

APPENDIX 2

Response Summary:

Thank you for taking the time to complete this consultation. This Model Member Code of Conduct [[Model Member Code of Conduct.pdf](#)] aims to be concise, written in plain English and be understandable to members, officers and the public. The Model Member Code is designed to aid members in all tiers of local government model the behaviours and high standards that anyone would expect from a person holding public office. Equally, it articulates behaviour which falls below the standards that would be expected of council members. It is designed to help set a framework for public and councillor interaction, emphasising the importance of civility and that councillors should be protected from bullying, intimidation and abuse.

The LGA has reviewed the existing Model Member Code of Conduct and updated it here incorporating the recommendations from the Committee on Standard's in Public Life's recommendations on Local Government Ethical Standards and the representation from its membership. Part of the Committee's recommendations were the introduction of sanctions for breaches of the code, alongside an appeals process. This aspect is out of scope of this consultation, as it requires legislative changes by Government, but the LGA has sought to reflect some of the possible changes by using square brackets where legal changes would be necessary. The LGA is continuing to take soundings from the sector on the issue of sanctions in anticipation of a Government response to the Committee's recommendations.

This consultation addresses key areas that the LGA would like a view on to help finalise the Code. It is aimed at councillors and officers from all tiers of local government. If you would like a wider discussion about the code, please do sign up to one of the forthcoming Webinars the LGA are holding as part of this consultation. Details will be posted on our [LGA events website](#).

You can navigate through the questions using the buttons at the bottom of each page. Use the 'previous' button at the bottom of the page if you wish to amend your response to an earlier question.

All responses will be treated confidentially. Information will be aggregated, and no individual or authority will be identified in any publications without your consent. Identifiable information may be used internally within the LGA but will only be held and processed in accordance with our [privacy policy](#). We are undertaking this consultation to aid the legitimate interests of the LGA in supporting and representing authorities.

Please complete your response in one go - if you exit before submitting your response your answers may be lost. If you would like to see an overview of the questions before completing the consultation online, you can access a PDF here: [LGA Consultation on Draft Model Member Code of Conduct.pdf](#)

Q31. Your name

Helen Lynch

Q42. If you would like to receive a copy of your completed response please provide your email address below (a copy of the survey form is available on the previous page)

Email address

Helen.lynch@durham.gov.uk

Q6. Are you...

- Answering on behalf of a whole council (Please provide council name below):
Durham County Council

Q7. Please indicate your council type

- Metropolitan/Unitary/London Borough

Application of the Code

Under the Localism Act 2012, the Code of Conduct applies to councillors only when they are acting in their capacity as a member. The LGA believes that because councillors are elected by the public and widely recognised by the public, it makes sense for them to continue to model these behaviours when they are making public comment, are identifying as a councillor and when it would be reasonable for the public to identify them as acting or speaking as a councillor. The Committee on Standards in Public Life supported this approach in their report into Local Government Ethical Standards. Whilst the LGA is waiting for Government's response to these recommendations the option has been added in square brackets as it would need changes in legislation.

Q9. Q1. To what extent do you support the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media?

- To a great extent

Q32. Q1a. If you would like to elaborate on your answer please do so here:

The majority of complaints received are related to social media. This is likely to continue to be the case as there is an increase in remote working/online activity during the pandemic. It is important that the obligations on members are clear. The Independent Person to the Standards Committee reflected that Members are still recognised as being elected Members even when using private social media accounts.

Q39. Q2. Is it sufficiently clear which parts of the Model Code are legal requirements, which are obligations, and which are guidance?

- No

Q10. Q3. Do you prefer the use of the personal tense, as used in the Code, or would you prefer the passive tense?

- Passive tense ("Councillors should")

Specific obligations

The Code lists 12 specific obligations – these set out a minimum standard councillors are asked to adhere to.

Each obligation or group of obligations is put into a wider context to explain why that particular obligation is important.

Q12. Q4. To what extent do you support the 12 specific obligations?

1. Treating other councillors and members of the public with civility.	To a moderate extent
2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.	To a moderate extent
3. Not bullying or harassing any person.	To a great extent
4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the council.	To a great extent

<p>5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.</p>	<p>To a great extent</p>
<p>6. Not preventing anyone getting information that they are entitled to by law.</p>	<p>To a great extent</p>
<p>7. Not bringing my role or council into disrepute.</p>	<p>To a great extent</p>
<p>8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.</p>	<p>To a great extent</p>
<p>9. Not misusing council resources.</p>	<p>To a great extent</p>
<p>10. Registering and declaring my interests.</p>	<p>To a great extent</p>
<p>11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.</p>	<p>To a great extent</p>
<p>12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.</p>	<p>To a moderate extent</p>

Q13. Q5. If you would like to propose additional or alternative obligations, or would like to provide more comment on a specific obligation, please do so here:

There needs to be clarity as to when the Code applies. There should be an obligation for Members to adhere to Council policies and procedures (e.g. IT, Social Media; Member Officer Relations Protocol).

Civility: The obligations of civility do not go far enough and the Code should retain the requirement to treat others with respect, which requires a due regard for the feelings, wishes or rights of others. It is suggested that the obligation should be treat others with "civility and respect".

The guidance refers to "unreasonable/excessive" personal attack. Any type of personal attack is unacceptable and the words "unreasonable and excessive" should be deleted.

Bullying & Harassment: There should be clear guidance as to what constitutes bullying and harassment, recognising that some Members perceive this as robust political debate and vice versa.

Confidentiality - the duty should be owed only where Members ought reasonably to be aware of the confidential nature of the information.

Interests - the Code should be clearer as to what constitutes an interest and when the requirement to declare arises.

The Code should also cover conflicts of interests and include guidance on when these might arise.

Gifts & Hospitality - the value should be at the level recommended by CSPL - £50.

Q14.

Q6. Would you prefer to see the obligations as a long list followed by the guidance, or as it is set out in the current draft, with the guidance after each obligation?

- Each specific obligation followed by its relevant guidance

Q15. Q7. To what extent do you think the concept of 'acting with civility' is sufficiently clear?

- Not at all

Q16. Q7a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:

As previously explained, the obligation should go further than treating people with formal politeness and courtesy in behaviour or speech. The requirement to treat people with respect should be retained so that Members are required to have a due regard for the feelings, wishes or rights of others. There should be a recognition that a Councillors own views on acceptable conduct might differ from others both within and outside the Council. The Independent Person to the Standards Committee reflected that with regard to civility it is important to recognise the diversity that the term suggests e.g. civility in social, economic, religious and public forum settings can have several different connotations which need to be reflected in guidance.

Q40. Q8. To what extent do you think the concept of 'bringing the council into disrepute' is sufficiently clear?

- To a small extent

Q41. Q8a. If you would like to suggest an alternative phrase that captures the same meaning, or would like to provide a comment on this concept, please do so here:

There was some comment that the concept is well known and therefore it is assumed that the terms is understood but the concept is outdated and what constitutes disrepute is subjective. It is suggested that the obligation is replaced with a requirement not to act in such a way as to undermine public confidence in the office/authority or include clear examples as to what might constitute disrepute.

Q17. Q9. To what extent do you support the definition of bullying and harassment used in the code in a local government context?

- To a great extent

Q18. Q9a. If there are other definitions you would like to recommend, please provide them here.

As previously explained, there needs to be clear examples of what constitutes bullying and harassment and distinction between this and robust political debate/challenge.

Q19. Q10. Is there sufficient reference to the use of social media?

- No

Q20. Q10a. Should social media be covered in a separate code or integrated into the overall code of conduct?

- Integrated into the code

Q33. Q10b. If you would like to make any comments or suggestions in relation to how the use of social media is covered in the code please do so here:

All Members considered that the Code should be clear on obligations on members when using social media but this should be supported by clear guidance on how to use it appropriately e.g. specific councillor social media pages/templates; guidance on how to set pages up and manage public interaction and deal with abuse that they may receive.

Registration and declarations of interests

The law at present requires, as a minimum, registration and declaration of 'Disclosable Pecuniary Interests' - that is matters which directly relate to the councillor and their partner if applicable.

The LGA is proposing that all councillors are required to declare interests where matters also relate to or affect other family members or associates. The LGA has broadened the requirement to declare interests beyond this current statutory minimum in line with a recommendation from the Committee on Standards in Public Life. These specific provisions are set out in **Appendix B** of the Code.

Q22. Q11. To what extent to you support the code going beyond the current requirement to declare interests of the councillor and their partner?

- To a great extent

Q34. Q11a. If you would like to elaborate on your answer please do so here:

N/A

Q23. Q12. Should the requirement to declare interests be in the main body of the code or in the appendix where the draft model code currently references it?

- In the main body of the code

Q36. Q12a. If you would like to make any comments or suggestions in relation to how the requirement to declare interests is covered in the code please do so here:

Members welcomed attempts to clarify interests and acknowledged that the proposed requirement to declare other interests (Table 2) reflected arrangements adopted locally. However, there needs to be greater clarity in terms of what constitutes an interest, when it needs to be declared and what the effect of an interest is. Different categories of interests together with conflicts of interest can be confusing for members and the public.

Members were supportive of being able to speak on an item (subject to the public having the same rights) and then withdrawing prior to a decision so that they can still represent their residents views. Otherwise Members may feel unable to participate in external organisations/outside bodies for fear of not being able to participate in council business.

It is also suggested that more outside interests should be registered than is the current statutory minimum. These are set out in **Table 2 of the Appendix** and are designed to demonstrate to the community transparency about other bodies with which the councillor is engaged.

Q25. Q13. To what extent do you support the inclusion of these additional categories for registration?

<i>Any organisation, association, society or party of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council</i>	To a moderate extent
<i>Any organisation, association, society or party that exercises functions of a public nature of which you are a member or in a position of general control or management</i>	To a moderate extent
<i>Any organisation, association, society or party directed to charitable purposes</i>	To a moderate extent
<i>Any organisation, association, society or party of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</i>	To a moderate extent

Q37. Q13a. If you would like to propose additional or alternative categories for registration, please provide them here:

Members generally considered that the CSPL recommendation to include a requirement to declare the following categories of interests. If these were all DPIs it would help provide clarity and reduce confusion between DPIs; other interests and conflict of interests.

- I. Unpaid Directorships
- II. Trusteeships
- III. Management roles in a charity or body of a public nature
- IV. Membership of any organisations that seek to influence opinion or public policy.

Q26. Q14. To what extent to you support the proposed requirement that councillors do not accept significant gifts as set out in Obligation 11?

- To a great extent

Q38. Q14a. If you would like to elaborate on your answer please do so here:

N/A

Q27. Q15. The draft code proposes £25 as the threshold for registering gifts and hospitality. Is this an appropriate threshold?

- No, it should be higher (please specify amount):

50

Q28. Q16. The LGA will be producing accompanying guidance to the code. Which of the following types of guidance would you find most useful? Please rank 1-5, with 1 being the most useful.

<i>Explanatory guidance on the code</i>	1
<i>Supplementary guidance that focuses on specific areas, e.g., social media</i>	2
<i>Improvement support materials, such as training and e-learning packages</i>	3
<i>Case studies and examples of good practice</i>	4
<i>Regularly updated examples of case law</i>	5

Q29. Q16a. If you would like to suggest any other accompanying guidance please do so here:

Guidance on undertaking training and importance of continuous development

Q30. Q17. If you would like to make any further comments about the code please so here:

Whilst the Council welcomes the draft model Code and the opportunity to comment, it was hoped that the LGA would address all of the Committee in Standards in Public (CSPL) recommendations in relation to Member Conduct. It is understood that the introduction of sanctions requires legislative change. However, it is disappointing that the Code is almost silent on sanctions but refers to other provisions that would also require legislative change (scope of the code/interests).

Without exception, all Members raised the lack of appropriate sanctions available to the Standards Committee as being the area of most significant concerns and strongly supported the CSPLs recommendation for a 6 month suspension and clarity on whether authorities can restrict access to resources/buildings by way of sanction.

There is currently no deterrent to improper conduct and no confidence by those affected to pursue complaints. The sanctions available to the Committee do not provide adequate protection to those experiencing bullying and harassment in particular and often fail to meet the expectations of complaints. This undermines confidence in the ethical standards regime. The CSPL recommendations were intended to improve public confidence in the ethical standards regime. It is important that these are properly reflected within the draft Code to help ensure that the findings and recommendations for CSPL are properly addressed.

Once you press the 'Submit' button below, you will have completed your response.

Many thanks for taking the time to respond to this consultation. You are in control of any personal data that you have provided to us in your response. You can contact us at all times to have your information changed or deleted. You can find our full privacy policy here: [click here to see our privacy policy](#)
