

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Standards Committee and Full Council

Date: 7 May 2024 and 22 May 2024

Subject: Adoption of a New Member's Code of Conduct

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Responsible Director: Grant Deg, Assistant Director of Legal Services and Monitoring Officer

SUMMARY

The purpose of this report is to request the Standards Committee to approve the LGA draft Model Code of Conduct for recommendation to Full Council for adoption.

RECOMMENDATIONS

That the Standards Committee:

1. Approve the Member Code of Conduct attached as appendix 1 to be recommended to Full Council for adoption.
2. Review and approve the list of sanctions at Appendix 2 available to the Committee if a Councillor breaches the Code.
3. Adopt the LGA's Guidance on the Member Model Code of Conduct Complaints Handling (the "Guidance on complaints handling") at Appendix 3.
4. Approve Arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct at Appendix 4.
5. Delegate authority to the Monitoring Officer, following consultation with the Chair of the Standards Committee, to make any final minor changes to the recommended Member Code of Conduct prior to submission to Full Council.

That Full Council:

Approve the Member Code of Conduct and the attached appendices and amend the Constitution accordingly.

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Doing things with local residents, not to them	The adoption of the new Member Code of Conduct will promote confidence in local democracy.

Financial Impact

There are no direct financial implications arising from this report.

Alex Pygram, Head of Finance, Corporate Services, 9th April 2024.

Legal Implications

Section 27 of the Localism Act 2011 (the Act) requires each local authority to adopt a code of conduct which deals with the conduct that is expected of members and co-opted members, when they are acting in that capacity.

Section 28 of the Act requires the Member Code of Conduct (Code) to be consistent with the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The Code appended at Appendix 1, prepared by the Local Government Association (LGA), is consistent with the Nolan Principles and is suggested national good practice.

The Standards Committee is responsible for standards functions as set out in the constitution and for advising Full Council on the adoption or revision of the Code. Changes to the Code are however decisions reserved to Full Council.

If adopted by Full Council, the Code will replace the Council's current Code and will be published on the Council's website.

Angela Hogan, Chief Solicitor (Contracts and Procurement) 9th April 2024

Background Papers Used in Preparing This Report - None

Background

1. In February 2022, the Committee considered the Local Government Association (LGA) Model Code of Conduct for adoption but could not recommend it to Full Council. The Committee was of the view that the concept was a mess with a 24 page Code accompanied by a 60 page guidance, there were some drafting errors which could lead to misinterpretations and there are no sanctions for erring Members. It however noted that the LGA Model Code was a great improvement on the current one.
2. This report addresses the issues raised at the last meeting and recommends the LGA Model Code of Conduct for adoption with some additional provisions.

Purpose of the Code of Conduct

3. The purpose of the code of conduct is to assist Members in modelling the behaviour that is expected of them and to set out the type of conduct that could lead to action being taken against them. It sets out general principles of

conduct expected of all Councillors and specific obligations in relation to standards of conduct. The Code is intended to protect Councillors' democratic role, encourage good conduct, and safeguard the public's trust and confidence in the role of a councillor.

LGA Model Code of Conduct – Appendix 1

4. In June 2023, the LGA conducted a survey to capture data on the Model Councillor Code of Conduct to gauge the impact of the code on Councils. The total response rate was 110 complete responses out of 317 (35 per cent). 8 out of 33 London Boroughs responded to the survey (24 per cent).

The Key findings of the survey published on 1st August is as follows: -

- All respondents to the survey were aware of the Model Councillor Code of Conduct.
 - 82% of respondents said they had adopted the LGA Model Councillor Code of Conduct to at least some extent, with 25% adopting it in full and 40% adopting the Code with some additions or minor amendments.
 - Among Councils which used the Model Code to inform their review, 73% reported it being 'Very useful' and 25% stated it was 'Fairly useful'.
 - A light touch review of the constitutions of Councils that did not respond to the survey indicated that 54% of non-respondent Councils had adopted the Model Code in full or in part.
 - In total across England, 63% of councils have adopted the Model Councillor Code of Conduct either completely or partially and 37% have not.
5. Since December 2020, when the LGA launched the Model Code, 95% of responding Councils have reviewed their Code of Conduct. 85% have conducted a formal review and 10% have informally reviewed their Code. Only 5% of the Councils which took part in this survey have not reviewed their Councillors' Code of Conduct since December 2020.
 6. The Chief Executive and the Monitoring Officer strongly recommend the adoption of the LGA Code with the inclusion of the following components.
 7. Below are the additional provisions added to section 11 of the Code. -
 - **Provision of formal references for Council Employees**
 - 11.1 As a Councillor you must not provide or offer to provide a formal reference for any candidate for employment or promotion with the Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.
 - **Sex Offenders Register or to Sexual Risk Orders**
 - 11.2 As a Councillor you must inform the Monitoring Officer if you commit any offence under Sexual Offences Act 2003 and are subject to the notification requirements set out in the Sexual Offences Act 2003 (commonly known as being put on the sex offenders register), or subject to Sexual Risk Orders or other orders relating to sexual conduct.

- 11.3 A Councillor who becomes disqualified pursuant to the Local Government Act 1972 section 81A, as inserted by the Local Government (Disqualification) Act 2022 section 1, shall immediately notify the Monitoring Officer of that fact and of the circumstances relating to it.

(This was agreed by Full Council on 19 October 2022).

- **Police Investigation, Arrest or Charge.**

- 11.4 As a Councillor you are required to inform the Monitoring Officer should you be under police investigation, have been arrested or charged of an offence.

Proposed Sanctions – Appendix 2

8. The Localism Act 2011 abolished the statutory standards regime set up by the Local Government Act 2000. Therefore, the range of sanctions prescribed by the 2000 Act are no longer available.
9. If the decision takers finds that a subject Member has failed to follow the Code of Conduct and that they should be sanctioned, the sanctions now available under the Localism Act 2011 are set out in Appendix 2.
10. Failure to comply with a sanction may of itself be a breach of the Code.

LGA’s Guidance on the Member Model Code of Conduct Complaints Handling (the “Guidance on complaints handling”) – Appendix 3

11. This guidance was prepared in response to requests received by the LGA as part of their consultation in 2020 on the LGA Model Councillor Code of Conduct. It is designed to assist monitoring officers, and anyone nominated by a monitoring officer to carry out investigations on their behalf and to assist councillors in understanding the process.

Arrangements for dealing with complaints alleging a breach of the Members’ Code of Conduct – Appendix 4

12. Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements”, under which allegations that a Member or co-opted Member of the Council, or of a Committee or Sub Committee of the Council (as defined by sub section 27 (4)), has failed to comply with the Members’ Code of Conduct can be investigated and decisions made on such allegations.
13. These “arrangements” set out how a person may make a complaint that an elected or co-opted Member of the Council has failed to comply with the Members’ Code of Conduct (“the Code”) and sets out how the Council will deal with allegations of a failure to comply with the Code.
14. Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated,

and whose views can be sought by the Council at any other stage, or by a Member or co-opted Member against whom an allegation has been made.

15. These arrangements have been updated taking into account the proposed action the Standards Committee or Council, Leader or appropriate official of the Political Groups can take where a Member has failed to comply with the Code of Conduct.

Update from the last meeting

16. The Committee made three suggestions at the last meeting: -

- Committee may review its position after the Government's response to the Committee had been received.

The Government has published its response to the Committee on Standard in public life 2019 report.

- A section addressing sanction should be included.

The LGA has produced a Guidance on the Member Model Code of Conduct Complaints Handling (the "Guidance on complaints handling") which contains examples of sanctions Councils have the power to impose and which matters are reserved to Full Council or need to be referred to a relevant political group. A section addressing sanctions has now been included.

- A clear process is required if a complaint is received.

The LGA's Guidance on the Member Model Code of Conduct Complaints Handling (the "Guidance on complaints handling") has been designed to assist Monitoring Officers and anyone nominated to carry out investigations on their behalf. It clearly sets out guidance for the process of handling a complaint which can be adopted.

Proposals and Analysis of Options

17. Whilst there is a statutory requirement for every authority to adopt a Code of Conduct, the LGA's model Code is a template and authorities can choose to adopt it either in whole or with amendments to take into account local circumstances. This report outlines 2 options for consideration.

Options

Option 1 – Recommend to Full Council to adopt the LGA Model Code appended at Appendix 1 with amendments.

18. The LGA Code has undergone various rounds of consultation and supporting documents have been produced by the LGA designed to assist the Monitoring Officer to handle complaints. It is appropriate for the Standards Committee to consider and make changes to the Model Code in accordance with national guidance if it adopts this option.

Option 2 – Do Nothing and continue with the Council’s existing code of conduct

19. The Standards Committee should periodically review the Code and consider whether changes should be made. The existing code of conduct has been reviewed by the Monitoring Officer. Therefore, is not recommended to do nothing.

Reasons for Decision

20. There is a statutory requirement for each Council to adopt a code of conduct. Although the Council currently has a Code, the LGA has prepared an updated model code. One of the roles of the Standards Committee is to consider changes to the Code of Conduct. A recommendation from the Standards Committee is therefore needed before a decision can be made by Full Council on the adoption of the Code.

LIST OF APPENDICES

Appendix 1 – Model Code of Conduct

Appendix 2 – Proposed Sanctions

Appendix 3 – LGA’s Guidance on the Member Model Code of Conduct Complaints Handling (the “Guidance on complaints handling”)

Appendix 4 – Arrangements for dealing with complaints alleging a breach of the Members’ Code of Conduct