the new voluntary model Code of Conduct for Members. In light of elections on 5 May 2022, it is recommended that the changes will come into effect on that date so that all Members can receive training on the new Code of Conduct.

2.0 BACKGROUND

- 2.1 The Local Government Association (LGA) has published a new, voluntary model Code of Conduct for Members (and supporting Guidance), which has been considered by the Standards Committee Members and independent Persons for Standards. The model Code is published on the LGA website at <https://www.local.gov.uk/local-government-association-model-councillor-code-conduct-2020-0> and is also attached at **Appendix 1** to this report for ease of reference.
- 2.2 A copy of the Council's current Code of Conduct for Members is attached at **Appendix 2** to this report for ease of comparison purposes.
- 2.3 Members of the Standards Committee met informally, remotely, on 17 September 2021. One of the Independent Persons for Standards was also in virtual attendance. The agenda and report pack is published online at [Agenda for Standards Committee on Friday, 17th September, 2021, 10.00 am | North Yorkshire County Council](#). Members carefully considered the proposed amendments to the Council's Members' Code of Conduct in light of the new model Code, and made various suggestions for further amendments. Members also felt that in terms of how to best disseminate information from the LGA Guidance on the model Code, this would best be done by creating a specific Council guidance note if the proposed changes to the Council's Code were ultimately approved.
- 2.4 Following the informal meeting on 17 September, further proposed revisions were made to the Council's Code, as set out in **Appendix 3**, to take into account the views expressed at the informal meeting. These were considered by the Chief Executive Officer under his emergency delegated decision-making powers (in light of the ongoing Covid-19 pandemic) on 25 October 2021, when he agreed that:
- a) the proposed amendments to the Council's current Members' Code of Conduct as set out in **Appendix 3** be recommended to full Council for approval;

- b) it be recommended to full Council that the Monitoring Officer be authorised to make consequential amendments to the registration of Members' interests form proforma, any other relevant standards documentation and the Constitution to reflect the changes made to the Council's Code of Conduct for Members; and
- c) tailored guidance, specific to the Council's Members' Code of Conduct, be circulated to Members if the proposed amendments to the Code are ultimately approved by full Council.

2.5 Following on from the expiry of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which allowed for committee meetings to be held remotely, the County Council resolved at its meeting on 5 May 2021 (before the expiry of the Regulations) to continue to hold remote live-broadcast committee meetings. These would then be informal meetings of the committee Members, with any formal decisions required being taken by the Chief Executive Officer under his standing emergency delegated decision-making powers, taking into account the views of the committee Members and all relevant information. This position was reviewed at the informal meetings of the County Council Members, and subsequently agreed by the Chief Executive Officer, under emergency delegated powers, on 21 July 2021 and 17 November 2021. The position will again be reviewed by Council at its meeting on 16 February 2022.

2.6 Subject to any comments they may have, should Members be minded to propose the suggested amendments to the Members' Code of Conduct set out in **Appendix 3** for approval, this will need to be a recommendation to the Chief Executive Officer under his emergency delegated powers for onward recommendation to full Council for approval.

3.0 LGA MODEL CODE OF CONDUCT FOR MEMBERS AND SUPPORTING GUIDANCE

3.1 The new model Code is voluntary and local authorities are able to adopt the model in its entirety or not at all, or adapt it to suit their local circumstances. The LGA has published the new model Code in advance of a response from the Government regarding the recommendations made by the Committee on Standards in Public Life (CSPL) in their report on Local Government Ethical Standards. Should any of the recommendations be implemented this may necessitate a change to the Model Code in the future. The LGA has stated it will review the Model Code on an annual basis.

3.2 The LGA has also published, online, supporting Guidance on the new model Code at [Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#). It is a lengthy and detailed online document containing further explanation of the model code, case examples and direct links to other guidance documents. It is not recommended that any further guidance extracts are included in the Council's Code itself to avoid making the Code any longer (it is already almost 20 pages long) and to avoid blurring Code obligations and guidance/explanation points. In addition, not all the LGA Guidance will be relevant to the Council's Code as amended (as not all parts of the model code are being recommended for inclusion in the Council's Code, or they are being tailored to fit the Council's requirements). It is therefore recommended that it would be most appropriate to create a specific Council guidance note in support of the Council's Code if the proposed changes are ultimately approved.

4.0 DRAFT AMENDMENTS TO COUNCIL'S CODE OF CONDUCT FOR MEMBERS

4.1 The proposed amendments to the Council's Code of Conduct for Members and a commentary on them are attached at **Appendix 3** for Members' consideration.

4.2 These changes relate to matters such as:

- including in the Council’s Code, relevant guidance extracts from the model code, to aid understanding of the Code’s requirements;
- including in the Council’s Code, further general conduct obligations eg complying with the Council’s standards regime, and refraining from making trivial, vexatious, malicious, politically motivated or tit-for-tat standards complaints against other Members, in order to comply with the model Code and the Committee on Standards in Public Life’s Report on Local Government Ethical Standards Best Practice Recommendation 2;
- expanding, clarifying and including a £25 threshold in relation to the gifts and hospitality provisions;
- the expansion of the registration and declaration of interests regime, including:
 - the inclusion of a specific requirement (to reflect current practice) for a Member with a Disclosable Pecuniary Interest (DPI) to declare the existence and nature of the interest before leaving the meeting;
 - the inclusion of a specific requirement (to reflect current practice) for a Member with a DPI to leave the meeting room after declaring the interest (subject to the dispensation provisions);
 - the expansion of the range of interests other than DPIs (“Other Registrable Interests”) (ORIs) required to be registered to cover not only membership of trade unions and professional associations but also:
 1. Unpaid directorships;
 2. Any body of which the Member is a member or is in a position of general control or management and to which they are nominated or appointed by the authority;
 3. Any body:
 - i. exercising functions of a public nature
 - ii. 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/professional association)

of which the Member is a member or in a position of general control or management
- making specific provision for the declaration of those Other Registrable Interests in matters considered at meetings and participation in relation to them, ie:
 - where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of the Other Registerable Interests, the Member must disclose the interest to the meeting, may speak on the matter if the public can, but otherwise must not take part in any discussion or vote and must leave the room (subject to the provisions on sensitive interests);

- making specific provision for the declaration of other Non-Registrable Interests (NRIs) (ie those other than DPis and ORIs) in matters considered at meetings and participation in relation to them, ie:
 - where a matter arises at a meeting which **directly relates** to the Member's financial interest or well-being, or that of a relative or close associate (of which the Member could reasonably be expected to be aware), the Member must disclose the interest to the meeting, may speak on the matter if the public can, otherwise they must not take part in any discussion or vote on the matter and must not remain in the room;
 - where a matter arises at a meeting which **affects** the Member's financial interest or well-being or that of a relative or close associate or of a body included under Other Registrable Interests (of which the Member could reasonably be expected to be aware), the Member must disclose the interest to the meeting BUT may be able to remain in the meeting after considering the prejudicial interest test:
 - ❖ where the matter affects the financial interest or wellbeing:
 - to a greater extent than it affects the financial interests or wellbeing 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 the Member's view of the wider public interest

then the Member may speak on the matter if the public can, but must not take part in any discussion or vote on the matter and must not remain in the room;
 - ❖ where the matter does not so affect the financial interest or wellbeing, then the Member may speak and vote on the matter in the usual way.
- making similar provision for Other Registrable and Non-Registrable Interests, as for DPis, in matters considered by a single member;

4.3 The opportunity has also been taken to make some more minor suggested amendments by way of update and clarification to the Code.

4.4 It should be noted that by making the new model Code voluntary, it is unlikely to achieve its aim of standardisation across all authorities for dual hatted Members, as authorities will not necessarily be minded to take the same approach for their respective Codes of Conduct. The Monitoring Officer is liaising with neighbouring authorities as to the approach they are taking to the new model Code to ensure as consistent an approach as is possible.

4.5 Since the informal meeting of Standards Committee Members on 17 September 2021, the Monitoring Officer has produced a summary chart of the proposed new interests regime, including relevant extracts from the LGA Guidance, attached at **Appendix 4** to this report, which may aid Members' consideration.

5.0 CONSULTATION

5.1 As the Council's Members' Code of Conduct forms part of the Constitution, the proposed amendments to the Code will go forward to be considered by full Council for approval on 16 February 2022.

- 5.2 Relevant Officers and Members have been consulted on the proposed changes set out in this report and its appendices. The proposed changes were considered by Standards Committee Members on 17 September 2001 and the Members' Working Group on the Constitution on 25 November 2021.
- 5.3 Members consulted so far are supportive of the proposed changes to the Code and felt it would be helpful to have the updated Code in place. This would not bind the new unitary authority, which will adopt its own Code of Conduct for Members at the relevant time. It will be helpful to train Members on the new provisions of the Code, in particular the requirement to register a wider range of interests and therefore it is considered that this training be provided to all Members after the May 2022 elections. Therefore it is suggested that the changes come into force on 5 May 2022.

6.0 FINANCIAL IMPLICATIONS

- 6.1 There are no significant financial implications arising from this report.

7.0 LEGAL IMPLICATIONS

- 7.1 The legal implications are set out in the body of this report.
- 7.2 Subject to any comments they may have, should Members be minded to recommend the proposed amendments to the Code for approval, this will need to be a recommendation to the Chief Executive Officer under his emergency delegated powers for onward recommendation to full Council for approval.

8.0 EQUALITIES IMPLICATIONS

- 8.1 There are no significant equalities implications arising from this report.

9.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS

- 9.1 There are no significant environmental or climate change implications arising from this report.

10.0 CONCLUSION

- 10.1 Subject to any comments Members may have, Members are requested to consider the proposed amendments to the Council's current Code of Conduct for Members for proposal to the Chief Executive Officer under his emergency delegated powers for onward recommendation to full Council for approval and also recommend the provision of tailored guidance, specific to the Council's Members' Code of Conduct, if the proposed amendments to the Code are ultimately approved by full Council.
- 10.2 The proposed amendments to the interests' regime in the Code will necessitate consequential changes to the registration of interests form proforma and the other changes to the Code will require consequential amendments to the Constitution. It is therefore further proposed that it be recommended to the Chief Executive Officer under his emergency delegated powers, for onward recommendation to full Council for approval, that the Monitoring Officer be authorised to make consequential amendments to the registration of Members' interests proforma, any other relevant standards documentation and the Constitution to reflect the changes made to the Council's Code.

11.0 REASONS FOR RECOMMENDATIONS

- 11.1 In order to ensure consistency with developments in the national standards regime, it is recommended that, subject to any comments Members may have, the recommendations

set out below be proposed to the Chief Executive Officer under his emergency delegated decision-making powers for recommendation to full Council for approval.

12.0 RECOMMENDATIONS

- 12.1 That, subject to any comments Members may have, it be recommended to the Chief Executive Officer under his emergency delegated decision-making powers, that he recommend to full Council for approval:
- a) the proposed amendments to the Council's current Members' Code of Conduct as set out in **Appendix 3**, to take effect from 5 May 2022;
 - b) that the Monitoring Officer be authorised to make consequential amendments to the registration of Members' interests form proforma, any other relevant standards documentation and the Constitution to reflect the changes made to the Council's Code; and
 - c) that tailored guidance, specific to the Council's Members' Code of Conduct, be circulated to the new elected Members in May if the proposed amendments to the Code are ultimately approved by full Council.

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17 January 2022

Background Papers: None

Appendices:

Appendix 1 – Model Code of Conduct

Appendix 2 – 2013 Code – Revised re TU Membership

Appendix 3 – Further Draft Amendments following Standard Committee on 17.09.21

Appendix 4 – Summary Chart re Interests