



AUDIT & GOVERNANCE COMMITTEE

Monday, 14 March 2022

Subject	ADOPTION OF LGA MODEL CODE OF CONDUCT FOR COUNCILLORS
Report by	Councillor Steve Gallant, Leader of the Council
Supporting Officer	Chris Bing Monitoring Officer Chris.bing@east Suffolk.gov.uk

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable.
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

This report presents the Local Government Association's (LGA's) new model Code of Conduct for Councillors. Audit and Governance Committee is asked at its meeting on 23 March 2022 to consider the new Code and to resolve to recommend to Full Council to adopt it at East Suffolk with effect from 1 May 2022.

Options:

To adopt the LGA Model Code of Conduct (Appendix B) or to keep the existing Code of Conduct (Appendix A).

Recommendation/s:

That the LGA Model Code of Conduct is adopted with effect from 1 May 2022.

Corporate Impact Assessment

Governance

Section 27(2) of the Localism Act 2011 requires Councils to adopt 'a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.' East Suffolk Council adopted its current Code of Conduct upon the creation of the new Council in April 2019.

ESC policies and strategies that directly apply to the proposal:

East Suffolk Council Strategic Plan 2020-2024

Environmental:

Not applicable

Equalities and Diversity:

The LGA model Code of Conduct requires Councillors to promote equalities and not to discriminate unlawfully against any person

Financial:

Not applicable

Human Resources:

Not applicable

ICT:

Not applicable

Legal:

Section 27(2) of the Localism Act 2011 requires Councils to adopt 'a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.' It is a criminal offence for a Councillor to fail to register a

pecuniary interest in their Register of Interests or to participate in debate or vote where they have a pecuniary interest.

Risk:

Failure to comply with the Code of Conduct risks making decisions taken by Councillors vulnerable to challenge and potentially risks bringing both the Councillor and the Council into disrepute.

External Consultees: Suffolk Monitoring Officers Group

Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		

XXX	How ESC governs itself as an authority	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>How does this proposal support the priorities selected?</p> <p>Compliance with, and enforcement of, the model Code of Conduct should raise and maintain standards in public life and make decisions taken less vulnerable to challenge.</p>			

Background and Justification for Recommendation

1 Background facts	
1.1	The Localism Act 2011 places a duty on every council to promote and maintain high standards of conduct by members and co-opted members of the authority and, in discharging that duty, adopt a code dealing with the conduct that is expected of those members when they are acting in that capacity.
1.2	In January 2019 the Committee on Standards in Public Life (CSPL) published a report following their review of local authority standards.
1.3	A key recommendation of the CSPL was directed to the Local Government Association - "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."
1.4	The CSPL review concluded that a model code of conduct would create consistency across England, and reflect the common expectations of the public regardless of geography or tier. It would also reduce the potential for confusion among dualhatted or triple-hatted councillors.
1.5	CSPL also considered that matters such as gifts and hospitality, social media use, and bullying and harassment had all increased in salience, and were perhaps not regularly reflected in local authority codes of conduct and a model code of conduct would help to ensure that they do so.
1.6	Following extensive consultation the Local Government Association (LGA) Executive approved a Model Councillor Code of Conduct ('Code') in December 2020 (Appendix B). The Model Code provides a template for councils to adopt in whole and/or with local amendments.
1.7	The LGA have committed to undertake an annual review of the Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.
1.8	The LGA will also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils will be offering advice and support to town and parish councils.
1.9	The LGA published a Model Member Code of Conduct (Appendix B) in December 2020 which was updated in January and May 2021. The LGA issued accompanying guidance (Appendix C) in July 2021.

2 Current position

2.1	Currently, Suffolk County Council, the 5 district councils in Suffolk and all the town and Parish Councils in Suffolk have adopted the existing Suffolk Code of Conduct (Appendix A) to which all Councillors agree to abide by upon signing their declaration of office.
2.2	All 5 Monitoring Officers in Suffolk (Emily Yule (Babergh and Mid Suffolk Council), Chris Bing (East Suffolk Council), Shirley Jarrett (Ipswich Borough Council), Tim Ryder (Suffolk County Council) and Teresa Halliday (West Suffolk Council)) are now recommending that their Council adopts this new Code so that there is a consistent approach to standards across Suffolk and so members who are both District and County Councillors are subject to the same Code. Monitoring Officers will also be encouraging any Parish Councils in their area to adopt the new Code of Conduct, but the adoption of the new Code is ultimately a matter for each individual Parish Council in Suffolk to consider and determine.

3 How to address current situation

3.1	The LGA Model Code has “been designed to protect our democratic role, encourage good conduct, and safeguard the public’s trust and confidence in the role of councillor in local government. While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage councillors to model the high standards expected of councillors, to be mutually respectful even if they have personal or political differences, to provide a personal check and balance, and to set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of councillors and in breach of the code. It is also to protect councillors, the public, local authority officers and the reputation of local government.”
3.2	The LGA Model Code does not differ significantly in content from the local code already in operation in East Suffolk, although some of the language used is different.
3.3	The new Code provides clarity that the requirements of the Code apply as soon as a councillor signs their declaration of acceptance of office or, in the case of a co-opted member, attends the first meeting, and continues to apply until a member ceases to be a councillor.
3.4	Additional clarification is also provided as to the types of interactions that amount to duties of a councillors’ elected office and that would so be captured under the Code’s remit and application – these are when a councillor is: (a) Acting in their capacity as a councillor and/or a representative of the council; (b) Claiming to act as a councillor and/or as a representative of the council; (c) Giving the impression of acting as a councillor or a representative of the council; (d) Referring publicly to their role as a councillor and using knowledge that could only be obtained in that role.
3.5	The Code also provides clear guidance as to the forms and type of communication that are within scope: (a) at face-to-face meetings; (b) online or telephone meetings;

	<p>(c) in written communication;</p> <p>(d) in verbal and non-verbal communication;</p> <p>(e) in electronic and social media communication, posts, statements and comments.</p> <p>There are new commitments to co-operate with any investigation, should a complaint be received, and to comply with any sanctions that may be imposed if a breach is proven. These are important to protect the integrity of the process.</p>
3.6	<p>Bullying, harassment and discrimination</p> <p>With the current focus on behaviours towards elected representatives and officers, this expanded wording provides more explanation of what is unacceptable, alongside the commitment to equalities.</p>
3.7	<p>Confidentiality and Access to Information</p> <p>Specific requirements in relation to confidentiality and access to information have been incorporated. This clause sets out standards of conduct relating to the proper use of information by councillors.</p>
3.8	<p>Gifts and Hospitality</p> <p>The provisions extend those set out in the Suffolk Code in two ways:</p> <ul style="list-style-type: none"> (a) by specifically referencing a requirement to not accept gifts or hospitality that could give rise to real or substantive personal gain or a suspicion of influence; and (b) by placing a responsibility on councillors to register any significant gift or hospitality that has been offered but refused.
3.9	<p>Protecting the reputation of members and the local authority</p> <p>The new model code uses the terminology of ‘disclosable pecuniary interests’ (see table 1 within the model code), ‘other registerable interests’ (see table 2 within the model code) and ‘non-registerable’ interests (see paras 7-10 within the model code). If adopted, members will be expected to use this terminology when registering and disclosing interests.</p> <ul style="list-style-type: none"> • ‘Disclosable pecuniary interests’: The model code reiterates the legal duty to register and disclose ‘disclosable pecuniary interests’ and lists what these are (see table 1 within the model code). • ‘Other registerable interests’: It also confirms that councillors ‘must’ register a specific set of ‘other registerable interests’ (see table 2 within the model code). • ‘Non-registerable interests’: The model code also covers the need to disclose interests, when a matter arises at a meeting, that do not fall into either of the above categories but which directly relate to a councillor’s ‘financial interest or wellbeing’, or that of a relative or close friend. The code is clear that councillors ‘must’ disclose this type of interest when it arises (para 7). The code sets out when this type of interest will be deemed to have arisen (para 8) and the two tests councillors should apply when considering whether or not they should participate and vote (para 9).

3.10	<p>Training</p> <p>A programme of training, based on LGA learning and guidance modules, will be coordinated by the Monitoring Officers.</p>
3.11	<p>Procedure for Considering Complaints Alleging a Failure to Comply with the Code of Conduct</p> <p>It will continue to be for each local authority to follow its agreed procedures for managing complaints and deciding upon any action should it be concluded that there has been a breach of the Code.</p>
3.12	<p>Consultation and engagement</p> <p>The LGA consulted widely on the content of the Model Code, receiving in excess of 1500 submissions from the local government sector and stakeholders. The LGA has committed to review the content of the Model Code on an annual basis.</p> <p>The Suffolk Association of Local Councils (SALC) meet regularly with the Suffolk Monitoring Officers and are supportive of the LGA Model Code and will be recommending its adoption to all of their Parish and Town Council members.</p>
3.13	<p>Conclusions</p> <p>The LGA Code is, in many respects, very similar to the existing Suffolk Code but it is a fuller and clearer Code which if adopted by all Suffolk Councils should assist in maintaining the highest standards in public life in local authorities across Suffolk.</p>

4 Reason/s for recommendation

4.1	To uphold standards in public life so as to give the public confidence in Councillors and Council decision making.
4.2	To maintain a consistent approach on standards matters across Suffolk with the same Code of Conduct adopted by the 5 District Councils, the County Council and, it is hoped, all the Town and Parish Councils in Suffolk.

Appendices

Appendices:

Appendix A	Existing Suffolk Local Code of Conduct
Appendix B	New LGA Model Code of Conduct
Appendix C	LGA Guidance on the new Model Code of Conduct

Background reference papers:

None.