

Standards Committee report



milton keynes council

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LGA MODEL CODE OF CONDUCT

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Executive Summary

On 23 December 2020, the Local Government Association (LGA) published a Model Councillor Code of Conduct (the Model Code), attached as an **Annex**. The Model Code was updated on 19 January and 17 May 2021 and has been described by the LGA as being *‘designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.’*

The LGA have also highlighted that *“the public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.”*

It is a legal requirement that all councils have a local Councillor Code of Conduct, and the Model Code is provided for use by Councils as a template to adopt in whole and / or with local amendments should they wish to.

Initially, many local authorities were disinclined to adopt the Model Code. There are likely to have been a number of reasons for this, including the lack of accompanying guidance, a dislike of the style (written in first person) and a hope that the government would formally respond to the Report of the Committee on Standards in Public Life (CSPL), which included a number of recommendations requiring legislative changes (and the associated possibility that this would require further changes to the Model Code in due course). However, with time more and more Councils have adopted the Model Code, which also offers the opportunity for all Parishes to adopt a consistent Code of Conduct.

It is the role of the Standards Committee to determine whether to recommend the Model Code (amended or otherwise) to Full Council for inclusion in the Council's Constitution. While the Council administers code of conduct complaints on behalf of Parish and Town Councils in the Borough, the adoption of a Code is a matter for each council. The report presents the Model Code, compares it to the Council's current Code of Conduct, attached as a background paper, raises specific issues to consider in relation to amendments and offers choices to the Committee.

1. Decision to be Made

- 1.1. That the Committee be invited to suggest any amendments to the Model Code.
- 1.2. That the Model Code (and any associated amendments), be recommended to Full Council for adoption.
- 1.3. That a date be set for a subsequent review of the Code of Conduct.
- 1.4. That a training session be readily available and accessible for all Councillors and Parishes further to a decision by Full Council to adopt a new code.

2. Why is the Decision Needed?

- 2.1. The Localism Act requires all Councils to have a local Member Code of Conduct. The Council's current Code was adopted on 11 July 2012 and is largely based on the Council's Pre-Localism Code (amended appropriately).

3. Background

- 3.1. On 7 October 2021, the Standards Committee arranged a workshop to discuss the current Code of Conduct and the Model Code.
- 3.2. Following a detailed discussion, the working group requested officers to undertake a comparison of the Council's current Code of Conduct and the Model Code and present it to the Standards Committee in March. These are set out in section 3.7 of this report.

New LGA Model Code of Conduct

- 3.3. The Model Code continues to require Councillors to uphold the Seven principles of public life (the Nolan Principles).
- 3.4. It also continues to maintain the concept that a Councillor can bring the Council into disrepute.
- 3.5. Further, it identifies certain obligations around general conduct which relate to:
 - Respect.
 - Bullying, harassment and discrimination.
 - Impartiality of officers of the council.
 - Confidentiality and access to information.
 - Disrepute.
 - Use of position.
 - Use of local authority resources and facilities.
 - Compliance with the Code of Conduct.

3.6. There are also obligations around protecting Councillor’s and the Local Authority’s reputation by codifying:

- Interests
- Gifts and hospitality

3.7. In general, the Council currently has a robust Code of Conduct which does not differ significantly from the Model Code of Conduct created by the LGA. However, the following table has been created to compare both:

Model Code	Council’s Current Code of Conduct
Each obligation is accompanied by definitions of the key words and full explanation of what is meant.	Does not include any definitions nor does it explain any of the obligations.
Written in first person	Written in third person
<p>Includes the obligations to:</p> <ul style="list-style-type: none"> - <i>not bully any person</i> - <i>not harass any person</i> - <i>promote equalities and do not discriminate unlawfully against any person.</i> 	The Council’s Code of Conduct does not contain the words harassment or discrimination as specific obligations however, (depending on the facts) it is likely that this behaviour would be caught by the Council’s obligation to treat others with respect.
<p>Details when the Code of Conduct may be applied.</p> <p><i>“...when you are acting in your capacity as a councillor which may include when:</i></p> <ul style="list-style-type: none"> - <i>you misuse your position as a councillor</i> - <i>Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.”</i> <p>It also states that the Code applies during all forms of <i>communication and interaction</i> including:</p> <ul style="list-style-type: none"> - <i>at face-to-face meetings</i> - <i>at online or telephone meetings</i> - <i>in written communication</i> - <i>in verbal communication</i> - <i>in non-verbal communication</i> - <i>in electronic and social media communication, posts, statements, and comments.</i> 	<p>Silent on when the Code of Conduct applies however, the Arrangements procedure states that the Monitoring Officer and/or Assessment Sub-Committee must consider whether the Councillor was acting in their capacity as a Councillor at the time of the alleged misconduct.</p> <p>The Council’s current Code of Conduct does not specify communication and interactions but does provide a definition of meetings as <i>‘any meeting organised by or on behalf of the authority’</i> and includes examples.</p> <p>The Council’s definition of ‘meetings’ goes further than the statutory position.</p>

Specific reference to treating employees of the Council, partners and volunteers for the local authority with respect.	The Council's Code of Conduct does not have this specific reference and simply refers to respecting and bullying ' <i>any person</i> '.
An Obligation to comply with the Model Code of Conduct. Further, this includes undertaking Code of Conduct training, co-operate with any investigation or determination and not to intimidate persons administering or investigating a complaint and to comply with any sanctions.	The Council's Code of Conduct does not oblige Councillors to co-operate with an investigation or undertake training.
Requires registration of gifts and hospitality with a value of £50 and over.	The Council's Code of Conduct requires registration of gifts and hospitality of a value of £100 and over.
Personal Interests. States that Councillors may only speak if members of the public are also allowed to speak at the meeting. If this is not the case, Councillor's must not take part in any discussion or vote on the matter and must not remain in the room unless a dispensation has been granted.	This requirement is not reflected in our current code but is included in our Council Procedure Rules.

- 3.8. In general, the Model Code of Conduct attempts to provide greater clarity to assist Councillors in understanding their obligations under the Code. Arguably, the most helpful aspect of the Model Code of Conduct is that each obligation is accompanied by a paragraph that provides helpful definitions and explanations of each of the obligations for example the term 'respect' is defined as meaning "*politeness and courtesy in behaviour, speech, and in the written word.*"
- 3.9. Further to this, the Model Code of Conduct provides greater clarity on acting in capacity as Councillor (which has been a matter of debate in recent standards complaints). It is accompanied by detailed Guidance which is listed as one of the Background papers. In addition, the LGA have recently published a training pack to accompany the Code.
- 3.10. Neighbouring authorities, such as Buckinghamshire and Luton have adopted the Model Code of Conduct with some minor amendments. This means that we can turn to other Councils for guidance and support and precedents can be set.

Parish Councils and Training

3.11 An increasing number of Parish and Town Councils in the Milton Keynes area have expressed a desire to adopt the Model Code, in line with Milton Keynes Council. At present, each authority has either adopted our existing code (or more commonly) their own Code which means that the Monitoring Officer and Standards Committee need to be aware of multiple Codes of Conduct. Whilst the Council cannot require a Parish Council to adopt its code, the LGA and CSPL recommend that they do so. Having one Code of Conduct for all will be beneficial, less resource intensive and more straightforward for officers and Councillors.

3.12. In addition, the LGA has issued its own training resources (including slides) designed to assist Councillors with understanding the Code of Conduct. This means that training material is already readily available and training on any newly adopted Code can be delivered promptly.

4. Specific Considerations for the Committee

4.1 Gift and Hospitality Threshold

As highlighted above, the monetary threshold of £50 and over for registration of gift and hospitality in the Model Code is less than the £100 threshold in the Council's current Code of Conduct. To assist the Committee in determining the appropriate threshold the LGA reports that over seven in ten respondents (72% supported £25 as the threshold for registering gifts and hospitality. 9% of respondents thought that the threshold should be lower than £25 while 16 per cent felt that it should be higher.

4.2 Co-opted Members

The Model Code applies to elected members and co-opted members of the Council. The definition of a co-opted member is a statutory one found in s27(4) Localism Act 2011 and is set out in the Model Code. It does not include members of Council Committees that are not entitled to vote. Therefore, as an example, independent members of the Audit Committee are not caught by the Model Code as they are not entitled to vote. Other Council Committees with co-opted members who include non-voting are the Health and Adult Social Care Scrutiny Committee, Corporate Parenting, and Standards Committee.

4.3 Dealing with Disrespect

Under the obligation of respect, the Model Code advises councillors to 'report' members of the public who are abusive, intimidatory or threatening to the local authority. Given the jurisdiction of the local authority and the police for example, consideration can be given to whether the word 'report' is amended to 'seek guidance from'.

5. Implications of the Decision

Financial	N	Human rights, equalities, diversity	Y
Legal	Y	Policies or Council Plan	N
Communication	Y	Procurement	N
Energy Efficiency	N	Workforce	N

Other Implications (Communication)

Parish and Town Councils currently have a choice to adopt the Council's Code of Conduct, or their own version, sometimes based on a Model Code produced by the National Association of Local Councils (NALC). The Model Code will apply to all levels of local government and when available, Parish and Town Councils will need to decide how to proceed locally.

Arrangements Procedure

A change in the Code of Conduct will inevitably lead to some minor consequential changes in the Council's Arrangements for Dealing with Standards Allegations Procedure to ensure that it accords with the new Code and is fit for purpose.

It is proposed that a review of the Arrangements Procedure will take place next year.

6. Alternatives

5.1. There are several choices open to the Committee:

- a) Recommend no change to the current Code of Conduct, resolve to continue with the existing Code of Conduct and ask for a report to come to a later meeting of the Committee
- b) Recommend to Full Council the adoption of the Model Code with or without potential amendments
- c) Identify issues and ask for a report to come to a later meeting of the Committee that addresses those issues
- d) Resolve to await the outcome of the Government consideration of the Committee for Standards in Public Life recommendations, and in the meantime invite parish and town councils, community organisations, neighbouring authorities and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the Model Code.

List of Annexes

Annex LGA Model Councillor Code of Conduct (the Model Code)

List of Background Papers

[Milton Keynes Council Code of Conduct \(adopted 11 July 2012\)](#)

[Guidance on Local Government Association Model Councillor Code of Conduct](#)