

**STANDARDS COMMITTEE  
3 MARCH 2021**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: LOCAL GOVERNMENT ASSOCIATION ('LGA') MODEL CODE OF CONDUCT**

REPORT OF THE SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER

COUNCIL PRIORITY: BE A MORE WELCOMING AND INCLUSIVE COUNCIL

**1. EXECUTIVE SUMMARY**

- 1.1 The report provides an update on the LGA Model Councillor Code of Conduct Appendix 1 and consideration of the option to recommend adoption to Full Council.

**2. RECOMMENDATIONS**

- 2.1. That the Standards Committee considers whether to recommend adoption to Full Council;  
*and if so recommended -*
- 2.2. That the Code to include the replacement Appendices for Table 1 of Appendix B & Appendix C, and 'room' to include footnote explanation that this includes 'virtual meeting' room, for the reasons outlined in the report, and
- 2.3. That the Code would take effect from the day after the election poll in 2021 (7 May) or such day if the election is postponed, *as the case may be*, and
- 2.4. That training on the new code be compulsory for all District Councillors during the 2021-2022 municipal year.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To ensure good governance within the Council, which is reflective of a national governance model.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Retain our current Code of Conduct – but commence our own review and update our Guidance. *This option is not seen as the best use of resources* – given the pandemic, that a national organisation has taken a lead on this, the LGA have indicated they will annually review the Code and provide guidance on interpretation.

## **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1 The LGA model (dated 3 December 2020) was circulated to the Chair of Standards Committee, Vice Chair of Standards Committee, Independent Persons and relevant officers on that day, and to Group Leaders on 4 December. This was discussed at a meeting with the Chair and Vice Chair and Independent Persons on 16 December; the consensus was supportive of taking this forward.
- 5.2 A further version was circulated on 23 December by the LGA; this was then sent to the Chair of Standards Committee, Vice Chair of Standards Committee, Independent Persons, relevant officers and Group Leaders. A tracked change version was then produced by the Monitoring Officer and circulated to show the drafting changes on 6 January. Following discussions with the Chair and Vice Chair in related briefings and Group Leaders in their briefings, the general approach to take this forward to Standards Committee was endorsed. When preparing this report, it appeared that another version had been produced by the LGA on 19 January 2021. This again had some changes, largely minor in nature. This version (appended at 1) was circulated to the same parties again for consideration.
- 5.3 Clarification has been sought from the LGA regarding this newest version and the organisation that has been commissioned to draft the Guidance to the LGA Code. At the date of preparing the report, no clarification has been received.

## **6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on an Executive key decision and has not been referred to in the Forward Plan.

## **7. BACKGROUND**

- 7.1. The Council last reviewed its Code of Conduct in 2017 with adoption of the current version taking effect in May 2018.
- 7.2. Members will be aware that the Committee in Standards in Public Life ('CSPL') published a report into local government ethical standards. This had 26 recommendations and 15 Best Practice recommendations, as first reported to the February 2019 Committee<sup>1</sup> and referred to in subsequent reports.
- 7.3. Two of the recommendations of specific relevance to this report were:
1. 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; and
  2. Best Practice Recommendation 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

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<sup>1</sup> <https://democracy.north-herts.gov.uk/ie/ListDocuments.aspx?CId=154&MId=2023&Ver=4>

- 7.4 Due to the fact that NHDC had only recently reviewed its Code at the time, and would in any event have had to amend this again if the Government had responded to the recommendations, Standards Committee agreed that the best approach was to wait until the Government responded and/ or a new model code was provided by the LGA.
- 7.5 There has been no formal response from the Government to the recommendations.
- 7.6 However, as Members will be aware, the LGA started a national consultation on a new model Code that ran from 8 June to 17 August 2020, as reported in October 2020. This was initially circulated to the Chair, Vice Chair, Independent Persons and relevant officers on 10 June. Once the full consultation questions were made available, it was agreed that draft amalgamated responses to these would be circulated to the Standards Committee Members for comment – which took place by email between 14 July and 3 August. The final responses were provided to the LGA. Various webinar consultation workshops and discussions took place during the summer and the LGA prepared a draft version for approval by the LGA Board on 3 December. The approved version was sent out by the LGA that day.
- 7.7 Three versions have now been produced as set out under paragraph 5 above. The most recent being 19 January 2021 attached as Appendix 1. Versions from 3 and then 23 December were sent to the Parish/ Town (and Community) Councils on 23 December (two emails one with first and then the later version that evening). This was to inform, where necessary, and gauge interest in the local councils' adoption of the LGA model. As at the time of preparing this report, 23 of North Herts local councils' have indicated that they are interested in adopting this model, although some commented that without enhanced sanctions this model would still be an ineffective tool.
- 7.8 The Monitoring Officer attended a virtual meeting arranged by the Hertfordshire Association of Parish and Town Councils ('HAPTC') on 11 February. This was also attended by one of the parties involved in drafting the Code and now subsequent Guidance. Some overall support was voiced for the model, however, similar concerns regarding the lack of sanctions was also aired.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. The question at this stage for the Standards Committee is whether to consider recommending adoption, if so with any proposed amendments to Full Council and the timing of this.
- 8.2. NHDC has a fairly developed and extensive Code, which has evolved since the changes under the Localism Act 2011 were enacted. There is no mandatory form, although certain things must be covered in it with reference to the Seven Principles of Public Life (as per s.28(1)) and interests (s28(2)). An adopted code can go beyond this – but must not prejudice those provisions (as per s28(3)).

8.3. The LGA model has been produced on the recommendation of CSPL, however, it is not mandatory. The LGA model is attached at Appendix 1 – so this report does not repeat those provisions in full. In summary, however, the LGA Code covers:

- **Application of the Code** (under 'Definitions' and 'Application' – which is similar to NHDC's although not as extensive);
- **General Conduct requirements** with regards to: Respect; Bullying, harassment & discrimination; not compromising impartiality of officers; confidentiality & access to information; disrepute; use of position; and use of local authority resources and facilities. Again similarly to NHDC's General Obligations, although not explicitly referencing advice and compliance with policies – e.g. under NHDC's paragraphs 3.6-3.7;
- **Interests** – detailing those to register and provisions on disclosing (section 9, Table 1-2 and Appendix B);
- **Gifts and Hospitality** under section 10 which is slightly more extensive in its requirements to register those gifts offered but rejected, as per 10.3;
- **Appendix A** – covers the **Seven Principles of Public Life**;
- **Appendix B** – covers Registering Interests, with Table 1 covering the statutory Disclosable Pecuniary Interests (DPIs) albeit it includes some additional wording (*see below for recommendation on this*), and Table 2 covering 'Registerable' or 'Registrable' Interest (and inconsistency that could be remedied on adoption), which are those where there is some discretion in relation to inclusion;
- **Appendix C** – includes the CSPL's Best Practice recommendations (see below 8.6 for recommendation on this), .

8.4. If the Council decided to retain its own version, it would still need to review its Code, and to start doing this annually, which would involve further consideration by officers and Members. The associated Guidance would also have to be updated to reflect any updated NHDC model.

*Arguments for adoption of the LGA model*

8.5. The LGA have produced a model (subject to the versions produced) which:

- Has been prepared following national consultation;
- Covers most of the elements that you would expect within the Code and beyond most basic models and the Council may adopt it as a whole or in part;
- provides short guidance below each obligation under the main provisions of the Code – which should assist understanding;

- provides a model that can be rolled out to the local councils in the District (albeit it will be a matter for those councils to adopt);
- The LGA have stated that they will keep it under review so that it remains fit for purpose (thereby meeting the CSPL Best Practice recommendation 15);
- The LGA are commissioning more detailed Guidance which should be available on or about April 2021;
- Training can be commissioned for new District Councillors (and across the district for local councils) so that this ties into the new municipal year;
- NHDC would not have to undertake its own specific work on reviewing its Code at this stage – and given the Best Practice Recommendation 15, this would be yearly. This would amount to an almost ongoing consultation on changes. Further resources would be required to review the Guidance associated with the NHDC Code – this is all at a time of pandemic and future efficiencies that need to be made.

Arguments against adoption or adoption at this stage:

8.6. There are a number of reasons against adoption, although these may be remedied in part as set out under recommendation 2.2:

- NHDC has produced its own Code which has, as indicated over time been adapted through our own Member's debate. There were/ are perceived benefits of having a localised model – albeit it remains one of many within the district and at different tiers of government in Hertfordshire;
- Three versions of the code have been produced by the LGA already since December 2020. There are minor differences, there has been no formal explanation provided as to why these changes have been made and this creates uncertainty;
- There remains a few drafting errors – referenced above, e.g. Registerable and Registrable; wording of the DPs; use of the term 'room' rather than meeting. If Members are content with the principle of adoption, however, then these can be corrected as part of the recommendation outlined in 2.2. The proposed replacement Table 1 for the code is attached to this report at **Appendix 2**;
- It includes the CSPL's Best Practice recommendations Appendix C. They are not, however, referenced elsewhere in the LGA code and are not enforceable against an individual Councillor. If Members are content with the principle of adoption, however, then these can be corrected by removal as part of the recommendation outlined in 2.2.

- It does not include information on how a dispensation is granted to Councillors or by whom. If Members are content with the principle of adoption, however, then these can be corrected as part of the recommendation outlined in 2.2. by adding the NHDC current Appendix C as a new / replacement Appendix C – which would cover who grants the dispensation and the statutory grounds. The proposed replacement Appendix C for the code is attached to this report at **Appendix 3**;
- Not all local councils may adopt it in the district, still causing some inconsistencies across the tiers of government;
- Whilst a feasible and efficient adoption would link to the election timetable, as guidance is yet to be produced, it may be better to wait until this has been finalised before deciding whether to adopt.

8.7 On balance, whilst the January 2021 LGA version is not perfect, as part of a package with potential Guidance and annual review, it is preferable to undertaking our own bespoke approach on the matter. It offers an opportunity to reach out to local councils more effectively and give them greater and more consistent support through a national model. Timing wise, whilst the Guidance has not been produced, in all likelihood it will be available to support the code (if adopted) to be in place for the new municipal year post election. Preliminary enquiries have been undertaken and indicate that training can be provided to the District Councillors and for the local councils in the summer, should Members be minded to adopt this version.

## 9. LEGAL IMPLICATIONS

- 9.1 The Standards Committee has a function under “7.5.4 to advise the Council on the adoption or revision of the Members’ Code of Conduct”. The Council is legally obliged to have a Code of Conduct under s.28 Localism Act 2011, and adoption is legally a matter for Full Council as per s.28(13), which is reflected in the Constitution at Council’s terms of reference at 4.4.1(s).
- 9.2 Under s28(12) of the Localism Act 2011, a relevant authority must publicise its adoption, revision or replacement of a code of conduct in such matter or as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.

## 10. FINANCIAL IMPLICATIONS

- 10.1 There are no capital or revenue implications arising from the content of this report at this stage, other than staffing implications if the Council decides to continue with the NHDC model (which would have to be reviewed). There is, however, likely to be costs for Councillor training, which would be required to support the adoption for District and local councils. It is anticipated that these will be covered from the overall District Councillor training budget. Initial quote was £600 plus VAT for one session and £300 plus VAT for a follow up.

**11. RISK IMPLICATIONS**

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

**12. EQUALITIES IMPLICATIONS**

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.
- 12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest.

**13. SOCIAL VALUE IMPLICATIONS**

- 13.1 The Social Value Act and “go local” policy do not apply to this report.

**14. ENVIRONMENTAL IMPLICATIONS**

- 14.1 There are no environmental implications to this report.

**15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 The work outlined within the report is within the caseload of the Monitoring Officer and the legal team. Implications are otherwise touched on under financial implications above.

**16. APPENDICES**

- 16.1 Appendix 1 – LGA model code 19 January 2021  
Appendix 2 – suggested replacement Appendix B Table 1, which includes the NHDC definition of DPs and links to guidance/ statutory instrument.  
Appendix 3 – suggested replacement Appendix C, which includes the NHDC Appendix C on Dispensations.

**17. CONTACT OFFICERS**

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**18. BACKGROUND PAPERS**

- 18.1 None other than those referred to/ linked to in the report or associated documents.