

CHESHIRE FIRE AUTHORITY

MEETING OF: GOVERNANCE AND CONSTITUTION COMMITTEE
DATE: 10 NOVEMBER 2021
REPORT OF: DIRECTOR OF GOVERNANCE AND COMMISSIONING
AUTHOR: ANDREW LEADBETTER

SUBJECT: NEW MEMBERS' CODE OF CONDUCT

Purpose of Report

1. To enable Members to consider a draft New Members' Code of Conduct, which is based upon the Model Councillor Code of Conduct 2020 published by the Local Government Association, in order to determine whether the Fire Authority should be recommended to adopt the New Members' Code of Conduct.

Recommended: That Members

- [1] note the report; and
- [2] consider the draft New Members' Code of Conduct; and
- [3] recommend that the Fire Authority adopts the New Members' Code of Conduct.

Background

2. Section 27(2) of the Localism Act 2011 states that the Fire Authority must '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.'
3. The existing Members' Code of Conduct (referred to as the Existing Code) has been in place since 2012, with some relatively minor amendments being made since then. A copy of the Existing Code is attached to this report as **Appendix 1**.
4. The Local Government Association (referred to as the LGA) published a Model Councillor Code of Conduct (referred to as the Model Code) at the end of 2020. A copy of the Model Code is attached to this report as **Appendix 2**.
5. Members of this Committee had an informal discussion about the Model Code in April 2021.

6. The LGA published guidance (referred to as the LGA Guidance) relating to the Model Code in July 2021. A copy of the LGA Guidance is attached to this report as **Appendix 3**.

Information

LGA Consultation

7. The LGA published the results of the comprehensive consultation that it undertook. The following paragraphs are from the LGA's consultation response analysis:
 - 7.1. Almost all survey respondents (97 per cent) supported the proposal that councillors demonstrate the behaviours set out in the Code when they are publicly acting as, identifying as, and/or giving the impression that they are acting as a councillor, including when representing their council on official business and when using social media.
 - 7.2. Just over half of the survey respondents (55 per cent), thought that the code was sufficiently clear about which parts of the code are legal requirements, which are obligations, and which are guidance. A third (36 per cent) thought it was not clear while nine per cent did not know.
 - 7.3. Respondents were generally evenly split regarding their preference for the tense of the wording used in the code, however, there was slightly more support for the personal tense ("I will") which was chosen by 45 per cent over the passive tense ("Councillors should") (40 per cent).
 - 7.4. Almost all survey respondents supported each of the 12 specific obligations to either a great or a moderate extent. However, there was slightly less support for the obligation to register any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt than the others – 96 per cent compared to 99 to 100 per cent.
 - 7.5. Four in five survey respondents (80 per cent) thought that the concept of 'acting with civility' is sufficiently clear to a great or moderate extent. A further 12 per cent thought it was clear to a small extent while just seven per cent did not think it was clear.
 - 7.6. A combined total of 85 per cent of survey respondents thought the concept of 'bringing the council into disrepute' is sufficiently clear to a great or moderate extent. Nine per cent thought it was clear to a small extent while five per cent did not think it was clear.

- 7.7. Most survey respondents (93 per cent) supported the definition of bullying and harassment used in the code in a local government context to a great or moderate degree while four per cent did so to a small extent.
- 7.8. Respondents were evenly split about whether there was sufficient reference to the use of social media in the code, however, a slightly higher proportion of respondents (43 per cent) said no, than those who answered yes (41 per cent).
- 7.9. Over four in five survey respondents (81 per cent) were in support of the code going beyond the current requirement to declare interests of the councillor and their partner to a great or moderate degree. A further eight per cent supported it to a small degree and another eight per cent did not support it at all.
- 7.10. Almost all survey respondents (97 per cent) supported the proposed requirement that councillors do not accept significant gifts to a great or moderate degree. Two per cent supported it to a small degree while less than one per cent did not support it at all.
- 7.11. Most survey respondents (72 per cent) supported £25 as the threshold for registering gifts and hospitality, although almost four in ten (39 per cent), felt that the amount should be reviewed annually with the code's review. Nine per cent of respondents thought that the threshold should be lower than £25 while 16 per cent felt that it should be higher.
- 7.12. Respondents most commonly ranked explanatory guidance on the code as the most useful type of accompanying guidance, followed by supplementary guidance that focuses on specific areas, e.g., social media and case studies and examples of good practice.

Model Code

8. The Model Code appears to have been relatively well-received. It is written in an interesting style, with a mix of obligations and guidance and some law. It is written in the first person, which is unusual. It appears that most local authorities have, or are intending to adopt it, largely as drafted.

Existing Code

9. The Existing Code already achieves much of what is dealt with in the Model Code, e.g. it contains additional interests that must be disclosed. However, it is undeniable that there is some benefit in there being commonality of approach to Member conduct within local authorities given the fact that a number of Members sit on more than one body.

LGA Guidance

10. The LGA Guidance is 40 pages long and repeats and expands upon those elements of guidance that appear in the Model Code.

New Members' Code of Conduct

11. The New Members' Code of Conduct (referred to as the New Code), which is attached to this report as **Appendix 4**, is a shortened version of the Model Code.
12. The New Code contains a much reduced introductory part and those elements of the Model Code that amount to guidance have been omitted. The New Code is just over half the length of the Model Code. However, the vast majority of the section entitled Statements by Fire Authority Members is taken verbatim from the Model Code, with just a few words added at the start of the section, relating to the Seven Principles of Public Life, intended to make the document flow.
13. It would be simpler to adopt the Model Code, as drafted, but the author believes that there is good reason not to do so. This conclusion was, to a degree, influenced by the key result from the consultation mentioned in paragraph 7.2 above; concerns were expressed about the Model Code containing a mix of obligations, guidance and law. In addition, now that the LGA Guidance has been published the guidance in the Model Code appears to have been overtaken by the more detailed and better explanations in the LGA guidance. A few paragraphs that are not relevant to the Fire Authority have also been omitted, i.e. references to Cabinet/Executive.
14. The New Code is drafted in such a way that Members could be asked to sign a version of it – with Members essentially making statements about their beliefs and intentions in the section entitled Statements by Fire Authority Members.
15. If the New Code is adopted, as drafted, there will be a consequential change to the Gifts and Hospitality Guidance. The threshold for registration of gifts and hospitality will rise from £25 to £50 and be simplified.
16. The intention would be to ensure that Members have a copy of the LGA Guidance together with the guidance contained in the Model Code.

Financial Implications

17. There are no financial implications associated with this report.

Legal Implications

18. The Authority is required to have a Code of Conduct. However, it is not required to adopt the Model Code. It is important that Members are clear

about their legal obligations given that criminal sanctions are contained in the Localism Act 2011 concerned with registration and disclosure of interests.

Equality and Diversity Implications

19. There are no equality and diversity implications associated with this report.

Environmental Implications

20. There are no environmental implications associated with this report.

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BACKGROUND PAPERS: