

Wiltshire Council

Standards Committee

5 October 2022

Report of the Local Government Association (LGA) Model Code of Conduct Working Group

Purpose

1. To present the recommendations of the Working Group regarding the council's Code of Conduct for Councillors, following their consideration of comments from the Constitution Focus Group and Group Leaders.

Background

2. On 20 April 2022, the Working Group recommended to Standards Committee the adoption of an amended version of the LGA Model Code of Conduct, which largely reflected the LGA Model Code, but retained some sections of Wiltshire Council's existing Code and moved a large amount of text into a guidance section.
3. Standards Committee supported adoption of the revised Code and resolved that it should be presented to the Constitution Focus Group and Group Leaders for comment. On 15 June 2022, Standards Committee resolved that the Working Group should reconvene to consider these comments before the Committee made its final recommendation.

Main considerations

4. For context, the Constitution Focus Group had previously discussed, and not supported the adoption of, the original version of the LGA Model Code.
5. On 1 June 2022, the Constitution Focus Group discussed the Working Group's proposed Code. It expressed reservations about whether it was likely to lead to an improvement in behavior, given that there had not been, and were unlikely to be, changes to Government legislation to enforce sanctions. The Group also raised concerns about:
 - the potential impact on town and parish councils who were currently using Wiltshire Council's existing Code;
 - the Group raised specific concerns regarding paragraph 8.4, in terms of the implications of a Standards Sub-Committee making an unreasonable recommendation, such as asking the member to resign.

6. Group Leaders were asked for their comments and if they wished to be invited to the Working Group. None of the Group Leaders who provided written comments voiced objections, noting either they did not have any comments, or supported the proposals.
7. The Working Group met on 6 September 2022 to review its original recommendations, together with the subsequent comments made by Group Leaders and the Constitution Focus Group.

Conclusions

8. Having reviewed the comments of the Constitution Focus Group and Group Leaders, the Working Group endorsed their original recommendation of adopting an amended LGA Model Code of Conduct, **but agreed one amendment to the version proposed to Standards Committee in April 2022**: Having consulted Legal Services, they amended paragraph 8.4 as follows:

Version proposed in April 2022

8.4 I comply with all sanctions and recommendations imposed on me following a finding that I have breached the Code of Conduct.

Version proposed now

8.4 I comply with all sanctions imposed on me and any recommendations agreed to be undertaken by me following a finding that I have breached the Code of Conduct and any undertakings that I have agreed to fulfil as part of the informal/alternative resolution of any alleged breach of the Code of Conduct.”

The new version of the Code proposed is attached at **Appendix A**. It should be noted that the sections in **red** are not featured in the LGA Model Code of Conduct but, excepting 8.4, are retained from the current Wiltshire Council Code of Conduct.

9. Regarding the Constitution Focus Group’s concerns about this paragraph noted above, the Working Group notes that:
 - a) Actual sanctions are limited to those defined through case law;
 - b) Any public decision is challengeable via Judicial Review;
 - c) Legal advice indicates that, under the Code proposed at Appendix A, it is only where a member **agrees to fulfil a recommendation but does not do so** that this could be considered a further breach of the Code.
10. The Group accepted that there were a range of views surrounding the issue of compliance and, like Wiltshire’s existing Code, the proposed Code would lack

legal enforcement. However, the group felt that the proposed Code provided greater clarity regarding the conduct required. They also considered that the sanctions available to the Standards Committee, such as publication of its findings, carry some weight in encouraging good conduct by elected members and holding those who breach their Code to account.

11. The Group endorsed their original conclusions regarding the benefits of the proposed Code over the council's existing Code, namely:

Benefits of proposed LGA Model Code over current WC Code	Impact
<p>Sets out expected behaviours in greater detail, including the following additional sections:</p> <ul style="list-style-type: none"> • Respect • Bullying and harassment • Impartiality • Disclosure and use of information • Disrepute • Abiding by the Code of Conduct • Gifts and hospitality 	<p>Provides more clarity for councillors and the public on what is/isn't considered acceptable conduct</p> <p>Provides more clarity for those assessing alleged breaches of the Code</p> <p>By being more prescriptive, demonstrates the council's full commitment to standards in public life</p> <p>Although some of the bulleted sections are mentioned in the current WC Code's guidance, guidance is not enforceable</p>
<p>Uses the phrasing "I will..." rather than "I must..."</p>	<p>Encourages greater personal ownership of the Code, as opposed to a code that is imposed by others</p>
<p>The Guidance states that the Code applies to all forms of communication and interaction, including:</p> <ul style="list-style-type: none"> • at face-to-face meetings • at online or telephone meetings • in written communication • in verbal communication • in non-verbal communication • in electronic and social media communication, posts, statements and comments. 	<p>Provides greater clarity on when the Code may apply, particularly applicable in the context of the number of complaints now received about conduct on social media</p>
<p>Regarding Registers of Interest:</p> <ul style="list-style-type: none"> • defines 'sensitive' interests • states that you must leave the room in some circumstances 	<p>Provides greater clarity on handling interests</p>

Benefits of proposed LGA Model Code over current WC Code	Impact
<ul style="list-style-type: none"> includes guidance re interests specifically for Cabinet members 	
Regarding Gifts and Hospitality, requires that gifts not accepted must also be declared	Provides greater transparency regarding Gifts and Hospitality

Update

12. Having reviewed the Working Group's proposed Code on 26 September 2022, the Constitution Focus Group did not have any further comments.

Proposal

13. To recommend the Code of Conduct provided at **Appendix A** for adoption by Full Council.

Cllr Ruth Hopkinson, Chair of the LGA Model Code of Conduct Working Group

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Appendices

Appendix A Proposed Code of Conduct for Wiltshire Council (v2)
 Appendix B Current Code of Conduct for Wiltshire Council