

Title of report: Local Government Association (LGA) model code of conduct

Meeting: Audit and governance committee

Meeting date: Tuesday 16 March 2021

Report by: monitoring officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To consider the LGA's model code of conduct and agree the next steps to review the Herefordshire's Council Code of Conduct.

Recommendation(s)

That:

- a) The committee reviews the LGA model code of conduct;**
- b) Agrees in principal the propsed changes to the Herefordshire Council Code;**
- c) Agrees to consult with all members of this council, together with all parish and town councils about the proposed changes.**

Alternative options

1. Do nothing. This is not recommended as it is good practice to review the council's code of conduct on a regular basis.

Key considerations

2. Under the Localism Act 2011, Section 27 (2), the council is required to adopt a code of conduct which is applicable to all Herefordshire council members and co-optees. Up until December 2020 there was no proposed national model code for councils to adopt or amend.
3. Parish councils may choose to adopt their principal authority's code of conduct. Herefordshire Council is a principal authority and the majority of parish councils within Herefordshire have adopted the most current version of the code dated 25 May 2018.
4. The council's current code of conduct was last reviewed in 2018 and as part of good practice should be reviewed on a regular basis.
5. On 30 January 2019, the Committee on Standards in Public Life (CSPL) published its review on Local Government Ethnical Standards. Recommendation 1 was that the "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."
6. Between 8 June and 17 August 2020, the LGA launched a national survey on a draft model code of conduct. Following the resolution of Audit and Governance Committee on 30 July 2020, a response to the survey was submitted on behalf of the committee by the monitoring officer.
7. In December 2020, the LGA issued a model code of conduct based on the feedback received as a result of the consultation. The code is not mandatory, it will be updated annually by the LGA to ensure it is still fit for purpose. This committee will have to considers its contents and determine whether it is appropriate to recommend to council the adoption in full, part or not at all.
8. There is no confirmed data as to whether or not all English councils are adopting the model code. However, anecdotally a proportion of councils are not adopting the model code in its entirety but are either choosing to not review their code or are adopting parts of the model code. One of the reasons for this appear to be that the CSPL did make recommendations which would require a change to statutory legislation which have not yet been considered by government.
9. The monitoring officer and deputy monitoring officer in January 2021 assessed the model code against the council's code of conduct. The monitoring officer is proposing that a hybrid code is considered and potentially adopted by Council at its meeting on 21 May 2021. It is being proposed that the majority of the national model code is adapted to act as guidance to councillors.
10. The proposed changes to the current code are attached as tracked changes in appendix B and new guidance being proposed at appendix C.

11. It is anticipated that the LGA will be issuing its own guidance to the model code of conduct in March 2021.
12. The independent persons for standards were consulted on the model code of conduct and the proposals by the monitoring officer at a meeting held on 8 February 2021. The views and comments have been incorporated in the draft revision of the code of conduct and draft guidance.
13. The monitoring officer is recommending that the committee comment on the model code of conduct and the proposals to revise the current code and adopt new guidance.
14. If the committee agree that the current code should be reviewed in line with the monitoring officer's suggestion, then it is recommended that the committee agree a consultation be undertaken with all members of Herefordshire Council and parish councils on the draft Code of Conduct and guidance.
15. The feedback from this consultation can then be taken into account and a revised code of conduct, guidance and arrangements for dealing with code of conduct complaints can be presented to the committee at its meeting on 4 May 2021.

Community impact

16. The code of conduct sets out the standards for councillors when undertaking their duties as a councillor. Having a clear and unambiguous code will enable residents of Herefordshire to understand the conduct which they should expect to receive from councillors.

Environmental Impact

17. Any review of the code of conduct will seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

Equality duty

18. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
19. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

20. There are no resource implications as a result of this report as it is a proposed to review of the current code of conduct.

Legal implications

21. The legal implications are detailed in the key considerations above.

Risk management

22. There are no risks as a result of this report. If a review of the council's code of conduct is undertaken, then risks may be identified as part of that process.

Consultees

23. Independent persons for standards.

Appendices

Appendix A LGA Model Code of Conduct

Appendix B Proposed changes to the Herefordshire Council Code of Conduct

Appendix C Proposed Guidance to the Herefordshire Council Code of Conduct

Background papers

None identified.