

Title of report: Code of Conduct

Meeting: Council

Meeting date: 20 May 2022

Report by: Chairperson of the Audit and Governance Committee

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To approve a revised code of conduct on the recommendation of the audit and governance committee.

Recommendation(s)

That:

- a) **The Local Government Association (LGA) model code of conduct, as amended by local arrangements as set out at Appendix 3, is approved for adoption by Herefordshire Council at the annual Council meeting on 20 May 2022; and**
- b) **The LGA model arrangements for dealing with code of conduct complaints is adopted and applied to new complaints received after 20 May 2022**

Alternative options

1. The existing code of conduct applicable to all members and co-optees of the council could remain in place. This is not recommended because a model code of conduct has been prepared by the Local Government Association (LGA) with the intention that all councils in England adopt this model with local amendments where necessary.

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 council members and co-optees. Up until December 2020 there was no proposed national model code for councils to adopt or amend.
3. Parish and town councils may choose to adopt their principal authority's code of conduct. The council is a principal authority and the majority of parish and town councils within Herefordshire have adopted the most current version of the code dated 25 May 2018 and a number of parish councils have now adopted the LGA model code of conduct.
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 Ethical 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 this survey was submitted on behalf of the committee by the Monitoring Officer.
7. The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the CPSL in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the CSPL's recommendations, this could require a change to the LGA model code of conduct and the council's new code as set out at Appendix 3.
8. Their recommendations cover:
 - Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
 - The introduction of sanctions
 - An appeals process through the Local Government Ombudsman
 - Changes to the Relevant Authorities (Disclosable Pecuniary interests) Regulations 2012
 - Updates to the Local Government Transparency Code
 - Changes to the role and responsibilities of the Independent Person
 - That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished
9. In December 2020, the LGA issued a model code of conduct based on the feedback received as a result of the consultation. The model code of conduct is not mandatory, it will be updated annually by the LGA to ensure it is still fit for purpose. The model code of conduct was further revised by the LGA in May 2021 and is attached at Appendix 1.
10. There is no confirmed data as to whether or not all English councils are adopting the model code of conduct. However, anecdotally a proportion of councils are now adopting the model code in its entirety or are adopting with local amendments.
11. At the Audit and Governance Committee held 23 January 2022, it was resolved that a consultation with all parish councillors and ward councillors be undertaken to seek their views on the model code of conduct and the model arrangements.

12. The consultation with councillors within Herefordshire took place between 2 February 2022 and 25 March 2022. There were 8 responses from either parish councils or individual parish councillors and 6 from ward members.
13. There were 9 responses which reflected that the current 5.2.14 (d) paragraph (Schedule 2 Interests) relating to membership of any body “is not open to the public without formal membership” be retained in the Council’s adopted code of conduct.
14. Following consideration of the model code of conduct and the responses received, the Monitoring Officer is recommending that the LGA model of conduct be adopted with the local amendments as set out in Appendix 3.
15. Following consideration of the model arrangements for dealing with code of conduct complaints, the Monitoring Officer is seeking the endorsement from the committee that the LGA model arrangements for handling of code of conduct complaints are adopted with no local amendments (Appendix 2). The adoption of the model arrangements should enable the benchmarking with other local authorities to take place as currently most authorities arrangements do vary making this extremely difficult.
16. The comparison between the council’s current code of conduct and the LGA Model Code of Conduct is set out at Appendix 4.
17. It is proposed that the model code of conduct, subject to adoption by the Council at the annual meeting, comes into effect from 21 May 2022.
18. At the Audit and Governance committee meeting held on 10 May 2022, it was recommended that the following local amendments to the arrangements for dealing with code of conduct complaints were made and have been made to Appendix 2:
 - i) an addendum to specify that the local arrangements will involve at least two independent persons; and
 - ii) the adoption of an amendment to the section on Sanctions as follows:

‘Note that where the subject member is a parish or town councillor, the matter is referred back to their council to say that a breach of the Code has been found and with a recommended sanction. The town or parish council must then meet to consider whether to impose that sanction ~~or to replace it with another relevant sanction~~. They cannot overturn the finding that there has been a breach of the Code ~~and if they wish to impose a different sanction they should seek advice from the clerk and/or the monitoring officer~~. The panel should also ask the parish or town council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.’

Community impact

19. The code of conduct sets out the standards expected of 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

20. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been given to minimise waste and resource use in line with the council’s Environmental Policy.

Equality duty

21. 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.

21. 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

22. There are no resource implications associated with these recommendations.

Legal implications

23. There are no legal implications arising from the recommendations in this this report.

24. The substantive legal issues are discussed in the key considerations paragraphs of this report

Risk management

25. There are no risks arising directly from the report. Maintaining high standards of conduct mitigates risks to the reputation of the council. How the arrangements are managed can be cause for complaint however the new Model Code provides LGA Guidance to Monitoring Officers on Code of Conduct Handling.

26. The fact that there are no real sanctions that can be applied and only recommendations can be made by the Monitoring Officer exposes the council to risk of criticism; this is a result of the national framework which the CPSL considered.

Consultees

27. All parish councils, town councils, parish councillors, town councillors and ward councillors were consulted and their views have been reflected in the local amendments being proposed.

Appendices

Appendix 1 - LGA Model Councillor Code of Conduct

Appendix 2 - LGA Guidance on Member Model Code of Conduct Complaints Handling

Appendix 3 - LGA Model Councillor Code of Conduct as amended to take account of local amendments

Appendix 4 - Comparison between the Herefordshire Council Model Code and the LGA Model Code of Conduct

Background papers

- 1) [LGA Model Councillor Code of Conduct 2020 | Local Government Association](#)
- 2) [Guidance on Member Model Code of Conduct Complaints Handling | LGA](#)