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**Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer**

**Electoral division(s) affected:**

Countywide.

**Purpose of the Report**

- 1 To introduce the new Model Code of Conduct prepared by the Local Government Association and for the Committee to consider whether to adopt the Code in whole or in part.

**Executive summary**

- 2 Following recommendations from the report of the Committee for Standards in Public Life (CSPL) on Ethical Standards in Local Government published on 30 January 2019, the Local Government Association produced a Model Code of Conduct, which was published on 23 December 2020.
- 3 Councils are invited to consider whether to adopt the Model Code of Conduct. This report sets out the background to the report of the Committee for Standards in Public Life and the progress which has been made to develop and produce the Model Code of Conduct for Councils to consider adoption of.
- 4 The Standards Committee in June 2019 agreed a series of changes to the existing Durham Code of Conduct in light of the recommendations from the CSPL. The proposed changes are due to be considered and approved by full Council on 24 March 2021.
- 5 A comparison between the Model Code of Conduct and the proposed update to the Durham Code of Conduct shows that much of the Model Code is already encompassed within the Durham County Council Code of Conduct.

## **Recommendations**

- 6 The Standards Committee is recommended:
- (a) to consider and comment on the Local Government Association Model Code of Conduct;
  - (b) to consider whether to recommend to Council that the Model Code of Conduct is adopted in full or in part.

## Background

- 7 On 30 January 2019, the Committee on Standards in Public Life (CSPL) produced a report on Local Government Ethical Standards. The report found that there is considerable variation in the length, quality and clarity of local authority Codes of conduct. CSPL made 26 formal recommendations and 15 best practice recommendations intended to improve local government ethical standards and improve public confidence in the arrangements.
- 8 Under the Localism Act 2011, the Council must adopt a Code of conduct. There is requirement that a council's Code, when viewed as a whole, must be consistent with the seven principles of public life of selflessness, integrity, objectivity, accountability, openness, honesty and leadership (the Nolan Principles). In addition, the Code must include provision for the registration and disclosure of (a) pecuniary interests and (b) other relevant interests. There is no mandatory Code of Conduct.
- 9 It was recommended that the Local Government Association (LGA) produce an updated Model Code of Conduct to be adopted by principal, Town and Parish Councils. Accordingly, the LGA developed a Code in consultation with key partners and all tiers of local government.
- 10 The Committee will recall that it met informally in July 2020 to provide comments on the draft Code, which were submitted to the LGA. A copy of the consultation response is attached at Appendix 2.
- 11 The final Model Code was published on 23 December 2020 and is attached at Appendix 3 to the report.
- 12 Prior to the consultation on the draft Model Code, the Standards Committee agreed to review the Durham County Council Code (the Code) of Conduct in light of the 15 best practice recommendations of the CSPL. At its meeting on 7 June 2019, the Committee noted that the Council's arrangements already reflected 12 out of 15 of the recommendations. It resolved to make changes to the Code, the Council's website and complaint procedures to ensure that all recommendations were fully reflected.
- 13 Changes to the website and the procedures were implemented immediately thereafter. Changes to the Member Code of Conduct require the approval of full Council. It was intended that these would be considered as part of the annual review of the Constitution in May 2020. However, as a result of the Covid-19 pandemic, the annual meeting of Council was not held. The changes will be presented to Council on 24 March 2021 for approval. A copy of the current Member Code of

Conduct (which includes the proposed amendments to reflect best practice) is at Appendix 4.

### **The new Model Code of Conduct.**

- 14 The main points covered in the LGA Model Code of Conduct are summarised below:
- (a) The Code explicitly states that it applies to Councillors who are claiming to act as a Councillor or who give the impression that they are doing so as well as where a Councillor refers publicly to their role or uses knowledge they could only obtain in their role as a Councillor. This does not extend to a rebuttable presumption of acting in official capacity at all times as this will require a change to primary legislation.
  - (b) The Code gives examples of what amounts to treating others with respect but also how to deal with disrespectful behaviour from others. The term “respect” is favoured over “civility”.
  - (c) Definitions of bullying and harassment are included and there is an express requirement to promote equalities and to not discriminate unlawfully.
  - (d) Councillors must not bring their role or local authority into disrepute.
  - (e) Councillors must agree to undertake any Code of Conduct training provided, co-operate with a Code of Conduct investigation, not intimidate any person involved in any investigation and comply with any sanctions imposed.
  - (f) There is an obligation to register any gifts or hospitality regardless of value which could give rise to real or substantive personal gain.
  - (g) Gifts or hospitality of £50.00 or more in value must be registered as must any that have been refused.
  - (h) In addition to the statutory Disclosable Pecuniary Interests, there is a requirement to register membership of any body exercising functions of a public nature, directed to charitable purposes or one of whose principle purposes includes the influence of public opinion. This only applies to bodies to which the Councillor has been appointed by the Council and mirrors those memberships that were required to be registered under the 2007 national Code of Conduct.

- 15 A table showing the comparison between the LGA Model Code and the proposed Durham Code is shown at Appendix 5.
- 16 The Standards Committee will note that of the updates to the Model Code of Conduct the majority of points are either already covered within the Code or included in the recommendations to Council on 24 March 2021.
- 17 The Model Code will be kept under review on an annual basis. The Government is still to respond to the CSPL report and recommendations. Some of the 26 recommendations including those relating to the scope of the Member Code and the introduction of sanctions require legislative changes. In the absence of such changes within the Model Code, Members may wish to consider whether they recommend any changes to the Code at this stage or wait for any developments following the Government's response.

### **Bench Marking**

- 18 There has been a mixed response to the LGA Model Code with some councils adopting in full, others in part and others not at all.
- 19 In a survey with Monitoring Officers and Deputy Monitoring Officers conducted by Lawyers in Local Government, the following findings were revealed from 82 responses:
- 20% have or intend to adopt the Model Code in full.
  - 20% will adopt in parts of the Model Code.
  - 55% have decided not to adopted the Model Code, of which:
    - 25% will not be adopting the mode Code or changing their Code
    - 30% not adopted the Model Code in full or in part but are looking to make some changes to their own Code independently.
  - 5% are undecided at this time
- 20 It is understood that the position in the North East reflects the findings of the LLG survey with those that responding to enquiries not minded making changes at this stage, make minor amendments to reflect the best practice recommendations or undecided.

### **Background papers**

- None

## Other useful documents

- None

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### Author

Kamila Coulson-Patel

Tel: 03000 269674

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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a duty under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a Code of conduct that is consistent with the Nolan Principles. The LGA Model Code is intended to assist local authorities to discharge those duties.

### **Finance**

None.

### **Consultation**

The report summarises the consultation undertaken in preparing the new Model Code of Conduct. The Standards Committee's consultation response is appended to the report.

### **Equality and Diversity / Public Sector Equality Duty**

Whilst there are no direct equality/Public sector equality duties arising out of the report, the Council's existing Code and the Model Code include obligations on members to comply with the public sector equality duty and the Council's equalities policies and procedures.

### **Climate Change**

None.

### **Human Rights**

None.

### **Crime and Disorder**

None.

### **Staffing**

None.

### **Accommodation**

None.

### **Risk**

None.

### **Procurement**

None.