

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

17 September 2021

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

1.0 PURPOSE OF REPORT

- 1.1 To present to Members for their consideration, proposed amendments to the Council's Members' Code of Conduct in light of the new voluntary model Code of Conduct for Members and, subject to any comments they may have, to request the Committee to determine whether the proposed amendments to the Code should be recommended to full Council for approval.
- 1.2 To inform Members about the publication of supporting Guidance in relation to the Model Code of Conduct for Members and to seek Members' views as to how best use may be made of the Guidance.

2.0 BACKGROUND

- 2.1 At the Committee's last meeting, it considered the Local Government Association (LGA) new, voluntary model Code of Conduct for Members and determined that certain draft amendments to the Council's Code should be brought back to the Committee for its consideration.
- 2.2 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 appears to have been revised in May 2021, following the Committee's last meeting. The latest Model Code is attached at **Appendix 1** to this report for ease of reference.
- 2.3 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.
- 2.4 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 so there is plenty of scope for the Standards Committee to make the recommendations it deems appropriate to full Council.
- 2.5 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.
- 2.6 Since the Committee's last meeting, the LGA has published Guidance in support of the Model Code. This is discussed later in the report.

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

3.1 Proposed amendments to the Council's Code of Conduct for Members have been drafted, in line with Members' comments at the Committee's last meeting, by way of tracked changes on the current Code for ease of reference. A copy of all the proposed amendments and a commentary on them are attached at **Appendix 3** for Members' consideration.

3.2 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 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 and 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 Registrable 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;

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

- 3.4 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 making enquiries of neighbouring authorities as to the approach they are taking to the new model Code and Members will be kept updated.

4.0 LGA GUIDANCE ON MODEL CODE OF CONDUCT FOR MEMBERS

- 4.1 On 8 July 2021 the LGA published, online, supporting Guidance on the new model Code of Conduct for Members, which was circulated to members of the Standards Committee and the Independent Persons for Standards. The Guidance can be accessed online here:

[Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#)

- 4.2 Members will see that the LGA Guidance on the Model Code is a lengthy and detailed online document containing further explanation of the model code and case examples and direct links to other guidance documents. It does contain guidance on interests to be registered and declared, 'relatives and close associates', 'directly relates' and 'affects' which the Committee noted was lacking in the model code. 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.
- 4.3 Should Members be minded to recommend the proposed amendments to the Code to full Council, Members are requested to consider how relevant information from the Guidance should be disseminated to Members, particularly given that not all the 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 are being tailored to fit the Council's requirements; for example:

- the model Code seeks to extend the scope of the Code to cover actions of Members when they misuse their position as a councillor and when their actions would give the impression to a reasonable member of the public, with knowledge of all the facts, that they are acting as a councillor. The Localism Act 2011, under which the ethical framework (including the code of conduct) is established only applies to Members when they are acting in their official capacity of a Member or voting co-opted Member. It does not cover 'giving the impression' that they are so acting and there has been no change, yet, to the relevant legislation to make this permissible; therefore at the Committee's last meeting Members agreed that the current Code should not be amended in this regard and therefore this section of the LGA Guidance will not be relevant to the Council Code as amended;
- a £25 threshold for the registration of gifts and hospitality is being proposed, not £50 as stated in the model code;

The options for disseminating relevant information from the Guidance to Members appear to be:

- a) send the hyperlink to the LGA Guidance to all Members with a strong caveat that not all parts are relevant to, or nuanced exactly in relation to the Council's Code; or

- b) create a Council guidance note based on the LGA Guidance but only containing extracts which are relevant and tailored to the Council's Code.

4.4 Members may feel that option (a) would present a burden on Members, having to unpick what is relevant and what is not from a lengthy and detailed online publication. Members may feel that option (b) is a better course of action once the actual changes to the Council's Code have been determined.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no significant financial implications arising from this report.

6.0 LEGAL IMPLICATIONS

6.1 The legal implications are set out in the body of this report.

7.0 ENVIRONMENTAL IMPLICATIONS

7.1 There are no significant environmental implications arising from this report

8.0 CONCLUSION

8.1 Subject to any comments Members may have, the Committee is requested to consider the proposed amendments to the Council's current Code of Conduct for Members to determine whether it wishes to recommend them to full Council for adoption and to further consider how any relevant guidance extracts from the LGA Guidance on the Model Code might be best disseminated to all Members.

8.2 Should Members be minded to recommend the proposed amendments to full Council, the changes to the interests regime will necessitate consequential changes to the registration of interests form proforma and changes to the Code will require consequential amendments to the Constitution. It is therefore recommended that the Committee recommends to full Council 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.

9.0 RECOMMENDATIONS

9.1 That, subject to any comments Members may have, the Committee:

- a) recommends the proposed amendments to the Council's current Members' Code of Conduct to full Council for approval;
- b) recommends 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; and
- c) determines how best to disseminate relevant information from the LGA Guidance on the Model Code to Members.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Papers: None

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NORTHALLERTON

8 September 2021